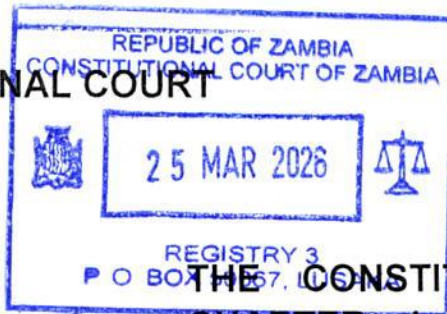


**IN THE CONSTITUTIONAL COURT**

**HOLDEN AT LUSAKA**  
(Constitutional Jurisdiction)



**2025/CCZ/0025**

**IN THE MATTER OF:**

**THE CONSTITUTION OF ZAMBIA  
CHAPTER 1 OF THE LAWS OF  
ZAMBIA AS AMENDED BY ACT NO. 2  
OF 2016**

**IN THE MATTER OF:**

**ARTICLES 2, 128(3)(b) and (c) and  
257(g) OF THE CONSTITUTION OF  
ZAMBIA CHAPTER 1 OF THE LAWS  
OF ZAMBIA AS AMENDED BY ACT  
NO. 2 OF 2016**

**IN THE MATTER OF:**

**ALLEGED CONTRAVENTION OF  
ARTICLE 257(g) OF THE  
CONSTITUTION OF ZAMBIA  
CHAPTER 1 OF THE LAWS OF  
ZAMBIA AS AMENDED BY ACT NO. 2  
OF 2016**

**IN THE MATTER OF:**

**SECTIONS 18, 34 AND 39 OF THE  
GREEN ECONOMY AND CLIMATE  
CHANGE ACT NO. 18 OF 2024**

**BETWEEN:**

**CLIMATE ACTION PROFESSIONALS ZAMBIA**

**PETITIONER**

**AND**

**ATTORNEY GENERAL**

**RESPONDENT**

**CORAM: Munalula - PC, Chisunka, Mulongoti, Kawimbe and Mulife,  
JJC on 12<sup>th</sup> February, 2026 and 25<sup>th</sup> March 2026**

**For the Petitioner:**

Mr. F. Mulenga – In House Counsel.

**For the Respondent:**

Ms. C. Mulenga, Acting Chief State Advocate,



Mr. M. Kwalela, Senior State Advocate, and  
Ms. J.L. Sipalo, Senior State Advocate – Attorney  
General's Chambers.

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## J U D G M E N T

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**Chisunka, JC**, delivered the Judgment of the Court.

**Cases referred to:**

1. Isaac Mwanza (suing as a member and in the interest of the Zambia Civil Liberties Union) v The National Assembly, The Attorney General and Electoral Commission of Zambia, 2024/CCZ/0022
2. Conservation Advocates Zambia Limited v The Attorney General, 2023/CCZ/0018
3. John Sangwa v The Attorney General and Law Association of Zambia, 2021/CCZ/0012
4. The Government of the Republic of South Africa and Others v Irene Grootboom, (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46 (CC); 2000 (11) BCLR 1169 (CC) (4 October 2000)
5. Scrirocco Enterprises Limited v Kafue District Council and The Attorney General, SCZ Appeal No. 60 of 2011
6. Dipak Patel v The Attorney General, 2020/CCZ/005
7. Bernard Shajilwa and Others v The Attorney General and Others, 2018/CC/004
8. Lloyd Chembo v Attorney General, CCZ Selected Judgment No. 15 of 2018
9. Bric Back Limited T/A Gamamwe Ranches v Neil Kirkpatrick, 2021/CCZ/0002
10. Gervas Chansa v Attorney General, 2019/CCZ/004
11. Godfrey Shamanena v Anti-Corruption Commission 2024/CCZ/0020

**Legislation referred to:**

The Constitution of Zambia Chapter 1 of the Laws of Zambia as amended by Act No. 2 of 2016

The Green Economy and Climate Change Act No. 18 of 2024

The Green Economy and Climate Change (Commencement) Order Statutory Instrument No. 67 of 2025

## Introduction

- [1] The Petitioner, Climate Action Professionals Zambia, commenced these proceedings by Petition filed on 31<sup>st</sup> October 2025 against the Respondent, the Attorney General. The Petitioner describes itself as an organisation engaged in climate change advocacy and public awareness on matters relating to climate governance and environmental protection.
- [2] The Petitioner states that on 20<sup>th</sup> December 2024, Parliament enacted the Green Economy and Climate Change Act No. 18 of 2024 (the GECCA), which was subsequently published on 26<sup>th</sup> December 2024. The Act, however, came into operation on 10<sup>th</sup> October 2025 through the Green Economy and Climate Change (Commencement) Order, Statutory Instrument No. 67 of 2025 (S.I. No. 67 of 2025).
- [3] The GECCA establishes an institutional and regulatory framework for addressing climate change. Among the mechanisms created under the Act are:
- i. the Green Economy and Climate Change Council under section 6;
  - ii. the Green Economy and Climate Change Technical Committee under section 8;

- iii. the National Adaptation Plan and National Mitigation Plan under section 10;
- iv. the Greenhouse Gas Inventory Management System under section 14;
- v. the Integrated Measuring Reporting and Verification System (the 'IMRV System') under section 18;
- vi. the Green Economy and Climate Change Fund (the 'Climate Change Fund') under section 34; and
- vii. the Green Economy and Climate Change Register (the 'Climate Change Register') under section 34.

### **Petitioner's Case**

- [4] The Petition alleges that the omission by the State to establish and implement certain climate change mechanisms provided for under sections 18, 34 and 39 of the GEECA contravenes Article 257(g) of the Constitution of Zambia, Chapter 1 of the Laws of Zambia, as amended by Act No. 2 of 2016 (the Constitution).
- [5] The Petitioner's Managing Director, Mr. Benny Kangwa, deposed that on 22<sup>nd</sup> October 2025 he addressed a letter to the Minister responsible for Green Economy and Environment inquiring whether the climate change mechanisms established under the GECCA had been operationalised.

- [6] By letter dated 27<sup>th</sup> October 2025, the Minister responded and outlined the progress made in implementing the mechanisms under the Act.
- [7] According to the Petitioner, that response revealed that although certain mechanisms had been established, the State had neither established nor implemented the IMRV System, the Climate Change Fund and the Climate Change Register as contemplated under sections 18, 34 and 39 of the GECCA.
- [8] The Petitioner contends that the failure to operationalise these mechanisms constitutes a breach of Article 257(g) of the Constitution.
- [9] In support of its submissions, the Petitioner relies on **Isaac Mwanza v The National Assembly and Others**,<sup>(1)</sup> arguing that any person has standing to approach this Court where a constitutional duty is alleged to have been breached.
- [10] The Petitioner further submits that the GECCA was enacted to give effect to Article 257(g) of the Constitution, relying on **Conservation Advocates Zambia Limited v The Attorney General**.<sup>(2)</sup>
- [11] It is further argued that where a constitutional provision requires legislative implementation, the obligation becomes operative upon

publication of the Act. For this proposition, reliance is placed on **John Sangwa v The Attorney General and Law Association of Zambia**.<sup>(3)</sup>

[12] Accordingly, the Petitioner argues that the State's duty to establish and implement the mechanisms arose upon publication of the GECCA on 26<sup>th</sup> December 2024, rather than upon its commencement.

[13] The Petitioner further contends that the absence of an express implementation timeline under sections 18, 34 and 39 of the GECCA indicates that Parliament intended the mechanisms to be implemented without delay.

[14] It is therefore submitted that the State's omission to operationalise those mechanisms amounts to a violation of Article 257(g) of the Constitution.

[15] The Petitioner therefore seeks the following relief:

- i. **A declaration that by virtue of Article 2, Article 128(3)(b) and (c) and Article 257(g) of the Constitution of Zambia, every person has a right to petition the Constitutional Court where the State fails or is alleged to have failed to establish and/or implement mechanisms that address climate change;**
- ii. **A declaration that the State has contravened Article 257(g) of the Constitution by failing to establish and/or implement the mechanisms outlined in sections 18, 34 and 39 of the Climate Change Act;**

- iii. An order that the State, within ninety (90) days or within such period as this Court may determine to be reasonable, establishes and/or implements the mechanisms outlined in sections 18, 34 and 39 of the Climate Change Act;
- iv. Any other relief the Court may deem fit.

### **Respondent's case**

- [16] The Respondent filed an Answer, affidavit in opposition and skeleton arguments on 19<sup>th</sup> December 2025.
- [17] The Respondent contends that neither the Constitution nor the GECCA imposes an obligation on the State to establish all climate change mechanisms immediately upon the commencement of the Act.
- [18] The Respondent further argues that Article 257(g) is directive in nature and its implementation necessarily depends upon legislative design, administrative capacity and availability of resources.
- [19] Consequently, the Respondent submits that the incomplete operationalisation of certain mechanisms does not amount to constitutional non-compliance.
- [20] In the affidavit in opposition, the Director of Green Economy and Climate Change, Mr. Ephraim Mwepya Shitima, states that the GECCA establishes a comprehensive institutional framework for climate governance.

- [21] He deposes that efforts to operationalise the IMRV System predate the enactment of the GECCA and are being progressively implemented through various programs supported by cooperating partners.
- [22] With regard to the Climate Change Fund, the Respondent states that the Fund has been established under the Act but its operationalisation is contingent upon funding arrangements and subsidiary legislation.
- [23] The Respondent further states that steps towards establishing the Climate Change Register are currently underway within the relevant Ministry.
- [24] It is therefore argued that the matters raised by the Petitioner are essentially policy and administrative issues that do not raise a constitutional question.
- [25] The Respondent relies on the decision of the Constitutional Court of South Africa in **Government of the Republic of South Africa v Irene Grootboom** <sup>(4)</sup> for the proposition that while the State bears constitutional obligations, those obligations may be realised progressively through reasonable programmes.

[26] Finally, the Respondent argues that granting the orders sought would amount to judicial intrusion into the functions of the Executive and would therefore violate the doctrine of separation of powers. Reliance is placed on **Scirocco Enterprises Limited v Kafue District Council and Attorney General.** <sup>(5)</sup>

### **Petitioner's Reply**

[27] In reply, the Petitioner argues that the Respondent has cited no authority supporting the contention that Article 257(g) is merely directive and non-justiciable.

[28] The Petitioner maintains that legislative enactment alone does not constitute compliance with Article 257(g), as the constitutional obligation requires the establishment and implementation of mechanisms addressing climate change.

[29] Reliance is placed on **Dipak Patel v The Attorney General** <sup>(6)</sup> for the proposition that financial constraints cannot excuse the failure to perform a constitutional duty.

[30] The Petitioner further distinguishes **Irene Grootboom**,<sup>(4)</sup> noting that the South African Constitution expressly qualifies the State's

obligations by reference to available resources, a qualification which is absent from the Zambian Constitution.

### **The Hearing**

- [31] At the hearing, Counsel for the Petitioner, Mr. Mulenga, relied on the Petition, the affidavit verifying facts and the written skeleton arguments.
- [32] Counsel for the Respondent, Mr. Kwalela, submitted that the Petitioner had failed to demonstrate that the State had neglected or refused to implement the mechanisms under the GECCA.
- [33] Ms. Sipalo, also appearing for the Respondent, submitted that the State had taken progressive steps toward implementing the mechanisms and had therefore complied with its constitutional obligations.
- [34] In reply, Mr. Mulenga argued that if the State lacked the capacity or resources to implement the mechanisms, it ought not to have enacted the legislation.

## Consideration and Decision

[35] We have carefully considered the Petition, the Answer, the affidavits filed by the parties, the written and oral submissions of Counsel, as well as the authorities cited.

[36] In our view, the central issue arising for determination is whether the Petition raises a constitutional question falling within the jurisdiction of this Court.

## Jurisdiction of the Court

[37] Article 128(1)(e) of the Constitution vests this Court with the authority to determine whether or not a matter falls within its jurisdiction.

[38] Article 128(1)(a) and (b) further provides that this Court has original and final jurisdiction in matters relating to the interpretation of the Constitution and alleged violations or contraventions thereof.

[39] The jurisdiction of this Court is therefore confined to constitutional questions.

[40] This position has been consistently affirmed in our jurisprudence.

[41] In **Bernard Shajilwa and Others v The Attorney General and Others**,<sup>(7)</sup> this Court emphasised that it exercises jurisdiction

exclusively over constitutional matters and does not determine general questions of law.

[42] Similarly, in **Lloyd Chembo v Attorney General**,<sup>(8)</sup> this Court held that its primary function is to determine direct contraventions of the Constitution.

[43] In **Bric Back Limited T/A Gamamwe Ranches v Neil Kirkpatrick**,<sup>(9)</sup> we reiterated that the Constitutional Court is a specialised court whose mandate is confined to constitutional questions.

[44] A constitutional question was defined by this Court in **Gervas Chansa v Attorney General**<sup>(10)</sup> as a legal issue resolvable through the interpretation of the Constitution rather than a statute.

#### Whether the Petition Raises a Constitutional Question

[45] The Petitioner alleges that the State has contravened Article 257(g) of the Constitution by failing to establish or implement the mechanisms outlined in sections 18, 34 and 39 of the GECCA.

[46] Article 257(g) provides that the State shall, in the utilisation of natural resources and management of the environment, establish and implement mechanisms that address climate change.

[47] However, the specific mechanisms relied upon by the Petitioner, namely the IMRV System, the Climate Change Fund and the Climate Change Register are creations of the GECCA under sections 18, 34 and 39 of that Act.

[48] The Petition is therefore anchored upon the alleged failure by the State to perform obligations imposed by statute.

[49] The relief sought by the Petitioner further confirms this characterisation, as the Petitioner seeks orders compelling the State to implement the statutory mechanisms provided under the GECCA.

[50] Determining whether the State has complied with those obligations would necessarily require this Court to interpret and apply the provisions of the GECCA.

[51] In our view, such an inquiry falls within the domain of statutory compliance rather than constitutional interpretation.

[52] While Article 257(g) imposes a general duty upon the State to address climate change, it does not prescribe the specific mechanisms relied upon by the Petitioner.

- [53] Those mechanisms are matters of legislative design introduced through the GECCA pursuant to Parliament's powers under Article 272(f) and (g) of the Constitution.
- [54] Accordingly, any failure to establish or operationalise those mechanisms would constitute a potential breach of the GECCA rather than a direct contravention of the Constitution.
- [55] As this Court stated in **Godfrey Shamanena v Anti-Corruption Commission**, <sup>(11)</sup> the Constitutional Court adjudicates constitutional questions arising from the Constitution.
- [56] An alleged failure to perform statutory duties under the GECCA therefore raises a matter of statutory compliance which properly falls within the jurisdiction of the ordinary courts.
- [57] Should a constitutional question arise in those proceedings, the relevant court may refer that question to this Court in accordance with Article 128(2) of the Constitution.
- [58] This approach preserves the constitutional architecture of the judicial system and accords with the principle of comity between courts recognised by this Court in **Lloyd Chembo v Attorney General**. <sup>(8)</sup>

[59] In the circumstances, we find that the Petition does not raise a constitutional question suitable for determination by this Court.

**Conclusion**

[60] For the reasons given, we hold that the issues raised in the Petition concern alleged non-compliance with the Green Economy and Climate Change Act and do not constitute a constitutional question within the meaning of Article 128 of the Constitution.


[61] Consequently, the Petition does not fall within the jurisdiction of this Court.

[62] The Petition is therefore dismissed for want of jurisdiction.

[63] Each party shall bear its own costs.



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**M. M. MUNALULA, JSD**  
**PRESIDENT CONSTITUTIONAL COURT**



.....  
**M. K. CHISUNKA**  
**CONSTITUTIONAL COURT JUDGE**



.....  
**J. Z. MULONGOTI**  
**CONSTITUTIONAL COURT JUDGE**

.....M. M. Kawimbe.....

**M. M. KAWIMBE**  
**CONSTITUTIONAL COURT JUDGE**

.....K. Mulife.....

**K. MULIFE**  
**CONSTITUTIONAL COURT JUDGE**