Slide 1 — Independence of Judges and Lawyers in Eswatini

Thank you, Chair, and thank you to the representatives of States present today.

My name is Maxwell Nkambule. I am a lawyer from Eswatini and a former Chairperson of Lawyers for Human Rights – Swaziland.

I will focus on the independence of judges and lawyers in Eswatini.

The central question is not simply whether judicial independence is recognised in the Constitution. It is whether judges and lawyers are able to perform their functions independently and safely in practice.

I will draw on the previous UPR record, the International Commission of Jurists' report *No Situation is Permanent*, findings by Amnesty International and Human Rights Watch, decisions of the African Commission, and communications by the United Nations Special Procedures.

Slide 2 — Previous UPR commitments: the baseline

The starting point is Eswatini's previous Universal Periodic Review.

In 2021, Eswatini supported Estonia's recommendation to intensify reform of the judicial system.

It also supported France's recommendation to combat arbitrary arrest and detention and to guarantee fair trials.

These are important commitments.

The question for this fourth UPR cycle is therefore not whether reform is necessary. Eswatini has already accepted that it is.

The question is whether those commitments have been adequately implemented.

And the evidence since the previous review suggests that serious concerns remain.

Slide 3 — How the situation has evolved since 2021

Since the previous UPR, concerns about judicial reform have become much more concrete.

They now concern the institutional independence of the judiciary, the safety and independence of lawyers, and the consequences for people seeking justice.

These concerns are not entirely new.

The removal of Justice Thomas Masuku already exposed serious deficiencies in judicial disciplinary processes.

But since 2021, the environment has become more troubling.

In December 2022, an attempt was made on my life while I was representing clients in politically sensitive cases.

In January 2023, my colleague, human rights lawyer Thulani Maseko, was killed in his home.

Since then, the ICJ, Amnesty International, Human Rights Watch and UN Special Procedures have continued to document concerns affecting the independence of judges and lawyers.

The previous recommendations have therefore not been adequately implemented.

Slide 4 — Judicial independence case study: Justice Thomas Masuku

The case of Justice Thomas Masuku provides an important illustration.

Justice Masuku was removed from the High Court following disciplinary proceedings before the Judicial Service Commission.

He subsequently brought his case before the African Commission on Human and Peoples' Rights.

The African Commission found that Eswatini had violated his right to a fair hearing under Article 7 of the African Charter and its obligation under Article 26 to guarantee the independence of the courts.

Importantly, the Commission also recommended reforms to the legal framework governing the Judicial Service Commission.

These included safeguards against bias and effective access to judicial review of JSC decisions.

This is therefore not simply an allegation about judicial independence.

It is an authoritative regional finding, accompanied by concrete recommendations that remain directly relevant to the current UPR.

Slide 5 — Independence of lawyers: from pressure to chilling effect

Judicial independence cannot be separated from the independence of lawyers.

In its report *No Situation is Permanent*, the International Commission of Jurists documented lawyers experiencing surveillance, harassment, intimidation and threats because of their professional work.

Lawyers handling human rights and politically sensitive cases reported being associated with the views or alleged conduct of their clients.

Some also feared the economic and personal consequences of accepting such cases.

I speak about this from personal experience.

On 7 December 2022, an attempt was made on my life while I was representing clients facing serious charges in politically sensitive proceedings.

Just over a month later, Thulani Maseko was killed.

The effect goes beyond the individual lawyer.

When lawyers begin asking whether accepting a case could endanger themselves or their families, the independence of the legal profession is compromised.

And when lawyers cannot act freely, clients may lose access to effective representation.

Slide 6 — Consequences: fair trials and access to justice

This is why the independence of judges and lawyers is not an abstract institutional issue.

It directly affects the right to a fair trial and access to justice.

Amnesty International has documented serious due-process concerns in the proceedings against former Members of Parliament Mduduzi Bacede Mabuza and Mthandeni Dube.

Amnesty has also raised concerns about delays affecting access to justice and the integrity of court proceedings, including delays in hearing Bacede Mabuza's appeal.

The connection is straightforward.

If lawyers are intimidated, fewer may be willing to take sensitive cases.

If access to legal representation is delayed or obstructed, defence rights are weakened.

If appeals are repeatedly delayed, the right to an effective remedy is undermined.

And when these problems persist, public confidence in the justice system is damaged.

Slide 7 — UN Special Procedures: not a new concern

These concerns have also been repeatedly brought to the attention of the Government through the United Nations Special Procedures.

In January 2023, several UN Special Rapporteurs, including the Special Rapporteur on the independence of judges and lawyers, wrote to the Government following the killing of Thulani Maseko.

In April 2025, the Special Rapporteur on the independence of judges and lawyers raised concerns about judicial appointment procedures, the use of acting judges, and reported intimidation, surveillance and threats against lawyers.

And in April 2026, UN experts again raised concerns about the continuing failure to bring those responsible for Thulani Maseko's killing to justice.

These concerns are therefore not being raised for the first time at this UPR.

They have been repeatedly documented by regional and international mechanisms and brought directly to the Government's attention.

Slide 8 — Three recommendations for the fourth UPR cycle

For this reason, I encourage recommending States to move beyond broad calls for judicial reform and make specific and measurable recommendations.

First, call on Eswatini to fully implement the African Commission's decision in the Justice Thomas Masuku case, including by reforming the legal framework governing the Judicial Service Commission, ensuring safeguards against bias, and providing effective access to judicial review of its decisions.

Second, call on Eswatini to guarantee that lawyers can perform their professional functions without intimidation, harassment, surveillance, threats, reprisals or improper interference, and ensure that attacks and threats against lawyers are promptly and independently investigated.

Third, call on Eswatini to ensure a prompt, thorough, independent, impartial and transparent investigation into the killing of Thulani Maseko, and bring those responsible to justice in fair proceedings.

The independence of judges and lawyers determines whether people in Eswatini can enter a courtroom, obtain independent legal representation, challenge the actions of the State, and expect justice to be administered without fear or favour.

Thank you.