

**NOTICE IN TERMS OF RULE 3.3 OF THE RULES OF THE JUDICIAL
COMMISSION OF INQUIRY INTO ALLEGATIONS REGARDING EFFORTS OR
ATTEMPTS HAVING BEEN MADE TO STOP THE INVESTIGATION OR
PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES**

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INTRODUCTION AND ESTABLISHMENT OF THE COMMISSION

1. On 29 May 2025, the President of the Republic of South Africa issued Proclamation Notice No. 264 of 2025, establishing the Judicial Commission of Inquiry into Allegations Regarding Efforts or Attempts Having Been Made to Stop the Investigation or Prosecution of Truth and Reconciliation Commission Cases (“the Commission”).
2. The Commission was appointed in terms of section 84(2)(f) of the Constitution, 1996. The Honourable Madam Justice S. Khampepe serves as Chairperson, with the Honourable Mr Justice F. D. Kgomo and Adv A. Gabriel SC as members.
3. In terms of its mandate, the Commission is required to inquire into, make findings, report on, and make recommendations concerning allegations that, since 2003, efforts or attempts were made to influence, pressure, or otherwise improperly prevent the South African Police Service and/or the National Prosecuting Authority from investigating or prosecuting TRC cases.

The Terms of Reference further require the Commission to determine whether officials within these institutions colluded in such efforts, and whether further action—including investigations, prosecutions, or the payment of constitutional damages—is warranted.

4. Among the parties identified as having a substantial interest in these proceedings are:
 - a. The applicants in the matter of L.B.M. Calata and 22 Others v Government of the Republic of South Africa and Others (Case No. 2025-005245, North Gauteng High Court, Pretoria); and
 - b. The families of victims in TRC cases who have a substantial interest in the matters under inquiry.

NOTICE IN TERMS OF RULE 3.3

5. This notice is issued in terms of Rule 3.3 of the Rules of the Commission, read with the Regulations made under Government Notice R.278 of 2025.
6. The Commission's Evidence Leaders intend to present the evidence of one or more applicants in the Calata case, and any person who in the opinion of the Evidence Leaders possesses information that relates to the paragraph 9 allegations against you and is relevant to the Commission's work.
7. The specific date and venue for the hearing at which such evidence will be presented will be communicated to you in due course.

8. The paragraph 9 evidence, being the extract of the Calata matter's founding affidavit, with corresponding paragraph numbering, implicates, or may implicate, you in allegations regarding efforts or attempts to halt or suppress the investigation or prosecution of TRC matters. Further details of the Calata proceedings, including the said affidavit, are available on the Commission's website at www.trc-inquiry.org.za.

PARTICULARS OF IMPLICATION

9. It is alleged as follows:

"The politicians intervene

221. During 2006, it became increasingly clear to government that NDPP Pikoli and PCLU head Ackermann would pursue TRC cases when they were in a position to do so. The first complaint levelled by government functionaries against the NPA was that Ackermann was seen as a loose cannon.
222. Pikoli, in his affidavit in *Nkadimeng 2* (TN7 at p 170) (**FA22**), records that in early 2006, SAPS Commissioner Jackie Selebi objected to Ackermann's participation in the TRC cases claiming that he intended to prosecute the leadership of the ANC. This was notwithstanding Pikoli's denial that any such plans were in place. Pikoli reminded Selebi that Ackermann was appointed as PCLU head under Presidential proclamation, and it was not for the SAPS to dictate who should discharge the mandate given to the PCLU.

223. Pikoli then approached the Presidency in order to seek the collaboration of the role-players in the ITT to support the TRC cases. A meeting was arranged in mid-2006 by Reverend Frank Chikane, who was then Director General in the Presidency. Coincidentally this was the same Chikane who was the victim of poisoning by the SB in 1989. The meeting was attended by Chikane, the Directors General of Justice and the NIA, Selebi, the Secretary of the Defence Secretariat, Mr. Loyiso Jafta, Chief Director in the Presidency and Pikoli.

Selebi again complained about Ackermann's involvement in the process.

224. Later in 2006, Pikoli was summoned to a meeting which was convened at the home of Minister Zola Skweyiya, then Minister of Social Development. The meeting was attended by the Minister of Police Charles Nqakula, Minister of Defence Mosiuoa Lekota, Thoko Didiza, Acting Minister of Justice (representing Minister Brigitte Mabandla who was indisposed) and Mr. Jafta. The meeting was called by Acting Minister Didiza. Pikoli was advised that the meeting was going to deal with the prosecution in the Chikane matter.

225. At this meeting it became clear that there was a fear that cases like the Chikane matter would open the door to prosecutions of ANC members. In his affidavit in *Nkadimeng 2 (FA22)*, Pikoli quoted from his affidavit filed before the Ginwala Commission as to what transpired at this meeting:

“The Minister of Safety and Security was concerned about the decision to proceed with the prosecution and with Advocate Ackermann’s involvement in the process and the issue of whether it was Advocate Ackermann or me who was behind the decision to prosecute.

The Minister of Social Development was concerned about the impact of the decision to prosecute on the ranks of ANC cadres who were worried that a decision to prosecute in the Chikane matter would then give rise to a call for prosecution of the ANC cadres themselves arising out of their activities pre-1994.

The Minister of Defence had concerns about where the decision to prosecute rested – did it rest with me or did it rest with Advocate Ackermann.

I explained to the Ministers that the decision to proceed with the prosecution rested with me as did all other decisions in regard to postTRC prosecutions being considered by the PCLU. I assured them that no prosecution would be undertaken without my specific direction and reiterated my concern about the delay in the process particularly in view of the requirement that I report to parliament on these matters.

...

The Minister of Defence appeared satisfied with my explanation that I would exercise the decision as to whether there was a prosecution or not. The Minister of Safety and Security appeared to continue to be worried about the involvement of Advocate Ackermann. I have no recollection of a particular position adopted by the Acting Minister of Justice.”

226. This meeting pointed to what was probably the overriding concern of government, namely that pursuing a TRC case, like the Chikane matter, would place pressure on the NPA to pursue cases against ANC members.
227. In 2006 Pikoli was again summoned to a further meeting which took place at the office of the Presidency. At this meeting Pikoli proposed that Dr Silas

Ramaite, the Deputy National Director of Prosecutions, should chair the Task Team, given the adverse views of Ackermann and to get the Task Team working. The proposal was accepted.

228. Subsequent to this meeting, there was a further meeting of Ministers in the security cluster at the office of the Minister of Safety and Security. This was attended by the Minister for Safety and Security, the Minister of Social Development, Acting Minister Didiza, Selebi, various DGs and Mr. Jafta. The proposal for the establishment of a working group was put to the Ministers and it was accepted. After this meeting, in early October 2006, Pikoli again sent letters to the various Directors General, Selebi and the DSO inviting them each to nominate a senior official to serve on the ITT.

229. The ITT met for the first time on 12 October 2006. Pikoli attended the opening session of the first meeting together with his adviser, Ms. Kalyani Pillay, the Directors General of the NIA and Justice and Mr. Jafta from the Presidency. Pikoli did not participate further in the activities of the Task Team. According to Macadam, the NPA representatives on the ITT were Ackermann and Ramaite. Macadam noted in his affidavit (at p 796 at para 30, p801) affidavit (**FA5**) that on occasions when he stood in for Ackermann at meetings of the ITT, that:

“... the task team was predominantly comprised of members of the intelligence community who were **more intent on cross-examining me as to why matters should be investigated** rather than addressing the issue of all the outstanding cases.” (Bold added)

230. It is interesting to note that Mr. Loyiso Jafta, Chief Director in the Presidency, who had an intelligence and security background, was present at the meetings of the ITT. Strictly speaking he should not have been there, as Part B of the Amendments, did not provide for a member of the Presidency to be part of the group assessing the TRC cases. This indicated that the Presidency intended to have direct involvement in the decisions relating to the TRC cases.”

YOUR RIGHTS AND OBLIGATIONS

10. You are entitled to attend the hearing at which the evidence relating to the above allegations, and any other that may be led against you, is presented. You may be represented by a legal practitioner of your choice.
11. Rule 3.4 requires that, within fourteen (14) calendar days of this notice, you submit a statement in the form of an affidavit responding to the allegations. Your affidavit must specify which parts of the evidence are disputed or denied, and set out the grounds for such dispute or denial.
12. If you wish to—
 - a. give evidence yourself;
 - b. call any witness in your defence; or
 - c. cross-examine the witness whose evidence implicates you,

you must apply in writing to the Commission for leave to do so within fourteen (14) calendar days of this notice, accompanied by your affidavit.

13. You may also apply for leave to make written and/or oral submissions regarding the findings or conclusions that the Chairperson should draw from the evidence relating to you.

COMMUNICATION WITH THE COMMISSION

14. All correspondence, applications, and affidavits must be directed to: The Secretary of the Commission at secretary@trc-inquiry.org.za.

DATED at Sci Bono Johannesburg on this 31st day of October 2025.

For and on behalf of the Evidence Leaders to the Judicial Commission of Inquiry into Allegations Regarding Efforts or Attempts Having Been Made to Stop the Investigation or Prosecution of TRC Cases.

