

**THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS
REGARDING EFFORTS OR ATTEMPTS TO STOP THE INVESTIGATION OR
PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES
(TRC CASES INQUIRY)**

HELD AT:

Sci-Bono Discovery Centre, Corner of Miriam Makeba & Helen Joseph Street
Newtown, Johannesburg

BEFORE:

COMMISSIONERS:

The Honourable Ms Justice Sisi Khampepe (Judge Ret.) – Chairperson
The Honourable Mr Justice Frans Diale Kgomo (Judge President Ret.)
Adv Andrea Gabriel (SC)

EVIDENCE LEADERS:

Adv Ishmael Semanya (SC)
Adv Fana Nalane (SC)
Adv Mfesane Ka-Siboto
Adv Nompumelelo Seme
Ms Baitseng Rangata

REPRESENTATIVES

Adv KD Moroka (SC) – DoJ representative
Adv Gwala (SC) – NPA representative
Adv Varney (SC) – The Calata Group
Adv Rantho (SC) (for SAPS)
Adv De Vos (on behalf of President Ramaphosa)
Mr Moray Hathorn
Adv Sokhela, Phumzile (for Former President Mbeki)
Mr Max Boqwana (for Former President Mbeki)
Adv Mpofu (SC) (for former President Zuma)
Adv Muvangua (SC) (for former President Mbeki)
Adv Vas Soni (SC)
Mr Masuku
Mr Simelane
Adv Ntsebeza (SC)

PRE-INQUIRY MEETING

4 FEBRUARY 2026

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PROCEEDINGS ON 4 FEBRUARY 2026

ADV SEMENYA: Hi, good morning. My name is Semenya. I am part of the evidence leaders, as you now know. I want to welcome and say good morning to each and every one of you, including my colleagues.

We had called today to try and see if we can have a pre-hearing with the object that it might ultimately settle the hearing schedules and what will come at this hour or, you know, the other. I am requested that I announce that when you speak, please say your
10 name first and who you are acting for, so that the transcript can correctly reflect who said what when.

This morning we received communication from Messrs Boqwana and others. I do not know if I can ask that we have all had access to it, because it might have some explanation and relevance to the conduct of our pre-hearing. Can I assume that we all have had the document and that we have read it?

FEMALE SPEAKER: [Indistinct] [Microphone not switched on]

ADV SEMENYA: Yes, I want to establish whether we have. You have not.

20 FEMALE SPEAKER: [Indistinct] [Microphone not switched on]

ADV SEMENYA: They will give you the mic. Hello? There is somebody who wants to say something. Again protocol, let us say who you are, so that the transcript is clear. Ms Moroka, do you advise we stand down a little bit until you have read it?

ADV MOROKA: Mr Semenya, I do not want to delay ...[intervenes]

ADV SEMENYA: Should we proceed?

ADV MOROKA: I think we can proceed.

ADV SEMENYA: Okay. How do you propose from the Boqwana team that we do this? Either we read the letter into the record and then address whatever consequences arise from it. Would that be okay?

ADV MUVANGUA: Ja, I think it is more sufficient if we read the letter.

ADV SEMENYA: Let us start with the name again.

10 ADV MUVANGUA: My name is Nyoko Muvangua. I represent former President Thabo Mbeki together with four other former cabinet members.

ADV SEMENYA: Okay, you may proceed, madam.

ADV MUVANGUA: I was going to suggest that the letter be read into the record, perhaps by the secretariat, so that everybody is on the same page at once.

ADV SEMENYA: By the secretariat?

ADV MUVANGUA: I propose so.

ADV SEMENYA: All right. We should be able to do that, right.

20 ADV THAKOA: Good morning, all. Am I clear?

ADV SEMENYA: Mm-hmm.

ADV THAKOA: Okay. So the letter is from Boqwana Burns to the Madam Secretary, TRC Commission Pre-Hearing Meeting:

“1. We refer to the above matter and to the pre-hearing meeting agenda circulated to

interested parties earlier today, receipt of which is acknowledged with thanks and contents of which have been noted.

2. We are instructed to place on record that our client intend on taking the ruling in respect of Justice Khampepe's recusal on judicial review. We have been instructed to institute those proceedings forthwith.

10

3. We have instructed counsel to attend the scheduled pre-hearing meeting tomorrow for the limited purpose of placing these instructions formally on record.

20

4. You will appreciate that in light of these developments, our client's participation in the commission's processes is necessarily constrained, as contemplated in the pre-hearing agenda. Notwithstanding these constraints, our clients wish to reiterate their ongoing respect for and commitment to the mandate and work of the commission. They remained firmly supportive of the commission's objectives and continue to regard its work as constitutionally and historically significant. Once again, we place on record that our intervention in this matter is

predicated on protecting the integrity of this commission and to ensure finality.

6. However, due to the prevailing circumstances, our clients are regrettably unable to participate in the commission's processes in any meaningful way at this stage, pending the outcome of the intended judicial review.

Kind regards, Boqwana Burns Incorporated."

ADV SEMENYA: Okay, thank you. Does that need any elaboration
10 or anything or we can proceed on the basis that it is self-explanatory?

ADV MUVANGUA: It is self-explanatory, but I am speaking now to place the content of that letter formally on record; and that would be the end of our participation at this stage.

ADV SEMENYA: All right, significant; sorry, Mr Varney?

ADV VARNEY: Just a follow-up question, Mr Semenya. Does the Mbeki team indicate when they intend to bring the review and can they also indicate whether they intend to bring an urgent interdict to restrain these proceedings?

ADV SEMENYA: Perhaps they have no duty to explain what
20 'forthwith' means, but I read that to mean it will be done with some speed and urgency. Whether or not they want an interdict is not a remedy that we should suggest to them. All we know is that the commission will proceed, unless a court of law says differently.

MALE SPEAKER: Just did not want to use 'immediately', Chair, because there is confusion around that term 'immediately'.

ADV VARNEY: I asked, Mr Semenya, because they indicated they will not be participating in these proceedings.

ADV SEMENYA: And we cannot force them to if they elect to do that.

ADV VARNEY: Nobody is forcing them. Well, unless their clients are placed on the subpoena which in due course will be the case.

ADV SEMENYA: That is one of the instruments available to the commission. I just do not want to run ahead of myself and the commission. We will proceed until, as I say, the court of law says
10 differently. Can we move on that basis? And they are welcome to remain in the pre-hearing meeting if they are so minded or they can take a decision which they choose. I think they have announced their position and we welcome and accept it, Mr Varney. Any other questions?

ADV MOROKA: Mr Semenya, just to place on record that Mr Gwala and his junior are not available. Mr Mokoena is not available. So, I will be holding, as it were, thought for them.

ADV SEMENYA: Yes, after we address this current issue.

ADV MOROKA: Oh, I thought the issue was addressed.

20 ADV SEMENYA: Well, do you propose remaining and then we can go on with the agenda? I am asking whether we can proceed.

ADV MUVANGUA: I apologise. I was [indistinct] by senior counsel. Yes, you may proceed with the agenda. Thank you.

ADV SEMENYA: All right. With that given, I thought the agenda does not stand in any particular sequence, it is just numbering, but if

there are other voices meaning to amend, tamper, alter the agenda, I am inviting those. Sorry. I am pointing to the mic.

ADV MPOFU: Good morning. Ja, my name is Dali Mpofu and I am with Ms Siunu instructed by Kwinana, KMNS Attorneys. Mr Kwinana is either here or on the way. Ja, I just wanted to... we are also here just to place certain matters on the record, but what I was not sure of is whether... okay, I think I will wait for... Can I go ahead?

ADV SEMENYA: Sorry.

ADV MPOFU: All right, ja. No, I was saying that the issues that we
10 wanted to raise, I was not sure whether to raise it as a preliminary issue, as it were, or under agenda item 1, because that seems to be dealing with the ruling or rulings.

Okay, well, whichever way, what we came to place on record are two specific issues. One was just to voice our objection regarding the hasty convening of this meeting, which has put some pressure on our ability to consult our clients regarding the ruling given on Friday, because the reality is that we were given a ruling and on the same day given an invitation to this meeting. So, it became quite difficult to deal with the issues that may or may not arise in this meeting and at
20 the same time try to obtain instructions.

Be that as it may, we are, for the purposes of this meeting, we could say we are almost in the same position as the Mbeki team, because we have instructions which will probably be firmed up this afternoon for various reasons that I do not want to get into, but as matters stand now, we are most likely to bring a review application

similarly against, specifically against the Friday, the 30 January ruling. And ja, we also had instructions to come and place those matters on the record and it may not be necessary for us to take part in any further proceedings. Thanks.

ADV SEMENYA: No, Mr Mpofu, thank you very much; and equally, and without trying to explain or justify, the commission has lost a lot of time, which matter is common cause, and maybe we should apologise. The three days' notice was a little too truncated, but the rest is that until that time when it is convenient to bring review
10 applications, we intend to proceed with the [indistinct] commission. And again with you, you are most welcome to stay in and/or exercise a decision you deem appropriate.

ADV MPOFU: Thank you.

ADV SEMENYA: Okay. One of the agenda items we are having is that now that we are here and now that the ruling has been delivered, we are concerned again about another matter, which is that there are a whole host of witness statements that are outstanding; and I thought I would go entity by entity to establish when is it that we would have the witness statements to enable the work of the
20 commission to proceed. SAPS, when can we expect statements to enable the commission to do its work?

ADV RANTHO: Thank you, Mr Semenya.

ADV SEMENYA: Your name first?

ADV RANTHO: Motlalepule Rantho for the SAPS. Mr Semenya, may I kindly request that we engage with the commission? There are

certain things that we need to bring to your attention. At this stage I am not in position to tell exactly as to when the statement will be ready.

ADV SEMENYA: I am not too sure I follow. You would know when.

ADV RANTHO: That is why I say I will engage. We will write to the commission before this Friday. We will address the commission in writing in so far as that is concerned.

ADV SEMENYA: Okay. Who is next, NPA?

ADV MOROKA: Yes. The NPA received a letter dated... oh, Moroka
10 for NPA and the Minister of Justice; received a letter on 2 February, and in this letter we sought certain documents from the NPA. And specifically if you would, Mr Semenya look at paragraph 3 of the letter that we have received, stating that they needed annexures to Mr Ackermann SC's memorandum and a host of other documents that served before the Ginwala Commission. It is not really clear why it is that they would be seeking these documents from the NPA.

Furthermore, there is a request for affidavits that were presented by Adv Menzi Simelane and Minister Brigitte Mabandla. There too it is not really clear why the NPA is being asked to look for
20 these documents and the tone of the letter in any event seems to the NPA to be very, if I were to use a mild word, aggressive.

Mr Ackermann had indicated directly to the NPA that he sought these documents; and out of the blue these documents are being sought by the commission in this form of manner, Mr Semenya where it is not even indicated why it is suggested that the NPA has

these documents. So, it is very difficult to respond to this letter. We need to state on record. It is very difficult that documents that are public records, as it were, that served before the Commission of Inquiry are being sought from the NPA.

As to other documents that are sought by the commission, I would imagine that you will receive a response to those. You have received a response. You have engaged with the NPA. Ja, I was instructed just to put that on record. Thank you.

ADV SEMENYA: I do not know if it is appropriate to respond now
10 until what you have told us is also on paper and we know we can address quite accurately what the concerns are. It would seem to us though that if you are not in possession of the document; that is a complete answer. And because of the nature of this inquisitorial hearing, we are also constrained to do a *subpoena duces tecum* if we do not have sufficient specificity to identify those documents. In some instances they are just stated in broad terms, but we will respond to that in writing. We should expect that when the writing ...[intervenes]

ADV MOROKA: But I do not know, Mr Semenya. The letter is dated
20 2 February. I do not have instructions as to when they will respond to the letter. 2 February I think was yesterday. What is today?

ADV SEMENYA: Not that I am able to press, but it should reasonably be possible to have an answer that says we will require seven days to look into this.

ADV MOROKA: I think, Mr Semenya all I can say to you, because I

have indicated I do not have specific instructions as to timeline as to the answer. I was instructed just to place on record that there is a difficulty; one, with the tone; two, with documents that are not in their possession. Three, they do not understand the basis of this request. That is all that I am doing.

ADV SEMENYA: Okay.

ADV MOROKA: I think we will translate and transmit the view that the response should be as soon as possible.

ADV SEMENYA: Okay, what I was asking is whether that which you
10 have just said to us, you can put it in writing and I do not see why it cannot be tomorrow.

ADV MOROKA: It can be on record, Mr Semenya. What I have stated is on record. We will get the transcript.

ADV SEMENYA: Ja, the transcript is one element of what we do, but we collate written information in relation to the process of this.

ADV MOROKA: You will get a response, Mr Semenya. Date I cannot give you.

ADV SEMENYA: Okay. Is there any commitment I can have, Mr ...[intervenes]

20 ADV RANTHO: Well, you have jumped me. You have jumped me [indistinct], the minister.

ADV SEMENYA: Okay, I said COJ and NPA on my notes.

ADV RANTHO: No, no, no, I am responding to NPA. I was not responding on behalf of the police.

ADV SEMENYA: My apology.

ADV RANTHO: Mr Semenya, all I can say about the minister is that we will be submitting next week the minister's affidavit. The documents that have been sought from the department are being collated and will be handed over as soon as we can. And those that we do not have will indicate we do not have.

ADV SEMENYA: Just by way of projection; next week would mean the last day of Friday.

ADV RANTHO: The last day of Fridays.

ADV SEMENYA: Okay, thank you. It is Minister DOJ, not Minister
10 Police. Am I right? COJ.

ADV RANTHO: It is for justice, SAPS and Minister of Police. I appear on their behalf.

ADV SEMENYA: Okay.

ADV NTSEBEZA: Ja, I act for Mr Bulelani Ngcuka. My name is Dumisa Ntsebeza, [indistinct] Mandisa Josi and Torie Pretorius. I anticipate that you should be able to get the statements on or before 13 March. I see there is constellation.

ADV SEMENYA: My constellation is not misplaced if I were to judge it myself, because I know the life of the commission is this short. Of
20 course I cannot do more without appreciation of what informs that announcement. You can do it sequentially maybe.

ADV NTSEBEZA: We will do the best we can to [indistinct]. There is also, there has been a request from the commission that we want to interview the witnesses before the... for purposes of [indistinct]. I would like to know whether that would be after and at which stage. Is

it after you get the statements from us?

ADV SEMENYA: Well, as a kneejerk reaction, I think there are permutations of how that assignment can be achieved. You either consult with them and give us the statement yourselves or you can share your consultation times with the evidence leaders for a joint sitting of taking those statements. Third, you may want to be present when those interviews happen and their statements are collated.

ADV NTSEBEZA: We will advise you as to what our preference is. Thank you. But we anticipate that we will consult, draft the
10 statements and furnish them to you.

ADV SEMENYA: We will appreciate it with the haste that you are capable of achieving that. Ms Rantho, apparently I must be more specific. There are various components within the SAPS. That would be commissioners, former commissioners, the ministers, *et cetera*. Did your response cover all of those?

ADV RANTHO: No, for the former; I think Mr Semanya would recall that previously we did indicate that the former provincial commissioners at this stage; the national commissioner unfortunately has no control over them any longer. We cannot commit for the
20 former provincial commissioners. I am not so sure how far the commission engaged with them.

You would recall that initially we sought to assist the commission by communicating or I think forwarding the subpoenas, but then it has probably not been sort of a helpful exercise and we then communicated with the secretariat that they should liaise directly

with them. So for now for the record, I can just commit for the current incumbent, national commissioner, the minister and the official that are still in the employ of the SAPS.

ADV SEMENYA: Some of the request for information went to the chairpersons of the parliamentary portfolio committees of various degree. Do we have anybody from that corner? Okay, are there any comments regarding this first item on the agenda? Ms Rantho?

ADV RANTHO: Thank you. I forgot, Mr Semenya for the former Police Minister, Mr Mufamadi, I can say that we will be dealing with
10 these issues as well. I think there is Major-General Jacobs specifically and Minister Mufamadi. So they are covered in so far as my undertaking is concerned. Those are the only previously, the previous members that at least I can confirm that we will be communicating on their behalf.

ADV SEMENYA: Thank you.

MR MASUKU: Mr Semenya, can I?

ADV SEMENYA: Yes.

MR MASUKU: Ja, my name is Thabang Masuku. I, together with Ms Rikhotso, appear for Adv Menzi Simelane. As you know, Mr
20 Simelane has given the commission a statement; and in that statement he has reserved the right to supplement or to deal with issues that arise as statements of other witnesses come in. To the extent necessary, we cannot commit to when that will be until we are given access to statements that he would need to deal with, but his statement is with you.

ADV SEMENYA: Thank you.

MR MASUKU: Thank you.

ADV SEMENYA: Any other comments, Mr Varney?

ADV VARNEY: Thanks, Mr Semanya. So from the side of the families and Foundation for Human Rights, all our statements are currently in. They have been for several weeks and months. We have received a request from the evidence leaders to provide certain contextual documents.

We do not intend to rely directly on them, but we are
10 compiling them and I believe they will be supplied today. In relation to outstanding documents, surely from the perspective of the families, at some point the commission does have to play hardball; and when necessary, we would encourage the issuing of subpoenas to compel delivery of those documents.

We do have a concern in relation to the timing of the production of statements. So for example, we have heard from the representative of Bulelani Ngcuka and other former NPA members that statements will be given on 13 March. We are concerned about that, because we assumed that by then the hearings will have started
20 and that some of those individuals will either be scheduled to testify or be close to testify.

So we think the sequencing suggestion is a good one. And once the hearing schedule has been determined or at least the order of witnesses; that the representatives of individuals due to testify should be required to product their statements perhaps at least a

week in advance of their testimony. Thank you.

ADV SEMENYA: All right.

MR HATHORN: Mr Semenya, Moray Hathorn, Legal Resources Centre. I represent the Dulcie September Family. We have filed two statements in the name of the Legal Resources Centre in October. They would really have been done on the instructions of the family and their representative, Michael Arendse, a senior member of the family. I think we might just have to within a short period provide another statement in the name of Michael Arendse, but essentially
10 what we have provided to the commission in October is all his statements.

Secondly, yesterday we provided a statement by Jan-Ake Kjellberg who was a TRC investigator of activities of SA Security Branch and so on in Europe. We think that is an important statement. Several matters arise from it, including a request that Torie Pretorius be called to give evidence or his knowledge of that investigation into the [indistinct] of Dulcie September and also certain documents to be called which are in the possession, we believe, of the TRC. I thought I just bring this to your attention.

20 We might provide a further statement then in the name of Mr Arendse, a senior family member from whom I take direct instructions, because the two which are really his statements are in the name of the LRC at this point.

ADV SEMENYA: Yes, we are going to respond to the letter we received yesterday and we will give our reaction to it sooner than

later.

MR HATHORN: Thank you.

ADV SEMENYA: All right, if... sorry, Madam Moroka.

ADV MOROKA: If you are done, we would have thought we should move to number 7, because we need to understand how we get statements and where we source the statements, because we assumed they would be on SharePoint or on the web or what do you call it; on the website. We have not seen any. We have had no sight of these documents. We are told by some of our colleagues that they
10 have filed their statements, the presidency for instance. We have not seen those statements. And if we are going to talk about applications and truncated timelines, surely we should be given enough time to have sight of these documents.

ADV SEMENYA: Yes. What is contemplated there is obviously that in terms of the rules, there is notice to be given to “implicated persons” and if they are minded to cross-examine, they will make an application because cross-examination does not come as a matter of right. We know that is what the rules tell all of us.

What we mean by truncated is that it may very well not be
20 within the timelines of the commission to be giving 14 days’ notice of a witness who will come, but maybe some effort, looking into the documents that are already on the website, parties may very well want to know which of those issues that they may contemplate cross-examining on. And if they are able to say so, the cross-examination applications may come and be ruled upon.

ADV MOROKA: You mentioned that the documents will be on the website.

ADV SEMENYA: Yes. There are a whole host of documents. If I use an unpleasant example, the Calata Group has had these documents for a long time.

ADV MOROKA: And where are they, Mr Semenya, these documents?

ADV SEMENYA: They are on the...

10 ADV NALANE: If you go to TRC-inquiry.org.za. That is the website of the TRC Commission. The documents are arranged in various pockets. There would be presidency. There would be SAPS. There would be all manner of parties. So that is where all these statements are being found. Thanks.

ADV MOROKA: Can I say, Mr Semenya ...[intervenes]

ADV SEMENYA: That was Nalane speaking, for the record. Yes, madam.

20 ADV MOROKA: Can I ask Ms De Vos to speak, because she has better knowledge of, for instance, whether the presidency's statements are there, Mr Nalane. There is only one on that website, not two. So it is not all the documents that are there.

ADV DE VOS: Irene De Vos for the presidency. We filed two affidavits, one by Mr Mphaphuli and one by the president. Only one appears there. I think that is why we just want to make sure that the website is where all the statements are uploaded to.

ADV SEMENYA: I will try and get my team to correct that if a

correction is required. Mr Varney?

ADV VARNEY: I think some of the parties may have issues around navigating the documentation on the website. So for example, the statements and documents relating to the families are actually not under the pocket or category titled 'statements'; hardly enough, they are under the correspondence category. So people looking under 'statements' will not find them. They might find them, if they happen to come across them, under the correspondence bundle, but currently if you go to the correspondence category and you go down to the

10 Calata Group families, you will see that there is a bundle for each of our eight witnesses with the documents and the statements, but perhaps they should be moved to the statement section.

ADV SEMENYA: We can do that, Ms Thakoa? That might be sorted out. The next item I thought we can discuss is the commencement of the hearing. I open by saying that with accommodating other constraints, particularly with the commissioners, the proposal is commencing next Wednesday. Any other input on that? I am told the date is 11. No objection I guess, all right; 11 February, next Wednesday.

20 ADV MOROKA: It is going to be difficult for us. We have 16 Feb to file our answering affidavit in the main application.

ADV SEMENYA: And you would suggest ...[intervenes]

ADV MOROKA: And if you recall, if you recall, the applicants in that application refused to stay. So we are double-batting and it is really very difficult. I think if we want to be fair to all parties, the 11th is out

of the question.

ADV SEMENYA: Ja, counterproposal?

ADV MOROKA: After the 16th.

ADV SEMENYA: Counterproposal, I want to go back with concrete items to consider.

ADV RANTHO: Well, perhaps from SAPS, Mr Semenya anything after 16 February, because...

ADV SEMENYA: The following day.

ADV RANTHO: 2026.

10 ADV SEMENYA: The following day.

ADV RANTHO: Well, that will be 17, yes. Maybe from 17 February. Okay, fine. Okay, let me hear what my senior has to say.

ADV MOROKA: I can assure you, Mr Semenya, if we all want to be here on that date, 17th is out of the question. I do not know what the other parties ...[intervenes]

ADV SEMENYA: 11 is out of the question.

ADV MOROKA: And 17, and 17.

ADV SEMENYA: You said that I am asking for... even the 17th? What is realisable?

20 ADV MOROKA: The 19th.

ADV SEMENYA: Okay, we will record the 19th.

ADV RANTHO: Only for the minister. On this one I am not speaking for the police, I am afraid.

ADV MOROKA: And for the NPA.

ADV SEMENYA: Can I suggest a short adjournment? There are

profound consequences about all of these things. Mr Varney?

ADV VARNEY: Yes, we just want to place on record, I am indeed concerned about the effluxion of time. This commission has now been granted another extension. That extension winds up on 29 May. We have precious little time to finish these hearings. My learned friends are seeking an extra week or more. It is time we simply do not have. If we are going to finish on 29 May, we have to use each and every available day.

As I understand it, the first two days are going to be opening
10 statements and then there are going to be family members who will testify first followed by others. Certainly the teams for the government and state departments have multiple persons. There can be a division of labour. Those working on the papers can continue and one or two others can be sent to these hearings. So we would request that we do start next Wednesday and we use every available minute and hour to complete, because if we do not, we are simply not going to finish.

ADV SEMENYA: Again, I mean rule 11 deals with sequencing of witnesses, which is an item on the agenda. We are not there yet. All
20 I am requesting is a stand-down just to appreciate where we are and to what the implications are, whichever direction we go. Can we have a 15-minute adjournment?

MR SIMELANE: My name is Bhelimuzi Simelane. I have an objection about this talk about starting as early as 11th or anywhere around in February, whereas I filed my statement in October and it

has been quiet from the evidence leaders; and I did make an enquiry with Adv Thakoa. I believe she is the secretary and she put me through to one lady called Graham; and that lady said the evidence leaders will contact me to take the matter forward and as it is, I do not know what is happening and whether the people implicated in my statement had been furnished with my statement to enable them to make their comments. Please if you can assist.

ADV SEMENYA: I will come back to you as soon as we reconvene after the 15-minute adjournment.

10 INQUIRY ADJOURNS

INQUIRY RESUMES

ADV SEMENYA: We took a little bit longer to try and see if we cannot engage with the commissioners themselves and find the compass of what it is that we can do. Can I ask Mr Soni to see what options are available to all of us?

ADV SONI: Good morning, everybody. You know when the Constitutional Court is faced with difficulties of this nature, looked at Canadian law and looked at the principle of reasonable accommodation when there are disputes relating to the rights of
20 people, prejudice to people and so on; we are going to ask if we can adopt the principle of reasonable accommodation in this matter.

The commission is anxious to start on 11 February. Calata and other groups are determined that we start on the 11th. We know there are certain difficulties with parties who are quite essential to this process and they have suggested we start on the 18th or the 19th.

May I suggest the date that we start be the 17th? It is not what the Calatas want and what we want; and the 17th is not what the DOJ and the SAPS want, but is it possible that we can all agree that we start on the 17th? Is that a proposal that is acceptable to everybody?

ADV VARNEY: Thanks, Mr Soni. It is certainly not acceptable for the families and the foundation. Adjusting it by one day still means that we are starting a full week later, a full week that we cannot afford to lose.

10 You know, we could raise the same arguments as our colleagues, because we now have to file papers not long after they filed papers in that litigation. Are we then entitled to a postponement or some accommodation? And quite frankly, if we are able to put up these excuses that because there is other litigation going on which is taking up time of the teams, but that warrants a postponement; then frankly, we are never going to finish.

 The Madlanga Commission certainly does not operate in this way. Judge Madlanga simply issues dates and people comply; and the teams have to make the necessary arrangements. Certainly that
20 has been the case in other commissions that we have been involved in; and we think that yes, reasonable accommodation, but only up to a point. This has already been delayed. We are nearly a year late. How much reasonable accommodation must be accepted? And we say enough is enough. We will not finish by 29 May if we carry on in this fashion.

So we persist in our demand that we start next Wednesday and that the teams make the necessary arrangements to handle the litigation. They are large teams; and to have a representative here. That can be done. It is done in the Madlanga Commission and it can be done here.

ADV SONI: Kgomotso, may I hear you?

ADV MOROKA: We have stated why we had thought it ought to be the date we put down. I will not respond to Mr Varney. We fixed the 17th. Then let it be the 17th. Probably we will not be here on that day,
10 but we will accept the 17th, but I will not respond to Mr Varney. Having said that, Mr Soni, the NPA says they would have preferred a date in March. They are not prepared. It would not be in the best interest of the NPA, seeing the volume of work that has to be undertaken by the NPA to be ready by the 17th, but those are my instructions as far as I can take that. Thank you.

ADV SONI: Kgomotso, do I understand you to say that the NPA here will not be here on the 17th?

ADV MOROKA: I am saying I will not be here on the 17th. I am not saying the ministry and its representatives will not be here. I am not
20 available on the 17th. That is all. That is as high as I take it. And then I am saying the NPA will not be ready on the 17th. Those are my instructions. All I am saying is that the 17th, if the commission sets the matter down for the 17th, the representative from the minister. That is all I am saying, Mr Soni.

ADV SEMENYA: Can we just take a moment? We do not need to

leave the room. I do not think.

Thank you. Having considered the complex resolution of this issue, the direction we will give tomorrow under the hand of the commissioners will point to the commencement of the hearing being at 11 February 2026. I think that is loose enough. I mean, as evidence leader, I cannot give the type of direction, but under the hand of the Chair, that would be the direction given about the commencement date of the hearing. Can we...?

10 There are other matters on the agenda which become of no particular relevance. As I say, the sequencing of witnesses, Mr Varney, it is a prerogative under the rules. I think it is 11 of the Chair. I may indicate at this hour that as evidence leaders, we are concerned about the condition of Mr Ackermann whose, on our information, health is pretty precarious. I would like you to consider in the sequencing that we do not lose to hear his evidence because of his health. Are there any other contributions to be made or we should close this meeting?

ADV MOROKA: You talked about ...[intervenes]

ADV SEMENYA: Mr Moroka speaking.

20 ADV MOROKA: Mister?

ADV SEMENYA: Ms Moroka speaking.

ADV MOROKA: Which witness sequencing and you said it is the prerogative of the Chair. Are we going to be told how that is going to unfold?

ADV SEMENYA: There will be correspondence.

ADV MOROKA: And is it open to the parties to write to the Chair to suggest sequencing?

ADV SEMENYA: Ja, I think that should create no problem. Okay, this is the end of the meeting. Thank you very much for your attendance and consideration.

INQUIRY ADJOURNS TO 11 FEBRUARY 2026

CERTIFICATE OF VERACITY

I, the undersigned, hereby certify that **as far as it is audible**, the foregoing is a true and correct transcript of the digitally recorded proceedings in the matter of:

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