IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case No:2026-026936

In the matter between:

THABO MVUYELWA MBEKI	Applicant/ Seventh Respondent
And	
JACOB GEDLEYIHLEKISA ZUMA	First Respondent
THE CHAIRPERSON OF THE COMMISSION:	
COMMISSIONER SISI KHAMPEDE	Second Respondent
SECRETARY OF THE COMMISSION	Third Respondent
ADVOCATE ISHMAEL SEMENYA SC	Fourth Respondent
COMMISSIONER FRANS KGOMO	Fifth Respondent
ADVOCATE ANDREA GABRIEL SC	Sixth Respondent
CALATA GROUP	Seventh Respondent
NATIONAL PROSECUTING AUTHORITY	Eighth Respondent
MINISTER OF JUSTICE AND CONSTITIONAL AFFAIRS	Ninth Respondent

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA Tenth Respondent

In re:

JACOB GEDLEYIHLEKISA ZUMA Applicant

And

THE CHAIRPERSON OF THE COMMISSION:

COMMISSIONER SISI KHAMPEDE First Respondent

SECRETARY OF THE COMMISSION Second Respondent

ADVOCATE ISHMAEL SEMENYA SC Third Respondent

COMMISSIONER FRANS KGOMO Fourth Respondent

ADVOCATE ANDREA GABRIEL SC Fifth Respondent

CALATA GROUP Sixth Respondent

THABO MVUYELWA MBEKI Seventh Respondent

NATIONAL PROSECUTING AUTHORITY Eighth Respondent

MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS Ninth Respondent

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA Tenth Respondent

FILING SHEET

DOCUMENT FILED: APPLICANTS REPLYING AFFIDAVIT

SIGNED AND DATED AT JOHANNESBURG ON THE 09TH of MARCH 2026

BOQWANA BURNS INC

7TH Respondents Attorneys

1st Floor, 357 Rivonia Boulevard

Rivonia, Johannesburg

(Ref: Irvine Fergus Armoed)

Email: irvine@boqwanaburns.com

lutho@boqwanaburns.com

TO: **THE REGISTRAR OF THE ABOVE HONOURABLE COURT**
JOHANNESBURG

AND TO: **KMNS INC.**

Attorneys for the First Respondent

43 Wierda Road West

Wierda Valley

SANDTON, 2196

Tel: 011 462 5589

Email: thabo@kmnsinc.co.za /

busisiwe@kmnsinc.co.za /

zukiswa@kmnsinc.co.za

Ref: Mr. Kwinana/Ms. Sibiya/ Ms. Mbana

AND TO: **SEANEGO INCPRPORATED**

First, Second, Third, Fourth and Fifth Respondents

1st Floor, 76 Kyalami Boulevard

Kyalami Business Park

Midrand

JOHANNESBURG

Email: info@seanego.co.za

AND TO: **WEBBER WENTZEL**

Attorneys for Sixth Respondent

90 Rivonia Road

SANDTON

Email: lize-mari.doubell@webberwentzel.com

AND TO: THE STATE ATTORNEY

Eighth and Ninth Respondent's Attorneys

SALU Building

316 Thabo Sehume Street

PRETORIA

Per Email: RonBaloyi@justice.gov.za

AND TO: THE STATE ATTORNEY

Tenth Respondent's Attorneys

SALU Building

316 Thabo Sehume Street

PRETORIA

Per Email: RSebelemetsa@justice.gov.za

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case No: 2026-026936

In the matter between:

JACOB GEDLEYIHLEKISA ZUMA	1st Applicant
and	
THE CHAIRPERSON OF THE COMMISSION	1st Respondent
SECRETARY OF THE COMMISSION	2nd Respondent
ADVOCATE ISHMAEL SEMENYA SC	3rd Respondent
COMMISSIONER FRANS KGOMO	4th Respondent
COMMISSIONER ANDREA GABRIEL SC	5th Respondent
THE CALATA GROUP	6th Respondent
THABO MVUYELWA MBEKI	7th Respondent
NATIONAL PROSECUTING AUTHORITY	8th Respondent
MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS	9th Respondent
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	10th Respondent

GNV 1

REPLYING AFFIDAVIT TO THE COMMISSION'S ANSWERING AFFIDAVIT

I, the undersigned,

THABO MVUYELWA MBEKI

do hereby make oath and state that:

1 I am an adult, and the former Deputy President (1994 until 13 June 1999) and President (14 June 1999 to 24 September 2008) of the Republic of South Africa.

2 Unless otherwise stated or so indicated by the context, the facts contained in this affidavit are within my personal knowledge and are, to the best of my knowledge and belief, both true and correct. Where I make submissions of a legal nature, I do so on the advice of my legal representatives. I accept such advice as correct.

3 I have read the answering affidavit deposed to by Advocate Ishmael Anthony Mmakwena Semenya ("**Adv Semenya SC**") on behalf of the first to fifth respondents ("**Commission**"). The Commission's affidavit is also in response to my affidavit and application to review and set aside the Chairperson's ruling in which she declined to recuse herself from the Commission.

4 Due to time constraints, this affidavit is confined to addressing those allegations in the Commission's affidavit that pertain to me thematically. To the extent that the Commission's affidavit deals with allegations directed exclusively at former President Jacob Zuma, or with issues that do not concern me, no response is

GNV

required from me, and I do not deal with them. I do not respond to every allegation *ad seriatim*, due to time-constraints. Any allegation in the Commission's affidavit that I do not specifically address must be construed as denied.

PERMISSION TO INSTITUTE THE PROCEEDINGS NOT REQUIRED

5 I deny that I am required to obtain permission to institute proceedings against a judge, as alleged in paragraphs 16 to 18 of Adv Semenya SC's answering affidavit.

6 The Commission's reliance on section 47(1) of the Superior Courts Act 10 of 2013 in these proceedings is misconceived. Section 47 protects judges from civil proceedings based on their judicial acts. This is not that case – these proceedings *are not* instituted against Justice Khampepe in her capacity as a retired judge performing judicial functions. She is cited in the proceedings in her capacity as the Chairperson of a Commission of Inquiry, exercising powers derived from the proclamation establishing the Commission and the applicable statutory framework governing commissions of inquiry. The impugned conduct concerns decisions taken by her in that capacity.

7 The distinction between a judge acting in a judicial capacity and a judge acting in another statutory capacity has been recognised by the courts. In *Memela v Chairperson of the State Capture Commission of Inquiry and Others* (34177/22) [2025] ZAGPPHC 816 paras 21-29, the Court rejected a similar argument that

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section 47(1) deprived the High Court of jurisdiction to entertain a review application directed at the chairperson of the State Capture Commission.

8 To the extent that the Commission persists in the contention that section 47(1) applies to the present proceedings, I am advised that the issue raises questions of law which will be addressed more fully in argument.

PAJA IS COMPETENT RELIEF

9 The Commission contends that Justice Khampepe's ruling refusing her recusal does not constitute administrative action as defined in the Promotion of Administrative Justice Act 3 of 2000 ("**PAJA**"), and that any reliance on PAJA is therefore misplaced. I deny this allegation. In any case, such a contention raises a question concerning the proper legal characterisation of the impugned decision, and would be fully addressed in argument.

10 I am advised that when conduct involves the exercise of public power, the starting point is to determine whether it constitutes administrative action under PAJA. If it does not fall within the definition of administrative action, the exercise of public power remains subject to review under the principle of legality, which forms part of the rule of law.

GNV

11 The Commission's contention proceeds from the premise that the conduct of a commission of inquiry can never constitute administrative action. I am advised that such a proposition is broadly stated and therefore wrong in law.

12 A commission, during the conduct of its proceedings, performs a range of functions which may differ in nature. Some of its acts are investigative, others are procedural, and some may be administrative action as contemplated in PAJA where it involves the exercise of powers affecting the rights or interests of persons appearing before it. The impugned recusal ruling is a case in point. The issue turns on the nature of the function and not the functionary. It must be distinguished from the executive action of the President establishing the Commission. It must also be distinguished from the making of non-binding findings and recommendations by the Commission at the conclusion of the inquiry.

13 In the present matter, the impugned decision refusing the recusal application bears the hallmarks of administrative action as defined in PAJA. The ruling was taken in the exercise of a public power conferred upon the Chairperson by the proclamation establishing the Commission and the applicable statutory framework governing commissions of inquiry. It directly regulates the manner in which the Commission will conduct its proceedings in relation to me and affects my fair process rights in those proceedings. In those circumstances, the ruling is administrative action for purposes of PAJA.

GNV

14 Stated otherwise, the recusal ruling finally determines my right to procedural fairness. This is so because it finally determines whether a particular decision-maker (in this case, Justice Khampepe) will preside. Such a determination affects the fairness of proceedings and therefore has an immediate direct and adverse external legal effect.

15 Even if commissions ordinarily make non-binding recommendations, the recusal ruling regulates the process by which evidence against the applicant will be gathered and assessed. It is not a non-binding recommendation.

16 Even if it were ultimately to be found that the decision does not constitute administrative action for the purposes of PAJA, it remains subject to review under the principle of legality, an alternative ground of review that I rely on. These issues will be addressed more fully in argument.

MIDSTREAM REVIEW CONTENTION

17 The Commission argues that the present review application has been brought prematurely because the Commission has not yet finalised its inquiry (paragraphs 22-24). On that basis, the Commission argues that a review of this nature should only be entertained in rare and exceptional circumstances, and that Mr Zuma and I have neither pleaded nor established the existence of such exceptional circumstances. It further argues that we have not demonstrated clear or irreparable prejudice to us.

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18 I deny the Commission's characterisation of the present application. I am advised that it is correct that courts are *generally* reluctant to intervene in incomplete proceedings. However, the rule is neither rigid nor absolute. The decisive consideration is whether the interests of justice justify judicial intervention at that stage. Where the impugned decision concerns the constitution of the decision-making body itself, or the impartiality of the presiding officer, intervention before the conclusion of the proceedings may be both appropriate and necessary.

19 The present application falls squarely within that category. The question whether a presiding officer ought to recuse herself goes directly to the lawfulness of the composition of the Commission. If the ruling refusing recusal is unlawful, the continued conduct of the Commission's proceedings before the same presiding officer would be fundamentally irregular.

20 In those circumstances, postponing review proceedings until after the Commission has completed its work would serve little practical purpose, and would (at best) lead to wasted public resources. If the Chairperson ought to have recused herself, the participation of a decision-maker who should not have presided would taint all the proceedings conducted thereafter. The prejudice arising from such circumstances is not merely theoretical. It includes the risk that extensive evidence may be led, witnesses examined, and findings ultimately made by a commission that was improperly constituted.

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21 The Commission's suggestion that any prejudice can be addressed after the conclusion of the inquiry overlooks the nature of the right implicated. The requirement of impartiality (which is linked to procedural fairness) is not concerned only with the correctness of the final outcome, but with the fairness and integrity of the process itself. Once proceedings have been conducted before a presiding officer in respect of whom a reasonable apprehension of bias exists, the harm to the fairness of the process cannot easily be remedied after the fact.

22 In addition, the Commission itself emphasises the limited duration of its mandate and the public resources involved in its work. If the impugned ruling is indeed unlawful, allowing the proceedings to continue in their present form would risk the very inefficiency and waste of resources that the respondents invoke. It is therefore in the interests of justice that the lawfulness of the Chairperson's refusal to recuse herself be determined now, rather than after the Commission has concluded proceedings that may subsequently be found to have been conducted on an irregular basis.

23 For these reasons, the respondents' reliance on the so-called "midstream review" principle is misplaced.

24 I have pleaded circumstances which justify the Court's intervention at this stage, including the risk that proceedings conducted thereafter may be tainted by the participation of a decision-maker who ought not to preside over them, at considerable public expense. Furthermore, I am not compelled by law to

GNV

participate in proceedings that are tainted by a reasonable apprehension of bias in breach of my constitutional rights. I am entitled to seek the immediate intervention of the court. I am advised and respectfully submit that courts in other contexts have recognised the existence of exceptional circumstances in comparable circumstances and permitted a review such as this to proceed. It is also in the interests of justice and the public interest to determine the issue now to avoid a potential waste of time and significant public resources in proceedings that may be a nullity.

25 Importantly, the Commission's contentions does not engage with the practical consequences of the position advanced. If the Commission's approach were correct, a party who becomes aware of facts giving rise to a reasonable apprehension of bias would be required to wait until the conclusion of the proceedings before raising the issue. Such an approach would undermine the very purpose of the recusal doctrine, which is to ensure that proceedings are conducted from the outset before a decision-maker who is, and is perceived to be, impartial.

26 To the extent that the respondents' submissions raise questions of law, these will be addressed more fully in argument.

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SEPARATION OF POWERS IS NOT VIOLATED

27 If I understand the respondents' argument correctly, it is that the relief I seek against the President of the Republic, President Ramaphosa, impermissibly intrudes upon the powers given to the President by section 84(2)(f) of the Constitution (paragraphs 25-30). On that basis, the Commission argues that it would be inconsistent with the doctrine of separation of powers for this Court to direct the President to terminate the appointment of the Chairperson.

28 Such a characterisation misconstrues the nature of the relief I seek in the present application and is accordingly denied.

29 The present application concerns the lawfulness of Justice Khampepe's refusal to recuse herself from presiding over proceedings that adversely affect my rights. The relief that I seek against the President is consequential and arises only if this Court finds that Justice Khampepe ought to have recused herself. In those circumstances, the purpose of the relief that I seek is simply to ensure that the Commission is properly constituted. It is consequential corrective relief and the Court may grant it. In considering whether to grant it, the Court must show due deference to the President's decision to appoint Justice Khampepe. The President has placed his view on oath before this Court in the light of the facts that have emerged. The corrective relief does not, on the basis of what the President says on oath, undermine the President's powers and decision to appoint Justice Khampepe.

GNV

30 The relief may become unnecessary if the Court directs Justice Khampepe to recuse herself from the Commission. She could reasonably be expected to oblige.

THESE PROCEEDINGS ARE NOT AN ABUSE OF COURT

31 I deny that the present review application constitutes an abuse of the process of this Court and that I seek to delay or avoid appearing before the Commission and to be held accountable. That assertion is based on a mischaracterisation of both the nature of this application and the purpose for which it has been brought. The present proceedings are directed at a discrete question of lawfulness, namely whether the Chairperson ought to have recused herself in circumstances giving rise to a reasonable apprehension of bias. That issue goes to the integrity of the Commission's process itself.

32 It is well established that the rule against bias is a fundamental principle of our law. I am advised that the rule exists not merely to protect the interests of individual litigants, but to safeguard public confidence in the fairness and integrity of public processes. Where a party reasonably apprehends that a presiding officer may not approach the issues with the required impartiality, the law entitles that party to raise the issue and, if necessary, to approach a court for relief. The mere invocation of that right cannot, *without more*, constitute an abuse of process.

GNV

33 My review application is brought *bona fide* and for the purpose of securing the integrity of the Commission's proceedings. It is not brought for any dilatory or ulterior purpose.

34 I do not dispute that the Commission performs an important public function, nor do I seek to avoid engaging with its work. The present application concerns the lawfulness of a particular ruling made by the Chairperson and the fairness of the proceedings in which I am required to participate. Ensuring that such proceedings are conducted by an impartial decision-maker is itself an essential component of public accountability and the rule of law. The Commission's attempt to characterise the review application as obstructive overlooks the nature of the right implicated. The question whether a decision-maker ought to recuse herself must be determined objectively and on the basis of the applicable legal test for reasonable apprehension of bias. It cannot be dismissed as abusive simply because it may have implications for the conduct or timing of the proceedings before the Commission or because Justice Khampepe takes a different view.

34.1 The Commission relies on broad assertions regarding the public interest and the importance of its work. While those considerations are undoubtedly significant, they cannot override the requirement that the Commission's proceedings be conducted in accordance with the principles of fairness and impartiality. Public confidence in the Commission's work is not enhanced by dismissing legitimate concerns

GNV

regarding the impartiality of its presiding officer without proper judicial scrutiny.

35 For these reasons, the Commission's allegation that the present application constitutes an abuse of this Court's process cannot be sustained. The application raises *bona fide* and substantial legal issues concerning the lawfulness of the impugned ruling and the fairness of the proceedings before the Commission. It is brought for the purpose of vindicating those rights and ensuring the integrity of the Commission's processes.

DELAY IN BRINGING THE RECUSAL APPLICATION IS NOT DISPOSITIVE

36 The Commission says that I unduly delayed in seeking Justice Khampepe's recusal. It asserts further that I had been aware of the broader subject matter underlying the Commission for a long time; knew of its establishment from at least May 2025, and nevertheless only sought recusal in December 2025 after President Zuma had done so. The high water-mark of this contention is that I should be precluded from seeking Justice Khampepe's recusal on that basis alone.

37 That contention is incorrect and I deny it. First, the Commission conflates knowledge of the broader dispute concerning the alleged suppression of TRC prosecutions, and knowledge of the existence of the Commission, on the one

GNV

hand, and the earliest opportunity I could competently have brought the recusal application. It also treats the issue of delay as dispositive in a recusal application.

38 Second, with this conflation in mind, the Commission is wrong in its determination of when the clock started ticking for purposes of any period of delay. That clock only started ticking when the Commission issued the Rule 3.3. notice requiring me to participate in the Commission to assist in its investigations on pain of sanction. The Rule 3.3 notice was only issued on me in September 2025. The period of delay is to be reckoned from this period until December 2025 when I brought the application for the recusal of Justice Khampepe. Prior to this I was a stranger or an outsider to the Commission. I was not even identified as an interested party in the Commission's terms of reference. That period of delay is short and ought to be overlooked in all the circumstances of the case.

39 The Commission's argument proceeds from an incorrect premise, namely that the mere passage of time between the establishment of the Commission and the bringing of the recusal application is sufficient, *without more*, to render the application impermissibly delayed. That is not the correct legal position. In applications concerning recusal, delay is not a self-standing bar. It is one factor to be considered within the broader enquiry into what the interests of justice permit.

39.1 The question is not simply whether some period of time has elapsed, but whether, in all the circumstances, the delay is such that it would be

GNV

contrary to the interests of justice to entertain the recusal complaint. That enquiry necessarily involves a consideration of multiple factors, including the length of the delay, the explanation for the delay, the stage of the proceedings, the nature and importance of the issue raised, the prospects of success on the merits, and the prejudice that may arise if the proceedings continue before a decision-maker who ought to have recused herself. The mere absence of an adequate explanation is not dispositive, depriving the Court of the ability to overlook the delay. In appropriate circumstances, a court may overlook delay even if the explanation is weak or there is none.

39.2 My case has never been that delay is irrelevant. It is that delay cannot be considered in isolation from the seriousness of the issue raised. If the Chairperson ought to have recused herself, the continued conduct of proceedings before her risks tainting the fairness of the process that follows and rendering them a nullity. That is a factor of obvious significance in determining whether it is in the interests of justice to entertain the recusal complaint notwithstanding the respondents' allegations of delay

40 In the present matter, the Commission focuses almost exclusively on chronology. They point to my awareness of the Calata litigation and the public proclamation establishing the Commission as if those facts alone were sufficient to trigger an immediate obligation on my part to bring a recusal application. That approach

GNV

conflates knowledge of the broader subject matter of the Commission with knowledge of the time when I could competently have brought the recusal application even with knowledge of the broader subject matter of the Commission and Justice Khampepe's appointment. That time only arrived after the Rule 3.3 notice was served on me, as already explained.

41 In addition, and apart from when the clock started ticking for purposes of delay, the relevant enquiry is when a reasonable litigant, having regard to the circumstances of the proceedings and the facts known at the time, would have formed the view that a recusal application was warranted and could competently bring a recusal application. In this regard, the Commission's analysis does not account for the fact that the recusal complaint relied upon in this application also includes matters that arose in the course of the Commission's own proceedings and was not known or reasonably anticipated in September 2025 when the Rule 3.3 notice was served on me.

42 As I have already explained, the basis for the recusal application is not limited to the Chairperson's prior institutional roles within the TRC and the NPA. Those prior roles must be considered <u>together</u> with the manner in which the Chairperson handled procedural objections and issues that arose during the early stages of the Commission's proceedings, including matters concerning the role of the Chief Evidence Leader and the arrangements relating to the leading of evidence. Those developments reinforced and crystallised the apprehension of bias relied upon in the recusal application.

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43 It is therefore incorrect for the Commission to suggest that the grounds for recusal existed in their final form at the moment the Commission was established or that I could competently have brought a recusal application at that time.

44 The Commission is also wrong to suggest that my recusal application was merely triggered by former President Zuma's application in a sense that renders it opportunistic or unexplained. The fact that another party raised a similar recusal complaint does not deprive my application of its own factual and legal foundation. My participation in aspects of the Commission's process prior to the recusal application also do not demonstrate that no reasonable apprehension of bias may exist. Participation in proceedings, particularly where parties are responding to Rule 3.3 notices and procedural directions, does not amount to a waiver of the right to seek recusal, nor does it convert a later recusal complaint into an abuse.

45 In addition, and as explained above and in my founding affidavit/answering affidavit, the Commissions' computation of the period of delay is itself wrong. It exaggerates the period of delay to argue that the Court may not overlook it. It also contends that the delay continues to affect the review before this Court. I deny this. But even if this were correct, this Court has ample flexibility to overlook delay in legality reviews. I am advised that relevant Constitutional Court authority will be referred to in legal argument.

46 In the circumstances, the Commission's reliance on delay does not provide a basis for rejecting the recusal complaint or for upholding the ruling under review.

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The proper enquiry remains whether, having regard to all the relevant facts, a reasonable and informed person would apprehend that the Chairperson may not bring an impartial mind to bear on the issues before the Commission. That is the question which this Court is called upon to determine.

THE ALLEGED "ACID TEST" CONCERNING PRIOR INSTITUTIONAL ROLES

47 The Commission contends that the apprehension of bias arising from Justice Khampepe's prior roles within the TRC and the NPA is a "late-blooming theory" because those roles were publicly known and that I did not challenge them at the time of her appointment. Essentially the Commission proceeds on three propositions:

47.1 that the Chairperson's prior roles were publicly known and I should therefore have challenged the appointment of Justice Khampepe when the President made it – which could only reasonably mean to review her appointment by the President;

47.2 that those roles bear no logical connection to the Commission's present mandate; and

47.3 that the allegations of bias are speculative because no evidence (logical connection) has been produced that the Chairperson personally participated in decisions concerning TRC-related prosecutions.

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48 The Commission is wrong in its contentions. First, that I did not challenge the appointment of Justice Khampepe by the President, which any South Africa with legal standing could have done, does not preclude me from seeking her recusal in the Commission proceedings themselves. I deny that I had such standing[1] – I only acquired standing in September 2025 when I received the Rule 3.3 notice. To be clear, that notice gave me standing to: (a) challenge the appointment of Justice Khampepe by President Ramaphosa; and (b) seek Justice Khampepe's recusal. The appropriate place to Justice Khampepe's recusal was the Commission. The existence of another cause of action – i.e. a review of her appointment at the time when it was made – does not preclude my recusal application. Even the review of her appointment by the President could have been brought within a reasonable time after her appointment in May 2025, which could even be 6 months after that appointment, taking PAJA as a guideline. A period of 6 months from May 2025 expired in November 2025. The review of her appointment did not only have to be brought in May 2025.

49 Second, the Commission's approach misconstrues both the factual context of this matter and the applicable legal enquiry. The complaint raised in my founding/ answering affidavit has always been that the Chairperson misdirected herself as to the test for a reasonable apprehension of bias. She also adopted an unduly sensitive approach to her recusal. In substance, she required proof of personal involvement or actual bias before recusal could arise. That approach incorrectly

[1] It will be recalled that the High Court rejected my application to intervene in the proceedings before it. *Mbeki and Another v Calata and Others* (005245/2025) [2025] ZAGPPHC 753 (1 August 2025).

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treats the enquiry as turning on whether the Chairperson had prior involvement in the specific decisions now under investigation by the Commission. I am advised that that is not the test. The enquiry is whether *a reasonable, objective and informed observer would reasonably apprehend that the Chairperson may not bring an impartial mind to bear on the issues before the Commission*. The focus is therefore on the appearance of impartiality in light of the surrounding institutional context, not on proof that the decision-maker previously considered and participated in the precise subject matter under investigation by the Commission.

50 The Commission's reasoning proceeds on the assumption that prior institutional roles are irrelevant unless they involve direct knowledge of the precise subject matter before the Commission. That approach overlooks the nature of institutional bias. *Institutional bias arises where the structure of the decision-making process, or the decision-maker's previous institutional responsibilities, create a reasonable apprehension that the decision-maker may be called upon to evaluate matters closely connected to decisions, policies, or processes with which she was previously associated.* It would be sufficient for this purpose if the subject matter of the inquiry in the Commission arises from decisions, policies or processes which the Chairperson was previously associated with or played a role in.

50.1 In such circumstances the concern is not personal prejudice but the risk that the decision-maker may be required, consciously or unconsciously,

GNV

to evaluate or defend institutional decisions or processes with which she was previously involved.

51 In the present case the apprehension arises precisely from the association between the Commission's mandate and the Chairperson's prior institutional roles. As appears from my founding /answering affidavit, the Chairperson served both as a member of the Amnesty Committee of the TRC and as Deputy National Director of Public Prosecutions as well as involvement with the NPA's Human Rights Investigation Unit during the period when TRC cases were being referred to the NPA for investigation and prosecution.

51.1 In paragraph 50 of the recusal ruling, Justice Khampepe denies being aware of any specific policy on TRC cases in which she was involved that may have emerged from the Human Rights Investigation Unit during 1998 or 1999, but she does not deny that she was involved in the NPA's Human Rights Investigation Unit (**HRIU**), whose mandate was to review TRC amnesty records, investigate apartheid-era human rights violations, and make recommendations regarding the prosecution of TRC-related cases. This is confirmed by the Calata Group's attorneys, Webber Wentzel, in a letter dated 11 November 2025, in which they state that Justice Khampepe "*played a role in the HRIU*", including providing advice to the National Director of Public Prosecutions on the approach to TRC matters. Neither Justice Khampepe nor the Commission ever disputed that characterisation of the former's role within the NPA.

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51.2 Before the Commission, Adv Semenya SC acknowledged that Justice Khampepe had served as Deputy National Director of Public Prosecutions and further acknowledged that it had been put to the Commission that she was involved with the HRIU. However, Semenya SC did not engage with the substance of that allegation. Instead, he successively deflected: first, he acknowledged it merely as an allegation; second, he said it was irrelevant in light of the temporal limits of the Commission's terms of reference; and third, he treated it (in the answering affidavit) as a matter to be addressed only in legal argument.

51.3 Justice Khampepe's role in the HRIU is only disputed for the first time in the Commission's affidavit where it is stated that "*I further deny that the Chairperson had any role in the NPA's Human Rights Investigation Unit.*"[2] Significantly, no attempt is made to take the Court into Justice Khampepe's confidence and say what precise role in the NPA she played regarding TRC cases. She keeps completely silent on this aspect which is at the centre of the recusal application and this review. Any doubt as to her precise role in this regard is left to linger, only exacerbating the apprehension of bias. I am advised and respectfully submit that when there is such doubt, recusal is appropriate.

52 Justice Khampepe was appointed as a TRC Commissioner in December 1995, and her tenure expired in 2001. She served as a member of the Amnesty

[2] First to Fifth respondents' answering affidavit para 243.

GNV

Committee from 1996 until 2001, when it was dissolved. The primary function of the Amnesty Committee was to receive, consider and determine applications for amnesty. As already explained in the founding affidavit/answering affidavit,[3] a number of the parties and participants before the Commission were themselves involved in the TRC processes in which the Chairperson participated as a Commissioner. These include members of the Calata Group and senior leaders of the African National Congress ("**ANC**"), including myself.

52.1 In particular, in March 1999 the TRC Amnesty Committee, of which the Chairperson was a member, refused the amnesty applications of 37 ANC leaders, including myself, which is not denied in the Commission's affidavit.[4] The relevance of this background lies not in the merits of that decision, but in the institutional overlap between the Chairperson's prior role in the TRC process and the individuals and issues that now arise in the Commission's proceedings.

53 The Commission is now tasked with investigating whether decisions were taken within the state, including within the prosecuting authority, to frustrate or impede the investigation and prosecution of those very cases. A reasonable observer could therefore apprehend that the Chairperson may be required to evaluate institutional conduct occurring within the very structures in which she previously exercised senior responsibility.

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[3] FA/AA paras 28-31.
[4] First to Fifth respondent's answering affidavit para 186.

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54 I am advised that in any case, requiring a link between what Justice Khampepe did in the TRC and what she does in the Commission conflates the test for reasonable apprehension of bias and actual bias. It is an error of law.

55 But even if such a link is required, it is not of the kind that Justice Khampepe insists upon. It is sufficient to show that the existence of the Commission and/or the subject matter of the Commission that she presides over arise from decisions, policies and processes that she previously participated in or was associated with. This is met on the facts of this case. This Commission would not have been established if there were no applications for amnesty that were refused; if the NPA had not been required to prosecute those that were not granted amnesty but allegedly failed to do so; and it was not alleged that I and others unlawfully interfered in such prosecutions – in my case to avoid my own prosecution and those of other ANC leaders who were not granted amnesty. I deny the assertion that the ANC 37 were not denied amnesty. They were, and the Rule 3.3 notice that was issued to me says as much.

56 Justice Khampepe was part of decisions to deny amnesty, that those denied amnesty must be prosecuted and the taking of steps to prosecute those denied amnesty. Those are the roles she is alleged to have played in the TRC and the NPA. In my case, part of the findings Justice Khampepe will be required to make include whether I had reason to interfere with the prosecution of TRC cases and that on a balance of probabilities I did.

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57 It is worth noting that in his affidavit filed before this Court, President Ramaphosa observes the grounds on which I (and Mr Zuma) rely in seeking Justice Khampepe's recusal. These are listed in paragraph 9 of his affidavit. He then confirms (in paragraph 10) that:

> *"At the time that I appointed Justice Khampepe as the Chair of the Commission, I was unaware of the allegations in paragraph 9. I became aware of these allegations only after her appointment and during the course of the recusal applications. By then, I had already appointed Justice Khampepe as the Chair. I had no further role in her appointment or removal as Chair"*

58 Significantly, the President states that had he been aware of these matters at the time of appointment, he would not have appointed Justice Khampepe as Chairperson, precisely to avoid public criticism or perceptions affecting the Commission's impartiality.

59 These statements undermine the Commission's suggestion that the concerns raised in these proceedings are contrived or belated. On the contrary, they confirm that the very considerations that I rely upon are of such significance that they would have influenced the decision whether to appoint Justice Khampepe to chair the Commission in the first place.

60 I respectfully submit that in all the circumstances, the apprehension of bias is reasonable and Justice Khampepe should have recused herself. She must be ordered to recuse herself, or that she must be removed, or that her appointment should be terminated.

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THE CHAIRPERSON IS A COMPETENT WITNESS BEFORE THE COMMISSION

61 On 24 February 2026, I sought leave to file a further affidavit after President Zuma filed his supplementary affidavit on 19 February 2026. In that affidavit, I explained that Justice Khampepe is a competent and compellable witness before the Commission, because she worked alongside Judge Saldanha in the National Prosecuting Authority's HRIU in 1998/1999. Judge Saldanha is a witness before the Commission and has been asked to testify on whether in his capacity as commanding officer of the HRIU, he had access to information concerning decisions, discussions, or policies affecting the investigation and prosecution of TRC-related cases.

62 The Commission's contention that the Chairperson cannot be regarded as a potential witness is denied as it fails to engage with the evidentiary record now before the Commission.

63 I must make it clear that my case is not that the Chairperson has already been identified as a witness, nor that a subpoena has been issued compelling her evidence. The point is a narrower but important one: the evidence presently before the Commission demonstrates that the Chairperson may well have material personal knowledge relevant to the very issues the Commission has been established to investigate. The Commission's mandate includes determining whether decisions, discussions, policies or institutional practices within the NPA affected the investigation or prosecution of TRC-related cases.

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Evidence already placed before the Commission indicates that the Human Rights Investigative Unit of the NPA played a central role in assessing those cases.

64 Justice Saldanha, who headed that unit, has been called upon to give evidence regarding the functioning of the unit and the institutional processes surrounding TRC-related prosecutions.

65 The Chairperson served within the same institutional environment during the relevant period. In those circumstances, the possibility that she may have relevant institutional knowledge cannot be dismissed as the Commission seeks to do. I am advised and respectfully submit that such dismissal being a bare denial does not raise a genuine dispute of fact. To raise a genuine dispute of fact it was incumbent on Justice Khampepe to say precisely what she did or did not do in the NPA regarding the prosecution of TRC cases. It is not sufficient of a Justice facing a recusal application regarding her prior roles to pretend not to know the full facts. Such conduct exacerbates the apprehension of bias and must result in recusal.

66 The evidence already before the Commission further illustrates why this possibility cannot be discounted. The sworn statement of Adv Anton Ackermann ("**Adv Ackermann SC**") dated 25 October 2025, attached and marked "**TMM1**") demonstrates that he raised concerns within the NPA regarding the obstruction of TRC prosecutions and refused to participate in amendments to the prosecution policy which he regarded as unconstitutional.

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67 Adv Ackermann SC further states in his statement that when he and the then National Director of Public Prosecutions, Adv Vusi Pikoli, appeared before the Justice Portfolio Committee on 3 May 2007, Adv Pikoli indicated that attempts to prosecute former police officials were met with political intervention.

68 By contrast, the statement of the former National Director of Public Prosecutions, Mr Bulelani Ngcuka ("**Mr Ngcuka**"), signed in February 2026, asserts categorically that during his tenure, there was never any attempt by members of the executive or any other person to influence or pressure the NPA to stop the investigation or prosecution of TRC cases. Mr Ngcuka's statement is attached and marked ("**TMM2**").

69 These accounts raise materially different explanations for the handling of TRC-related prosecutions within the NPA. Resolving such differences will inevitably require the Commission to examine the institutional processes, discussions and decision-making structures that existed within the NPA during the relevant period. The HRIU, which was established to review TRC matters, forms part of that institutional context. Justice Saldanha's evidence confirms that the functioning of that unit lies squarely within the Commission's inquiry. In these circumstances, it cannot be said that the Chairperson's evidence is irrelevant or inconceivable. To the contrary, the possibility that she may possess material institutional knowledge arises precisely from her prior roles within the structures now under examination.

TMM.
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70 My submission is therefore not speculative. It arises from the evidence already placed before the Commission and from the contradictions within that evidence. The difficulty which arises is that the Chairperson is currently tasked with presiding over an inquiry into matters in respect of which she may herself possess relevant institutional knowledge and could potentially have been required to provide clarification or evidence. It is not an answer in such circumstances to say other witnesses will testify. Being inquisitorial proceedings, she is expected to play an active role in searching for the truth. It starts with her knowledge of the truth, and the full truth.

71 The point is that Justice Khampepe has personal knowledge of what transpired in the NPA regarding the prosecution of TRC cases when she was second in command, which may become disputed matters before her. She is disqualified by a reasonable apprehension of bias from sitting. Things would be different if she had proactively fully disclosed her prior roles and what she precisely did and the parties agreed for her to continue. She did not do this; and does not do this before this Court, exacerbating the apprehension of bias.

72 I am advised that the law is clear that where a presiding officer may become a material witness in proceedings over which he or she presides, the integrity of the process is compromised and recusal becomes necessary. At the very least, a reasonable and informed observer apprised of the evidence presently before the Commission would reasonably apprehend that the Chairperson may be required to engage with issues in respect of which she may herself be a source

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of relevant evidence. That circumstance gives rise to precisely the type of institutional difficulty which the doctrine of reasonable apprehension of bias seeks to avoid.

THE TEMPORAL BOUNDARY CANNOT BE SUSTAINED

73 The Commission's reliance on what it describes as a "temporal boundary" beginning in 2003 is unsustainable for the reasons that I explain below. I must emphasise, however, that I do not challenge the Terms of Reference of the Commission, nor the fact that its mandate concerns alleged interference occurring since 2003, nor do I have to do so for purposes of my complaint.

74 The point made in this application is a narrower one. The Terms of Reference require the Commission to investigate whether attempts were made, since 2003, to influence the investigation or prosecution of TRC-related cases. That enquiry necessarily requires the Commission to understand the institutional history and prosecutorial treatment of those cases prior to that date. Decisions allegedly influenced after 2003 did not arise in a vacuum. Such decisions were the product of institutional practices and prosecutorial approaches developed in the preceding years. This is precisely why the Calata Group took the view (before the Commission) that the 2003 temporal boundary is irrational.

75 The Commission therefore cannot meaningfully perform its mandate without considering the historical context in which TRC-related prosecutions were

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addressed in the late 1990s and early 2000s. That period directly overlaps with the Chairperson's prior institutional roles within both the TRC and the NPA. The suggestion that those roles are automatically irrelevant because the Commission's mandate refers to conduct "since 2003" is therefore incorrect. The Rule 3.3 notice that I received from the Commission is evidence to this. By way of example, the Rule 3.3 notice contains a section under the heading, "*Deliberations on a further immunity*" (at page 009-228). This short section starts the narration of relevant facts from July 1998; discusses the "*denial*" of amnesty to the ANC 37 leaders and the demand by the apartheid generals for a general amnesty. I am alleged in that section to have taken various steps to accommodate a possible general amnesty. This was all allegedly done for self-preservation and the preservation of the other ANC leaders.

76 This context is absolutely relevant to assess the allegation that I interfered with the prosecution of TRC cases and I had a reason for doing so. The Commission must take this context into account and evaluate the veracity of the allegations made in order to determine whether I did interfere with the prosecution of TRC cases in 2003 onwards. The alleged context forms the genesis of the thesis that I did. It beggars belief that it is even suggested by the Chief Evidence Leader and the Commission Chairperson that all of this is irrelevant to the Commission's investigations. I am advised that in the determination of legal cases context is king.

GNV

77 Once it is accepted that the Commission must necessarily consider the institutional and historical context in which TRC-related prosecutions were addressed prior to 2003, the relevance of the Chairperson's prior institutional roles becomes apparent. The issue is not whether the Chairperson personally made decisions after 2003, but whether her prior institutional involvement in the processes surrounding TRC matters may reasonably give rise to an apprehension that she will now be required to evaluate matters connected to those earlier processes. I have explained how the very existence of the Commission and its subject matter arise from decisions, policies and processes in which Justice Khampepe was personally involved previously in the TRC and NPA.

THE CHAIRPERSON'S PREVIOUS RULINGS

The leading of witnesses decision

78 A reading of the affidavits before this Court, including the Commission's answering affidavit, together with the affidavits and record before the Commission, reveals a series of facts that are either common cause or not seriously disputed. These facts establish the following:

78.1 The Rules of the Commission were promulgated on 29 August 2025.

78.2 Rule 3.1 of the Rules provides that the Evidence Leaders bear the overall responsibility to present the evidence of witnesses to the Commission.

GNV

78.3 The Commission started to issue Rule 3.3 notices to interested parties, including to me, in September 2025.

78.4 On 27 October 2025, the Commission convened a pre-hearing meeting with all the parties. At this meeting, it was revealed that on 29 September 2025, a private agreement was concluded between Adv Semenya SC acting on behalf of the Commission and Adv Varney acting on behalf of the Calata Group. In terms of the agreement, Adv Varney would lead all 8 witnesses of the Calata Group – and not the evidence leaders. This arrangement obviously affected all the parties before the Commission.

78.5 This agreement was not disclosed to the other parties when it was made, or after (until it was probed at the pre-hearing meeting). The Calata Group says that the letter confirming the arrangement was uploaded onto SharePoint, but it is plain from the transcript of the prehearing meeting that the majority of the parties did not have access to SharePoint.

78.6 Many parties objected to this arrangement and a formal objections and answer process was followed. My attorneys submitted written objections to the arrangement.

78.7 The hearing for the formal objections was set down for 28 November 2025. However, on the day of the hearing, the parties agreed and consented to an order which stipulated that the Chairperson should determine the objections on the papers without the need for oral argument and then issue a ruling.

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78.8 On 2 December 2025, the Chairperson issued a one-line ruling, granting the Calata Group permission to lead their own witnesses. She did not provide any reasons.

78.9 My attorneys requested reasons. The Chairperson issued a ruling refusing to provide reasons.

78.10 From the record, it is clear that at no point did the Chairperson seek to properly investigate the existence, nature and propriety of Adv Semenya's private arrangements with Adv Varney. She did not determine whether there was a lawful request to deviate from Rule 3.1. She did not consider whether the arrangement jeopardised procedural fairness. She did not try to ascertain whether there was disclosure of relevant correspondence to all the parties pursuant to the private arrangement.

78.11 She instead endorsed the private arrangement.

79 Nothing that the Commission says in its answering affidavit unsettles the above common cause facts.

80 My submission is that a reasonable observer, apprised of these facts, would be alarmed that Justice Khampepe endorsed an irregular and undisclosed private arrangement, declined to interrogate it, and treated serious objections by multiple parties as insignificant and not worthy of engagement. They would apprehend that Justice Khampepe may not bring an impartial mind to procedural matters and that involve Adv Semenya SC and the Calata Group.

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81 It does not matter that there was no review of the Chairperson's ruling on the issue; various causes of action can arise from the same set of facts.

The Adv Semenya SC recusal

82 Again, when one reads the affidavits before this Court, including the Calata Group's answering affidavit, and the affidavits before the Commission, the following is plain:

82.1 In the wake of the pre-hearing meeting of 27 October 2025, it was revealed that:

82.1.1 on 18 September 2025 the Calata Group had addressed a letter to the Chairperson and raised with her a potential conflict of interest concerning Adv Semenya SC, who had previously advised the NPA on the issue of amendments to the NPA's prosecutorial policy. This topic is directly linked to the matters before the Commission. The Calata Group requested that Adv Semenya SC not be involved in any deliberations or leading of witnesses relating to the amendments to the NPA's prosecution policy.

82.1.2 Justice Khampepe wrote back on 19 September 2025 and agreed with the proposal that Adv Semenya SC does not participate in any deliberations or leading of witnesses relating to the amendments to the NPA's prosecution policy.

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82.2 Several parties were dissatisfied and sought Adv Semenya SC's recusal as Chief Evidence Leader. On 10 November 2025, the Commission directed that the founding papers in the recusal application be filed by 12 November and answering papers by 18 November. The hearing would take place on 26 November 2025.

82.3 On 13 November 2025, while the recusal proceedings were ongoing, Adv Semenya SC conducted interviews with the former Acting National Director of Public Prosecutions, Dr Silas Ramaite. During that interview, he traversed aspects of the prosecution policy – contrary to Justice Khampepe's directive of 19 September which was supposed to create a buffer between Adv Semenya SC and issues relating to prosecuting policy.

82.4 The NPA subsequently raised Adv Semenya SC's conduct in a supplementary affidavit in the recusal application.

82.5 In light of Adv Semenya SC's conduct, the Calata Group who initially abided the Chairperson's decision in the recusal application agreed that Adv Semenya SC ought to be recused because he placed himself in breach of the Chairperson's directive.

83 Adv Semenya SC breached a directive by the Chairperson that was supposed to create a buffer between him and issues regarding the NPA's prosecution policy. The directive was not made for the sake of it. It was made to ensure that

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the conflict-of-interest concern is neutralised. The Calata Group agreed that the proper course of action was for Adv Semenya SC to be recused. Instead of recusing him, the Chairperson regularised his conduct after the fact in her ruling dated 4 December 2025.

84 It is this handling of the complaint that I am opposed to. That I did not bring an application for the recusal of Adv Semenya SC takes matters nowhere – it cannot insulate the Chairperson's subsequent rulings, procedural choices, or supervisory omissions from scrutiny, where those decisions themselves give rise to a reasonable apprehension of bias.

85 The Chairperson's own supervisory handling of the objection, her endorsement of a departure from the Commission's processes, and her approach to enforcing her own directive, viewed cumulatively, could reasonably give rise to an apprehension that the process is not being managed with the requisite procedural impartiality.

86 I reiterate that the complaint is about Justice Khampepe's handling of Adv Semenya SC's conflict issue and how this would lead to a reasonable, informed observer apprehending a lack of impartiality. The complaint calls into question her conduct in compromising the integrity of the evidence leading process.

CONCLUSION

87 On account of time-constraints, I have addressed only the essential issues (per theme) that are raised in the Commission's affidavit.

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88 The evidence presently before the Commission, including the material placed before it by other witnesses, demonstrates that matters falling within the Commission's mandate arise from institutional processes and decisions in which the Chairperson herself was previously involved. That circumstance gives rise, at the very least, to a reasonable apprehension that the Commission's proceedings may not be conducted with the requisite appearance of impartiality by the Commission. That these processes, policies and decisions date back almost 30 years ago is of no moment. They are now live before the Commission and gave rise to the very existence of the Commission and its subject matter.

89 The principle that justice must not only be done but must also be seen to be done is of particular importance in proceedings of this nature. A commission of inquiry established to investigate matters of profound public importance must command the confidence of all participants and of the public at large.

90 In the present circumstances, the manner in which the issues described above have been addressed by the Chairperson, viewed cumulatively, gives rise to a reasonable apprehension of bias and undermines the integrity of the process.

91 In the result, I pray for an order in terms of the Notice of Motion and/or such alternative relief as this Honourable Court may deem appropriate.

THABO MVUYELWA MBEKI

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I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and deposed before me at JOHANNESBURG on this the 9th day of **March 2026**, and that the provisions of the regulations contained in the Government Notice R1258 of the 21st of July 1972, as amended, and Government Gazette Notice R1648 of the 19th of August 1977, as amended, have been complied with.

COMMISSIONER OF OATHS

Goodman Ntandazo Vimba
Practising Attorney
Commissioner of Oaths
1st floor 357 Rivonia Boulevard
Rivonia
Sandton, 2128
Tel: 011 238 7991

ANNEXURE "TMM1"

IN THE COMMISSION OF INQUIRY INTO STOPPED TRC INVESTIGATIONS AND/OR PROSECUTIONS

AFFIDAVIT OF ANTON ROSSOUW ACKERMANN

I, the undersigned

ANTON ROSSOUW ACKERMANN

state under oath as follows:

Introduction

1. I am an adult male, a senior counsel, and a former Special Director of Public Prosecutions in the Office of the National Director of Public Prosecutions ("**NDPP**"). I am currently retired and residing in the Western Cape.

2. In terms of section 13(1)(c) of the National Prosecuting Act No. 32 of 1998 ("**the Act**"), I was appointed by President TM Mbeki, under a Presidential Proclamation dated 24 March 2003, to head the Priority Crimes Litigation Unit ("**PCLU**"), located at the head office of the National Prosecuting Authority ("**NPA**"). I served as head of the PCLU from 2003 to 2013, when I retired.

3. Save where appears from the context, the facts contained in this affidavit are within my own personal knowledge and are to the best of my knowledge and belief both true and correct.

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4. I depose to this affidavit to assist the Judicial Commission of Inquiry into stopped TRC Investigations and/or Prosecutions ("**the Commission**") to address paragraphs 1 to 1.3.2 of the terms of reference of the Commission.

Confirmation of affidavits

5. I confirm the contents of my affidavit dated 7 May 2015 which was attached as a supporting affidavit in the matter of *Nkadimeng v NDPP and Others* (Gauteng Division, Case No. 36554/2015). I will rely on the full contents of this affidavit to address the aforesaid paragraphs of the terms of reference. A copy of this affidavit was supplied by Webber Wentzel attorneys[1] to the Commission on 10 October 2025 in divider (bundle) 3 at paginated pages 890 - 907.

6. I also confirm the contents of the founding affidavit of Lukhanyo Calata dated 17 January 2025 filed in *Calata & Others v Government of South Africa & Others* (Gauteng Division, Case No. 2025-005245), insofar as it pertains to me ("**the Calata affidavit**"). A certified copy of this affidavit was supplied by Webber Wentzel attorneys to the Commission on 10 October 2025 in bundle 1 at paginated pages 1 - 842.

6.1 In respect of paragraph 33.1 of my aforesaid affidavit and paragraph 234 of the Calata affidavit I point out that the letter from the SAPS Legal Support Section Maj Gen P C Jacobs was probably addressed to the NDPP not the Priority Crimes Litigation Unit ("**PCLU**").

6.2 I also point out that in respect of paragraph 216 and the first line of paragraph 217 of the Calata affidavit the Senior Superintendent Britz

[1] Attorneys for the 22 families and the Foundation for Human Rights.

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referred to therein is "Hennie Britz" and not "Karel Johannes 'Suiker' Britz".

Reliance on Macadam affidavit and annexes

7. I align myself with the contents of the affidavit of Raymond Christopher Macadam ("**Macadam**") filed in the Joao Rodrigues stay of prosecution case in *Rodrigues v NDPP & Others* (Case No. 76755/18, Gauteng Division). I will rely on the contents of this affidavit, together with the documents attached to that affidavit, to address the aforesaid terms of reference. A copy of this affidavit was supplied by Webber Wentzel attorneys to the Commission on 10 October 2025 in bundle 1 at paginated pages 276 - 359.

Provision of new documents

8. I attach to this affidavit two documents that are not currently part of the record provided by Webber Wenzel attorneys on 10 October 2025.

8.1 A letter dated 16 March 2004 I addressed to Raymond Lalla, the Divisional Commissioner of SAPS Crime Intelligence ("**Lalla**"), annexed hereto marked "A".

8.2 An internal memorandum dated 27 September 2007 I addressed to DSO Head, Adv Leonard McCarthy ("**McCarthy**") titled "Project Gnome".

9. In the letter to Lalla, I expressed my displeasure at him secretly videotaping a confidential meeting I held with him on 25 August 2003, in respect of the TRC cases. In that meeting I voiced my frustration and disgust with the refusal of the DSO to take on the TRC cases. That videotape was then handed over to

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NDPP Ngcuka, Deputy NDPP Ramaite and DSO Head McCarthy. I was then called into a meeting with them and confronted with the video recording.

10. The internal memorandum sent to McCarthy on 27 September 2007 dealt with the investigation into the fabricated note I referred to in my 2015 affidavit from paragraph 35 (bundle 1, paginated page 905).[2] In this memorandum I explained to McCarthy why the note was definitely forged.

Request to locate documents / evidence

11. I respectfully request the Commission to secure or subpoena the following documents and items of evidence:

11.1 From the Department and Ministry of Justice:

11.1.1 Minutes and records of the following bodies:

11.1.1.1 Special Cabinet Committee on the Post TRC cases / Subcommittee of the Justice, Crime Prevention and Security (JCPS) Cabinet Committee on Post TRC matters.

11.1.1.2 Committee of Directors Generals, in respect of their deliberations on the TRC cases.

11.1.1.3 The Amnesty Task Team.

11.1.1.4 The Inter-departmental Task Team on the TRC cases.

11.2 From the NPA:

[2] See also paragraph 260 of the Calata affidavit.

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11.2.1 A copy of the fabricated note referred to in paragraph 10 above.

11.2.2 Relevant documents, including reports and correspondence, from the person commissioned to investigate the hacking of my computer in respect of the fabricated note.

11.2.3 Report on the costs expended for the services of the investigator.

11.3 From the SAPS:

11.3.1 The original fabricated note that was allegedly in the possession of the DSO.

11.3.2 The videotape made by Raymond Lalla of the meeting with me, Torie Pretorius and Chris Macadam on 25 August 2003.

Allegations of Imtiaz Cajee

12. I was sent an undated Notice in terms of Rule 3.3 with various allegations made by Imtiaz Cajee arising from his affidavit dated 30 September 2025.

Paragraph 47: No concerted effort

13. In respect of Cajee's allegation in paragraph 47, I point out that I was only appointed as head of the PCLU on 24 March 2003 and the then NDPP declared the TRC cases to be priority crimes in May 2023. I was not personally involved in the Ahmed Timol case, which was being handled by Adv Chris Macadam, but it was one of the TRC cases falling within our mandate.

14. Extensive efforts to secure investigators for the TRC cases were made from early May 2003 shortly after their designation as priority crimes, as set out in

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the Macadam and Calata affidavits. As stated in the aforesaid affidavits both the Directorate for Special Investigations ("**DSO**" or "**Scorpions**") and the South African Police ("**SAPS**") declined to investigate the TRC cases.

15. This effectively blocked the investigation of the TRC cases for several years and severely undermined the prospects of justice in those cases, including the Timol case.

16. I deny that I placed the burden of investigating the Timol case onto Cajee, but I accept that in the absence of investigations by the DSO / SAPS, families, including the Timol family, felt obliged to carry out their own investigations.

Paragraphs 195 - 6: Failure to create mechanism and to approach the President

Paragraph 207: Allegation of no interference

Paragraphs 208-9: Alleged failure to resist

17. I agree that government failed to take steps to investigate the TRC cases. I also agree that the President should have been approached.

18. As I was not the NDPP it was not within my prerogative or power to contact the President.

19. However, after DSO Special Director Adv MG 'Geoph' Ledwaba (**"Ledwaba"**) refused to sign the section 28(1)(b)[3] notices in respect of the TRC cases, I recall that I approached either Adv Leonard McCarthy, then head of the DSO, or Adv Bulelani Ngcuka, then NDPP, or Adv Silas Ramaite, then Deputy NDPP to expedite the signing of the said notices.

[3] Inquiries by Investigating Director in terms of the National Prosecuting Act 32 of 1998.

20. Regrettably, the said notices were not authorised, notwithstanding my efforts. I did not have the power to take the matter further than that.

21. Within the NPA I raised my concern about the obstruction of the TRC cases. I refused to take part in the amendments to the Prosecution Policy, which I regarded as unconstitutional.

22. On 3 May 2007, NDPP Pikoli and I appeared before the Justice Portfolio Committee in Parliament. I advised that the lack of progress in the TRC cases was not the fault of the PCLU. Pikoli advised the Commission that "*there was politically sensitive issue*", and that "*whenever there was an attempt to charge the former police there was a political intervention and that effectively the NPA was being held to ransom by the former generals.*"[4]

23. From around 2006 I advised families and lawyers that we were struggling to get investigators for the TRC cases and suggested they should pursue inquests rather than prosecutions.

24. I agree with the views of the Full Court in the Rodrigues matter that the NPA should have asserted its authority and independence and resisted the political interference.

25. Because of my opposition to the interference in the TRC cases I was relieved of my duties in respect of these cases in September 2007, and it is also one of the reasons why Pikoli was suspended as NDPP.

26. To the extent that Cajee alleges that there was no interference in the work of prosecutors in the TRC cases, I deny such a claim.

[4] See para 250 of the Calata affidavit.

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27. To the extent that Cajee describes me as an old order prosecutor acting in the interests of the former regime, I point out that I always prosecuted without fear or prejudice, regardless of the nature of the case. I was the lead prosecutor in the prosecution of former apartheid security operatives: Eugene de Kock, Wouter Basson and Ferdi Barnard, amongst others.

28. In this regard I annex hereto marked "C" a note I received from George Bizos SC in relation to my role at the inquest of Jabu Vilakazi, in which he also appeared.

ANTON ROSSOUW ACKERMANN

The Deponent has acknowledged that the Deponent knows and understands the contents of this affidavit, which was signed and sworn to or solemnly affirmed before me at Hermanus on 25 October 2025, the regulations contained in Government Notice No. R1258 of 21 July 1972, as amended, and Government Notice No. R1648 of 19 August 1977, as amended, having been complied with.

COMMISSIONER OF OATHS

Full names: Sinwindile Mickel Ubisi
Business address: 61 Main Road
Designation:
Capacity: Warrant officer

GNV.

P O Box 10036
MORELETA PLAZA
0167
16 March 2004

Commissioner Lalla
The Divisional Commissioner
Crime Intelligence
Private Bag X302
PRETORIA
0001

Dear Commissioner Lalla,

With reference to your clandestine audio and visual monitoring of our confidential discussion on 25 August 2003, I wish to convey my utmost disgust at such underhanded conduct.

It is accepted practice amongst professionals, when it is desirable that a meeting be recorded that it be done openly.

The purpose of my meeting with you was to further the interest of justice. You came highly recommended to me by Macadam and Pretorius as a sincere and trustful colleague. Obviously they made a grave error of judgement.

Unfortunately because of this experience I am left with the firm impression that the only difference between your division and the old security regime is the change in surnames. (See the attached documents indicating previous attempts "to get rid of me"). Only time will tell if you have succeeded and whether the end justify the means.

In closing I wish to echo the answer by Oscar Wilde during his cross-examination: "Don't you have any decency?"

AR ACKERMANN
HEAD: PCLU

GNV

/Z56 forms

Office of the Head
Priority Crimes Litigation Unit
VGM Building
PRETORIA

P. O. Box 752,
PRETORIA
0001

VGM Building
Hartley St.
Weavind Park
0001
Pretoria
South Africa

Tel: (012) 845 6474
Cell: 082 495 4599

INTERNAL MEMORANDUM

TO : **ADV LEONARD McCARTHY**
DIRECTORATE OF SPECIAL OPERATIONS

FROM : **ADV AR ACKERMANN**
PRIORITY CRIMES LITIGATION UNIT

DATE : **27 SEPTEMBER 2007**

SUBJECT : **PROJECT GNOME**

Dear Leonard

1. I shall be brief.

2. I am adamant and 100% sure that the figure "6" as reflected in the handwriting expert's document, FDC 0095/07 (Annexure "E") is not in my handwriting.

3. I am of the view that you do not need a handwriting expert to establish that fact.

4. Furthermore, it is important to note that the handwriting expert made no such finding and merely remarked:

   "...with no alteration to the last figure '6'."

5. Within minutes after I had received the said memorandum from Commissioner Jacobs, I phoned him and informed him that the memorandum was forged and requested him to furnish me with the original. To date, I have not had sight of the original.

6. It is incomprehensible that somebody will post-date by three

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years the year on a document. To pre-date the year during the months of January or February is quite common.

7. I have never, on any occasion, written to Dr Ramaite in Afrikaans.

8. The crucial question is whether any person in SAPS had a motive or reason to produce a document, emanating from the NPA, to the effect that the NPA was still investigating ANC office bearers during 2006.

9. If no such motive exists, I must accept that the *gravamen* of the disputed document falls away.

10. Kindly find attached hereto a letter from the Minister to Adv Pikoli.

11. I am very interested to know which documents the National Commissioner "*... produced to support his argument that indeed there is an investigation by the NPA on certain political office bearers.*"

12. If the disputed document is relied on by the National Commissioner to prove that there is indeed an investigation by the NPA on ANC office bearers, then this will contradict the explanation given by Commissioners de Beer and Jacobs to the effect that since 2003, SAPS were fully aware that the disputed document had been compiled in 2003 and that an incorrect date had been inserted on it.

13. I will not bore you with the numerous improbabilities which exist.

14. Adv Macadam stated in his report, addressed to you and others, that I had informed him on 25 August 2007 that the disputed report had been discussed between the NDPP and the National Commissioner. That is not correct. Macadam further stated that the NDPP had informed me that the disputed report had been shown to various Ministers. That is also not correct. The NDPP and I surmised that the disputed report had probably been the document shown to the Ministers in the light of the National Commissioner's assertion that he had written proof that I was still investigating the ANC leadership. The Minister's letter sheds more light on this matter.

Regards

AR ACKERMANN

Sm GNV

GEORGE BIZOS S.C.

Office Address:
4th Floor, Elizabeth House
18 Pritchard Street
Johannesburg 2001
Tel: (011) 836-9831
Fax: (011) 834-4273

Postal Address:
P O Box 9495, Johannesburg
2000

Your Ref:

Our Ref: George Bizos/JK

14 January 1998

TO WHOM IT MAY CONCERN:

During 1976 - 1977 I appeared at a formal inquest in the Magistrate's Court, Johannesburg on behalf of the family of Jabu Vilakazi who was killed by members of the South African Police. The prosecutor who led the evidence was Mr A R. Ackermann now senior counsel in the office of the Attorney-General in Pretoria. It was contended by us on behalf of the family that members of the Brixton Murder and Robbery Unit arrested the late Vilakazi, took him for a so-called pointing out and then shot him in cold blood and that their story that they did so because he tried to escape was a fabrication. It was customary during that period for prosecutors to defend the police irrespective of the weight of evidence against them. To our surprise, Mr Ackermann's objectivity was demonstrated by submitting that the members of the Brixton Murder and Robbery Unit were criminally responsible for the death of the deceased. In my view, this was a breath of fresh air and gave one hope that despite the pressures that must have existed on a comparatively junior member of the profession, he courageously and correctly submitted what he believed to be in accordance with his oath of office. We were not alone in that belief. The Magistrate made a positive finding in accordance with Mr Ackermann's and our submissions. I have always singled him out as the outstanding exception amongst those who thought that protecting the police was more important than serving justice. Although we have lost touch, I am reliably informed that he has continued to behave in an objective and proper manner throughout his professional career. I am pleased to place on record what has been in my mind for so long.

George Bizos

ANNEXURE "TMM 2"

IN 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

INDEX TO STATEMENT OF BULELANI THANDABANTU NGCUKA IN RESPONSE TO THE COMMISSION'S LETTER DATED 11 OCTOBER 2025: 'REQUEST FOR ASSISTANCE WITH INFORMATION IN AID OF THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS REGARDING EFFORTS OR ATTEMPTS HAVING BEEN MADE TO STOP THE INVESTIGATION OR PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES'

GNV

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PERSONAL BACKGROUND

1 I was born in Middledrift, Eastern Cape, and received my early schooling in the Eastern Cape. After matriculating, I studied law at the University of Fort Hare, where I graduated with a B Proc degree in 1977.

2 Whilst at the University of Fort Hare, I was arrested and charged for attending the memorial service of Steve Biko who had died in Police Custody and was convicted and sentenced to 30 days Imprisonment which on appeal was reduced to a Cautioned and Discharge.

3 Upon completing my degree, I worked for a short stint as a prosecutor at the Mdantsane Magistrate's Court. Thereafter, I joined the GM Mxenge law firm in Durban as an articled clerk and was admitted as an attorney of the Supreme Court of South Africa in 1980. At the time, the law firm was specialising in human rights and political trials throughout the country. These included representing numerous families whose loved ones were murdered by the apartheid regime, including the families of Mohapi Mapetla, Steve Biko,

GNV

Joseph Mdluli, and the PAC trial of Zeph Mothopeng and others (the Bethal Trial).

4 On 30 November 1981, I was detained in terms of section 29 of the Internal Security Act. I was kept in solidary confinement and denied visits from family and legal representatives only the police had access to me. On 4 August 1982, I appeared in the Pietermaritzburg High Court and was asked to give evidence against Mr Patrick Maqubela and two others who were charged with High Treason. I refused to testify against my fellow comrades. As a result of that refusal, I was convicted and sentenced to three years in imprisonment. I served my sentence at various prisons, including Leeuwkop, Victor Verster, and Helderstroom in Caledon. During my incarceration, I continued my studies and completed my LLB degree through the University of South Africa.

5 While I was serving my prison sentence, the Law Society applied to have me struck off as result of my conviction and sentence. I successfully opposed the application.

6 Following my release, I joined my wife in Geneva, Switzerland. She was at the time working for the Young Women's Christian Association ("YWCA"). In Geneva I took up employment with the International Labour Organisation ("**ILO**"), working in the Equality of Rights Division, known as Egalité. While based in Geneva I obtained a Master of Arts in International Relations from Webster University in Geneva, consolidating my academic grounding in these fields.

GNV

7 I returned to South Africa in 1987 and joined the law firm of NJ Yekiso and Associates in Cape Town. I continued with my legal work, which primarily focused on political and broader human rights matters. I joined the National Association of Democratic Lawyers ("**NADEL**") and also became active in the United Democratic Front ("**UDF**").

8 In 1988, I was detained for a month under the State of Emergency regulations for being part of the preparatory committee of Nelson Mandela's 70th Birthday celebrations.

9 In 1989, I was again detained for 2 months under the State of Emergency for being part of the Mass Democratic Movement's Defiance Campaign.

10 Upon my release, I was served with a banning order which restricted my movements and confined me to the Newlands Magisterial District.

11 After the democratic elections of 1994, I was appointed as the ANC Chief Whip in the Senate. I also became a member of the Constitutional Assembly and its Constitutional Committee, served on the Justice Select Committee, and was Chair of the Joint Committee on the Appointment of the Human Rights Commission, Chair of the Joint Committee for the appointment of the Public Protector, and a member of the Judicial Services Commission.

12 After the adoption of the Constitution of the Republic of South Africa, 1996, I was appointed Deputy Chair of the National Council of Provinces.

GNV

13 A year later, I was appointed as the National Director of Public Prosecutions ("**NDPP**") and assumed office on 1 August 1998. I was the first incumbent of the office of the NDPP.

MY TENURE AS NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS (1998-2004)

14 In its 11 October letter, the Commission requests my assistance by furnishing any material in my possession, or to which I had access during my tenure, and requests my account of any discussions, decisions, or considerations relevant to the Commission's Terms of Reference.

15 I accordingly, provide this statement to assist the Commission and to place on record such information as I have within my knowledge.

16 At the outset I note that my tenure with the NPA ended more than two decades ago on 31 August 2004. Therefore, to the extent that I do not recall specific events with precision, this is due to the significant time lapse since my departure from office.

17 Should the Commission require me to identify or comment on a specific document, I request that same be identified in order for me to do so.

18 When I started as the NDPP, the office had no resources. I had to start from scratch. I was allocated empty offices, no furniture, no telephone, no basic infrastructure, and no staff. I relied on the co-operation of other state

GNV

structures, such as the South African Police Service (**"SAPS"**), the National Intelligence Agencies (**"NIA"**), the South African Secret Service (**"SASS"**), and the Department of Justice which seconded personnel to the NPA at the initial stages and also carried the costs of the seconded staff. There was no National Prosecuting Authority at the time. The Prosecution policy was fragmented. There were 11 jurisdictions, each with its own Attorney General.

19 As the first NDPP, I was responsible for establishing the organisational, administrative, and operational framework for the newly created NPA, including setting prosecutorial policy, determining national prosecution standards, and ensuring consistency, independence, and accountability in the conduct of all prosecutions across South Africa. I had to create the structures and had to present to Parliament the National Prosecutorial Policies within six months of assuming office in terms of the NPA Act of 1998. At the same time, I inherited a prosecutions service, which was characterised by a low staff morale and which lacked credibility and legitimacy in the eyes of the majority of society, which viewed the prosecution services as part and parcel of the state's oppressive state machinery. There were also high levels of criminality, particularly in areas such as the Western Cape. In that year, there were 166 pipe bombs incidents and no arrests or prosecutions. In KwaZulu-Natal ("KZN"), there was extreme political violence, and Gauteng experienced a high level of car hijacking.

20 The prosecution service as a whole was at its lowest, salaries and conditions of service were inadequate, backlogs were severe (particularly in the magistrates' courts), and there was no single, coherent national prosecution

GNV

policy or reliable statistical information on which to base sound management decisions.

21 The NPA Act made provision for the establishment of the Investigating Directorate on Organised Crime and Corruption, which would be established in the office of the NDPP. These directorates would be staffed with multi-disciplinary task teams involving prosecutors, investigators, intelligence operatives, and analysts.

22 My immediate priorities were therefore to establish the NPA's basic institutional architecture, to appoint deputy directors and senior staff, to address prosecutors' salaries and conditions of service, and to tackle deep-seated performance problems in the lower courts, where the overwhelming majority of criminal cases are finalised and deal with organised crime within the country specifically in KZN and Western Cape . Under my leadership, the NPA developed and published a National Prosecution Policy, a Prosecutorial Code of Conduct, and Directives that were applicable nationwide, replacing the fragmented system of separate attorneys-general, each with their own prosecution policies and practices.

23 Pursuant to the NPA Act, I established the Investigative Directorate for Organised Crime and Corruption ("**IDOC**"), primarily to deal with urban terrorism in the Western Cape, political massacres in KZN, and car jackings Gauteng. This was followed by:

GNV

23.1 the Asset Forfeiture Unit ("**AFU**") which was designed to complement the fight against organised crime by confiscating the assets that were the proceeds of crime;

23.2 the Specialised Commercial Crimes Unit ("**SCCU**") to deal with the backlogs in the investigation and prosecution of commercial crimes particularly in Johannesburg;

23.3 the Sexual Offenses and Community Affairs Unit ("**SOCA**") to respond to gender-based violence cases. This unit was responsible for setting up ThuThuzela centres throughout the country in order to respond to high levels of gender-based violence.

24 A central part of this institutional transformation was a deliberate reorientation of the prosecution service towards a constitutional, human rights, and victim-centred ethos. Prosecutors were expected to see themselves as lawyers for the people, functioning within a constitutional democracy and accountable to the values of the Bill of Rights.

TRC MATTERS

25 In October 1998, the TRC submitted its final multi-volume report to President Nelson Mandela. That report documented in detail the structure of apartheid, the role of key state organs and functionaries in implementing apartheid policy, and the gross human rights violations that occurred, including torture, abductions, enforced disappearances, judicial and extra-judicial killings, and the unjustified use of lethal force.

GNV

26 In its final report and associated materials, the TRC handed over to the NPA a substantial body of information and a list of several hundred matters which it considered capable of prosecution.

27 Following this handover, I established the Human Rights Investigative Unit ("**HRIU**") under the leadership of Mr. Vincent Saldanha, an experienced human rights lawyer and Deputy Director Advocate Brink Ferreira. Its mandate was to review and assess whether there was sufficient evidence for NPA to prosecute anyone, and also to identify which cases required further investigation. The HRIU report identified challenges in several high-profile cases. Notwithstanding the rejection of several amnesty applications by the TRC, the available evidence in many cases was not, in the unit's assessment, sufficient to sustain a successful prosecution in a number of these cases. In some cases, offences had prescribed; in others, witness availability or reliability presented insurmountable obstacles. Many additional matters could not be processed to prosecution stage due to pending Amnesty Committee applications brought by the suspects; further delaying decision making.

28 My inclination prior to receiving the HRIU report was to farm out the investigation and prosecution of these cases to various DPP offices. This, however, changed after I received the report of the HRIU. At about the same time, Mr. Silas Ramaite, who was a Special Director in my office, approached me and informed me of dockets in the office DPP Pretoria which related to political violence cases, and recommended that these should be brought to the NDPP's office for attention. I then decided that all TRC cases should be brought to the Special National Projects Unit ("**SNPU**") within the Scorpions,

GNV

headed by Mr Chris MacAdam. In order to ensure a coherent and centralised approach, I issued a directive that all TRC-related cases be transferred to the Office of the NDPP from the various offices of the DPP and the SAPS. This consolidation was intended to avoid duplication, consolidate resources, promote efficiency and consistency in decision-making, and enable a coordinated national strategy for TRC investigations and prosecutions.

29 The SNPU operated until approximately 2003. During its lifetime, it reviewed and worked on the TRC dockets referred to it, but it did not institute prosecutions because the amnesty process had not been completed. The SNPU's caseload was subsequently taken forward, in varying stages of completeness when the PCLU was established in 2003 and assumed responsibility for post-TRC prosecutions as part of its broader mandate.

30 When the PCLU was formed, I recommended the appointment of Mr. Anton Ackerman, who I considered one of the best prosecutors in the country at the time, as the Special Director and Head of the PCLU. The SNPU staff and its leader, Mr. Chris MacAdam, were transferred to the PCLU.

31 The PCLU was mandated to manage investigations and prosecutions relating to priority crimes of national and international concern, including matters involving weapons of mass destruction, mercenary activities, terrorism, and South Africa's obligations under international criminal and human-rights law. In accordance with my authority as the NDPP, I was responsible for managing all TRC-related matters. I directed that all cases arising from the TRC process, in which amnesty had been refused or not applied for, be classified as "priority

GNV

crimes" and be dealt with by the PCLU. This ensured a single, specialised, nationally coordinated approach to prosecutions emerging from the TRC.

32 After assessing evidentiary sufficiency, witness availability, legal viability, and the prospects of a constitutionally compliant prosecution, the PCLU identified approximately 21 cases warranting further investigation.

33 By the end of 2002 to the beginning of 2003, in reporting to Parliament on the work of the PCLU and the broader post-TRC prosecutions, I explained that some cases emerging from the TRC process were ready to proceed to prosecution, while in others the NPA awaited rulings from the Supreme Court of Appeal and from the reconvened TRC Amnesty Committee. These pending decisions had a direct bearing on whether particular matters could lawfully and prudently be taken forward.

34 As regards the TRC related cases that were prosecuted during my tenure, I refer to the affidavit of Mr. Silas Ramaite, which was filed with the commission and confirm the correctness thereof.

ALLEGATIONS OF ATTEMPTS TO INFLUENCE OR PRESSURE THE NPA TO STOP INVESTIGATIONS OR PROSECUTIONS DURING MY TENURE – 1998 to 2004

35 At the outset, I wish to state categorically that there was never at any stage during my tenure any attempt by a member of the executive or any other person to influence or pressure the NPA or me as NDPP to stop the

GNV

investigation or prosecution of TRC cases. I am also not aware of any collusion by any member of the NPA with any such attempt to stop the NPA from investigating or prosecuting TRC cases.

36 I have in the above background set out the context and circumstances in which the office of the NPA was established within an evolving prosecutorial environment, at a time when South Africa was establishing, for the first time, a single independent national prosecuting authority. This required significant institutional reform, the development of new systems, policies, and standards, and the consolidation of prosecutorial functions previously dispersed across apartheid-era structures.

37 The prosecutorial terrain during the early 2000s was new, complex, and constantly evolving. It was necessary to build national capacity, ensure consistency across nine provinces, establish specialised units, and restore public confidence in the prosecuting authority. These institutional priorities required careful allocation of limited resources and personnel.

38 Within this context, the NPA was simultaneously confronted with high-profile, resource-intensive matters, including complex commercial crime prosecutions, organised crime syndicates, national security cases, and international law matters arising from South Africa's obligations under the Rome Statute.

39 The TRC cases presented particular evidential and operational challenges: they were decades old, relied heavily on witnesses whose memories had

GNV

faded or who were no longer available, and required intensive investigation in an environment where both investigative and prosecutorial resources were severely constrained. Evidence had also been destroyed in many cases.

40 Decisions that were taken at the time were not a function of political preference or external influence. They were driven by the need to ensure that prosecutions proceeded only where there was a reasonable prospect of success, where the evidential foundation could sustain a successful prosecution in accordance with its Prosecution Policy and Policy Directives. The limited progress on certain TRC cases must therefore be understood within the broader context of the NPA's developmental stage, the competing demands on its scarce resources, and the operational complexities inherent in prosecuting apartheid-era crimes decades after they occurred.

41 At no stage did I receive, tolerate, or act on any instruction designed to shield any individual, organisation, or political actor from lawful prosecution. The decisions taken under my leadership were consistent with the NPA's constitutional mandate and were informed by its Prosecutorial Policy, evidential sufficiency, institutional capacity, and the need to build a functional and credible National Prosecuting Authority. Suggestions to the contrary overlook the broader historical and institutional context and mischaracterise the realities confronting the NPA during its foundational years.

42 For years, as an activist and practising attorney, I acted for families of those murdered by the apartheid police. That work was not peripheral to my professional life and my very being. As NDPP, I was at all times, fully

GNV

committed to ensure that there was accountability for the grave human rights violations of the past.

RESPONSE TO THE ALLEGATION THAT I DID NOT APPROACH THE PRESIDENT

43 In the Calata affidavit, it is alleged that I did not approach the President pursuant to Commissioner De Beer's letter to Mr. Ackermann which *inter alia* demanded that I should approach the President for his written confirmation as to which entity between SAPS and the NPA, the President required to investigate TRC matters. This demand by Commissioner De Beer was with respect nonsensical. The President had in his address to Parliament already stated that the NPA would be responsible for prosecuting TRC related matters. The President's directive by implication gave the NPA the responsibility for sourcing investigators and other resources necessary for the prosecution of TRC matters. The SAPS as an organ of State was required to co-operate with and assist the NPA by providing or seconding investigative resources where these were required. This mutual collaboration and co-operation between organs of State (that is NPA and SAPS) is constitutionally mandated. There was, therefore, no need for me to approach the President in the circumstances. What was required was for the two organs of State to co-operate on the matter and for the leadership of the two institutions to maturely resolve the matter between themselves. Accordingly, when this issue came to my attention, I directed Advocate Silas Ramaite and Advocate McCarthy to resolve the issue.

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BULELANI THANDABANTU NGCUKA

February 2026

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