

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

HELD AT:

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

BEFORE:

COMMISSIONERS:

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

EVIDENCE LEADERS:

Adv Ishmael Semanya (SC)
Adv Vas Soni (SC)
Adv Fana Nalane (SC)
Adv Nompumelelo Seme
Ms Baitseng Rangata

REPRESENTATIVES

Adv Mfundo Salukazana (for Adv M Mpshe)
Adv Nwabisa Ntshizana (for Adv M Mpshe)
Adv Bridgette Nthambeleni (for Adv Jiba)
Adv Vivian Rikhotso (for Adv Menzi Simelane)
Adv KD Moroka (SC) – DoJ representative
Adv Tlotlego Tsagae (DoJ representative)
Adv Motlalepule Rantho (for SAPS)
Adv Varney (SC) – The Calata Group
Adv D Pillay – The Calata Group
Ms A Thakor – The Calata Group
Mr Siphon Tlhaole – The Calata Group
Adv Gwala (SC) – NPA representative

7 APRIL 2026

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PROCEEDINGS ON 7 APRIL 2026

CHAIRPERSON: Good morning to you all. Today we are to hear the evidence of Adv Mpshe. Mr Semenya?

ADV SEMENYA: If the witness can be sworn in and I think my learned colleague can proceed.

CHAIRPERSON: Mr Salukazana, are you going to lead your witness?

ADV SALUKAZANA: That is correct, Chairperson.

10 CHAIRPERSON: Thank you. Adv Mpshe, are you going to take an oath or affirmation?

ADV MPSHE: Oath, Chairperson.

CHAIRPERSON: Do you swear that the evidence you will give will be the truth, the whole truth and nothing but the truth, if so, raise your right hand and say, so help me God.

ADV MPSHE: So help me God.

MOKOTEDI MPSHE: duly sworn statement

CHAIRPERSON: Thank you. Mr Salukazana?

ADV SALUKAZANA: Thank you, Chairperson.

EXAMINATION BY ADV SALUKAZANA: Good morning, Mr Mpshe.

20 ADV MPSHE: Good morning, sir.

ADV SALUKAZANA: Do you have before you a bundle of documents with two titles? The first, at the top of list and ...[indistinct] lines, is index statements for 06 April to 10 April 2026. Do you have that?

ADV MPSHE: Yes, I do.

ADV SALUKAZANA: Thank you. And then at page 1649.

CHAIRPERSON: Page?

ADV SALUKAZANA: It is 1649, Chairperson, and in the index it is item 1. I think it was extracted from ...[intervenes]

ADV MPSHE: I have it.

ADV SALUKAZANA: Thank you very much. Are you familiar with that document?

ADV MPSHE: Yes, I am.

ADV SALUKAZANA: Is that your statement that you submitted
10 before the commission?

ADV MPSHE: Indeed.

ADV SALUKAZANA: Have you read the document and confirmed that it is correct and binding on your conscience?

ADV MPSHE: Correctly so.

ADV SALUKAZANA: Thank you very much. May we start then with the introduction, and that sets out your background. Could you briefly go through paragraphs 1 to 7, just setting out your background as a legal practitioner and your involvement in the TRC, and then go into your involvement into the NPA?

20 ADV MPSHE: I am at the introduction.

"Introduction

1 I am an adult male South African and an Advocate of the High Court of South Africa after having been admitted on 29 January 1992. I am a member of the Pretoria Society of Advocates."

ADV SALUKAZANA: Thank you.

COMMISSIONER KGOMO: Is it 1992 or 1991?

ADV SALUKAZANA: That is the correction I was going to make, Commissioner.

COMMISSIONER KGOMO: Oh, okay.

ADV SALUKAZANA: The correct year is 1992, not 1991.

ADV MPSHE: Oh, yes. Okay. Thank you.

ADV SALUKAZANA: Thank you, Mr Mpshe, you can carry on.

ADV MPSHE:

10 "2 In 1998, I joined the National Prosecuting Authority ("NPA") as a Director of Public Prosecutions in the KwaZulu-Natal ("KZN") Province.

3 At this time, I was attached to the Truth and Reconciliation Commission ("TRC") as Chief Evidence Leader, handled TRC amnesty cases, and scheduled all Amnesty Committee hearings.

20 4 In April 2002, I was transferred to the office of the Director of Public Prosecutions ("DPP") in Pretoria where I remained until May 2006.

5 In May 2006, I was appointed to the position of Deputy National Director of Public Prosecutions ("DNDPP") and was responsible for the National Prosecution Services ("NPS").

6 While I held the position of DNDPP, I served

as the Acting National Director of Public Prosecutions ("Acting NDPP") from 23 September 2007 to 30 November 2009, and I took early retirement from the NPA during or about February 2010. My appointment as ANDPP was pursuant to the suspension of Adv Vusi Pikoli as NDPP on the same date."

ADV SALUKAZANA: Thank you very much. You are aware that you are before this commission in terms of a notice that was issued in
10 terms of Rule 3.3 of the Rules of the Commission?

ADV MPSHE: Indeed so.

ADV SALUKAZANA: And from that notice, what do you understand the reason for you being here to be?

ADV MPSHE: Yeah, I understand the reason for me, Mpshe, is that there are allegations levelled against me that I have conducted myself in the manner in which was, how can I put it, a suppression of TRC cases, and that I am the person who let go of Adv Ackermann from handling the TRC cases. That is my understanding.

ADV SALUKAZANA: Certainly. Thank you very much. So then, in
20 having considered the, at least so-called implicating statements made against you, what is your general response to one, you relieving Mr Ackermann, as soon as you started acting and your role insofar as there was no activity whilst you were the acting NDPP in relation to the TRC cases?

ADV MPSHE: Yeah. My response to the issue of Adv Ackermann is

that the allegation is not correct or it is untrue, let me put it that way. In the sense that I did not release him of TRC cases immediately, as you say, immediately after my appointment in 2007. That happened later on, I think in 2009, speaking under correction. So it is incorrect that I did that immediately after my appointment.

COMMISSIONER KGOMO: Yes, Mr Mpshe, it means that you are at around paragraph 28. Is that so? The allegation that I relieved Adv Ackermann of his duties in relation to the TRC, which is at page 1655. Is this where we are?

10 ADV SALUKAZANA: Commissioner, what I was doing was to telescope what it is that is going to be said. We are still going to refer to the particular paragraphs, but it was just a general response telescoping where it is we are going and so far as the implicating statements have been made about Mr Mpshe.

COMMISSIONER KGOMO: Okay.

ADV MPSHE: And the other allegation that I might have suppressed or stopped the further attention from the TRC cases and that it was a political action on my part, I say that is also not correct because that never happened at all. I never suppressed, nor stopped, nor even
20 interfered with the TRC cases.

ADV SALUKAZANA: Thank you, Mr Mpshe. In your statement, you had asked that you want to highlight that you played a role in the TRC itself and that starts at paragraph 9 of your statement. Could you read that into the record, please?

ADV MPSHE: Thank you.

"9 Before joining the TRC, I practiced as a junior counsel in Pretoria. I was then approached by Mr Dumisa Ntsebeza, who informed me that the late Archbishop Desmond Tutu wished to meet with me. Mr Ntsebeza was at the time the head of TRC investigations, if my memory serves me well."

ADV SALUKAZANA: Certainly. How did you know Mr Ntsebeza?

ADV MPSHE: I knew Mr Ntsebeza as a result of our interaction
10 during, can I say, the activism period. I knew him there from, we had meetings now and then on the basis of activism. That is how I knew him.

ADV SALUKAZANA: And in what context was he approaching you?

ADV MPSHE: In what context?

ADV SALUKAZANA: Certainly. When he approached you, did you know that the approach was coming? Had you discussed it with him before?

ADV MPSHE: No, not at all, not at all. All what he said to me, because it was telephonic, he just said, we are going to get you to
20 come to Cape Town. It was on a Friday, I remember. The Archbishop would like to meet with you and that was it, and then the next thing was that we have arranged the plane for you to fly down to Cape Town the same day on a Friday, I remember.

ADV SALUKAZANA: Certainly. And then you went to Cape Town and at paragraph 11 you indicate that you commenced serving on the

amnesty committee on or about October 97. Did you leave practice or were you practicing both at the bar and at the ...[intervenes]?

ADV MPSHE: The arrangement was that my going to the TRC, it was like a brief to me, a brief to the practice, so I did not leave practice.

ADV SALUKAZANA: Certainly. And then you state in the next topic that whilst you were at the TRC you were appointed as the Director of Public Prosecutions in KZN. Could you give us or elaborate on that, on how it happened, looking specifically at 12, 13, 14?

10 ADV MPSHE: Thank you.

"12 While at the TRC, I was approached by the then Minister of Justice, Dullah Omar, and informed that my services were required as the Director of Public Prosecutions ("DPP") for the Province of KwaZulu-Natal ("KZN")."

ADV SALUKAZANA: What was your role?

ADV MPSHE: This is when I was at the TRC and I did have the meeting with the Minister Dullah Omar in his office in Cape Town in Parliament. The meeting started at 2 o'clock, I do not remember the
20 date, and then when I met with him in his office then he said to me, people have been talking to me that I must approach you and request you to go and take over the position of DPP in KZN.

And I recall my response to him was that, Mr Minister, I am still attached to the TRC and there is still a lot of work to be done. And then he said to me, your two ICs can take over, you will be

allowed to go once or twice a month to go and check on the work.

And that was the end of our discussion.

ADV SALUKAZANA: Did you accept the position as a DPP in KZN?

ADV MPSHE: I did accept that position as a DPP in KZN.

ADV SALUKAZANA: And whilst you were there, what were you responsible for, what was your role?

ADV MPSHE: As a DPP in the province, you are in charge of criminal prosecutions. In that province, you are to guide and direct whatever prosecutions are to take place and you become the head of
10 prosecutions in the province.

ADV SALUKAZANA: And whilst you were there, did you ever come across any TRC matters or TRC related matters?

ADV MPSHE: No, I did not. I did not at all.

ADV SALUKAZANA: Was that because there were none that related to the KZN office of the NPA? Or because they were handled by a different office? Do you know why you did not come across that?

ADV MPSHE: Yeah. There were a lot of TRC matters that emanated from KZN, a lot of them, because I dealt with them, but we did not attend to them in the provinces, because there was a unit that
20 was established at head office, the PCLU that was dealing strictly with those matters at head office.

ADV SALUKAZANA: Certainly. And then at paragraph 16 of the statement, could you please read that for us?

ADV MPSHE: Yeah.

"16 I was then transferred to serve as the DPP

in Pretoria from April 2002 until May 2006."

ADV SALUKAZANA: And you go into your role as DNPP, could you, for the sake of context, expand on that if you wish to?

ADV MPSHE: Okay. On paragraph 17?

ADV SALUKAZANA: 17, that is correct.

ADV MPSHE: Yeah.

10 "17 In May 2006, I was appointed to the position of Deputy National Director of Public Prosecutions ("DNDPP"). In this position, I was responsible for the National Prosecution Service ("NPS") and was based at the Head Office in Pretoria."

ADV SALUKAZANA: And then 18.

ADV MPSHE: Okay.

"18 My role as Head of the NPS involved taking charge of prosecutions in the country, managing all the DPPs who reported to me in all provinces. I reported to the NDPP about matters pertaining to prosecutions."

20 ADV SALUKAZANA: When you say 'taking charge of prosecutions in the country', did that include TRC cases?

ADV MPSHE: No, no, no, no. It does not include TRC cases, because, like I said, the TRC cases were handled by PCLU. These are the people who are dealing with that, only at head office and there was a head who was appointed by the president, I think it was

President Mbeki then, yes. There was a head who was appointed by proclamation, Adv Anton Ackermann. So in the provinces, we were not dealing with the TRC cases, unless when specifically, the PCLU would find that the prosecution of this matter should take place in KZN or in North West. Then that case would then be dealt with in that province.

ADV SALUKAZANA: Did that ever happen where cases were referred to by the PCLU in matters that involved you?

ADV MPSHE: I remember one that was dealt with in Pretoria. It was
10 dealt with by Anton Ackermann and others that I may not remember, but there are some that were referred to the provinces by PCLU, but the difference was that they would not be dealt with in those provinces by the prosecutors in those provinces. The prosecutor from PCLU would travel to go into that case there.

ADV SALUKAZANA: So it would be correct then to sum up what you have said as saying that whilst you were DPP in Pretoria, you were not involved at all in TRC matters?

ADV MPSHE: Not at all. Not at all.

ADV SALUKAZANA: Thank you. And then we will move on to your
20 appointment as the acting NDPP. And we will start first with paragraph 20, which is at page 1652.

ADV MPSHE: Yeah.

"20 I served as the DNDPP until 23 September
2007, when I was appointed as the Acting NDPP.

This was upon the suspension of Advocate Vusi

Pikoli as NDPP."

ADV SALUKAZANA: And then at paragraph 21.

ADV MPSHE:

"21 During my tenure as Acting NDPP, I engaged from time to time with the following persons and structures whose relevance appears later in this statement.

10 21.1 Senior officials within the Justice, Crime Prevention and Security Cabinet coordination structures ("the JCPS Cluster"), through which the NPA, SAPS, and the Department of Justice and Constitutional Development ("the Department of JCD") ordinarily interfaced on operational matters requiring interdepartmental coordination.

21.2 Mr Simelane, who then served as the Director General of the Department of Justice and Constitutional Development (from around June 2005 to about September 2009).

20 21.3 The interdepartmental task team ("the ITT" or "the Task Team") which was established to facilitate coordination between SAPS and the NPA in relation to TRC-related investigations and prosecutions.

21.4 The Minister of Justice and Constitutional Development."

ADV SALUKAZANA: Can we go back to your interactions with the Director General, Mr Simelane? What was the extent of the interaction and what about?

ADV MPSHE: Mr Simelane was one of the members in the JCPS cluster. Now, because he was the Director General of the Department of Justice, whereat we reported as the NPA, I had quite a number of interactions on matters pertaining to TRC. For example, if there is a TRC prosecution that was taking place, he was entitled to a report thereon for him to forward the same to the Minister of Justice.

10 ADV SALUKAZANA: But his engagements, were they ever about decisions taken about whether to prosecute or not?

ADV MPSHE: Not at all, not at all. That was the domain of the NDPP.

ADV SALUKAZANA: Certainly. And then you speak about the Interdepartmental Task Team. What was that and when was it established?

ADV MPSHE: I cannot remember the date when it was established, but it was a task team consisting of Directors General and other members from various departments. The departments that fell within
20 the Justice cluster. So the Director Generals would meet and discuss matters there, including the TRC matters and those meetings were attended only by the National Director.

ADV SALUKAZANA: Certainly. So what was your involvement as the National Director in issues being discussed by DGs?

ADV MPSHE: The involvement was just to inform them as to where

the TRC matters are and maybe even seek guidance and maybe even get directives from them as to how to proceed with the matters. I think my recollection that it never happens when you were given directives.

ADV SALUKAZANA: Certainly. And then at 21.4, what were your interactions with the Minister?

ADV MPSHE: Yeah, look, the NPA reports to the Minister of Justice. And it was a policy that when a high-profile type of a matter is dealt with, including TRC matters, I think, I want to think of that, the Pebco
10 Three matter is an example that comes to my mind. Then the Minister is to be informed by way of a memorandum and the Minister would also call for a report on any matter within the realm of the TRC. So I had to report to him now and then.

ADV SALUKAZANA: Did the nature of engagement ever extend to decision-making insofar as prosecution is concerned?

ADV MPSHE: Not at all. Even the Minister could not do that.

ADV SALUKAZANA: Certainly.

ADV MPSHE: The National Director only could.

ADV SALUKAZANA: Thank you. Could you read paragraph 22 for
20 us at 1653?

ADV MPSHE:

"22 When I assumed my role as the Acting NDPP, the PCLU, which handled the TRC matters, reported to Dr Ramaite, who served as the Special Deputy National Director."

ADV SALUKAZANA: Who did Dr Ramaite report to?

ADV MPSHE: He was reporting directly to the National Director.

ADV SALUKAZANA: And the National Director at the time was you acting. Is that correct?

ADV MPSHE: Yes, at the time, yes.

ADV SALUKAZANA: Certainly. And then your engagements with the PCLU, did you ever get involved in the manner in which investigations would be conducted or interactions with SAPS would be handled for investigation?

10 ADV MPSHE: No, I could not and I did not get that involved, but when you mention interaction with SAPS, I can say my involvement was present there for the simple reason that there was a time when the SAPS, and I think NIA as well, were refusing directly into my face that they are not going to investigate TRC matters. Now, that is where I got involved and sought advice, even from the National Commission of Police. I think then it was Jackie Selebi, yes, and I had meetings with him about releasing police to investigate these matters. Same applies to members of NIA.

20 ADV SALUKAZANA: Certainly. In fact, in the notice there is a conversation about you trying to resolve SAPS issues with Mr MacAdam, but we will get to that later.

ADV MPSHE: Okay.

ADV SALUKAZANA: If you could then read 23 for us.

ADV MPSHE:

"23 Adv Ackermann, was the head of the PCLU,

working with Adv MacAdam, as the Deputy Head. Dr Pretorius was the other member and they were later joined by Mr Shaun Abrahams. Adv MacAdam was, however, from time to time, involved in special projects such as prosecuting the nuclear case and representing the NPA in the Financial Action Task Force ("FATF"). Adv MacAdam returned from the FATF in June 2008 to assume the operational management functions and responsibilities of TRC matters within the PCLU. I detail below the management and operational structure of TRC matters during my tenure."

10

ADV SALUKAZANA: So when you arrived, the PCLU existed and it was run by Mr Ackermann, is that the point of the story?

ADV MPSHE: That is correct.

ADV SALUKAZANA: And they did not report to you but reported to Mr Ramaite is that the point?

ADV MPSHE: Indeed.

20 ADV SALUKAZANA: Certainly, and whilst you were there, there was work being conducted insofar as you understood by this?

ADV MPSHE: Oh yes, work was going on, yes.

ADV SALUKAZANA: Certainly. And then we will, I do not know if you have the notice before you, because it is not included in the bundle, the notice in terms of Rule 3.3.

ADV MPSHE: The 3.3 notice, I think I saw it, let me check the index.

ADV SALUKAZANA: Certainly, I will give you a moment.

ADV MPSHE: Let me check, I think it is on page 124. Do you want me to go to it?

ADV SALUKAZANA: Please.

ADV MPSHE: 124.

ADV SALUKAZANA: Specifically paragraph 270.

ADV MPSHE: No, no, no, this is the terms of reference.

ADV SALUKAZANA: Yes, that is on record.

10 ADV MPSHE: Is that on?

ADV SALUKAZANA: No, no, no, I did not come across the notice in the bundle.

ADV MPSHE: May I just check on this one?

ADV SALUKAZANA: Certainly.

ADV MPSHE: There is another bundle here. No, it is not here in this bundle.

ADV SALUKAZANA: I suppose for the sake of the record, I will read into the record the parts to which I wish to refer you insofar as the notice is concerned and then ask the consequent questions and then
20 we will refer back to your statement insofar as specific responses and references are to annexures. So at 270, the second paragraph reads:

"On 23 September 2007, Pikoli was suspended from office by President Mbeki. Shortly after his suspension, he learned that Ackermann had been relieved of his duties in relation to the TRC cases.

According to Ackermann, (that is 271), he was summoned to the office of Adv Mpshe, who had been appointed Acting NDPP. Mpshe advised Ackermann that he was relieved of his duties in relation to the TRC cases with immediate effect."

If I may stop there. Did this happen?

ADV MPSHE: This did not happen on that date. In other words, Ackermann was not relieved of his duties on TRC matters in 2007.

ADV SALUKAZANA: Certainly. And then it goes on to say in his
10 affidavit, I am still at paragraph 271 of the Rule 3.3, it says:

"In his affidavit, (FA8), Ackermann asserted that he had no doubt that Adv Mpshe received political instruction to remove me from these cases."

Is that statement correct?

ADV MPSHE: It is incorrect. I did not receive any political instruction at all.

ADV SALUKAZANA: Certainly. In fact, you will explain why.

ADV MPSHE: That was his opinion, I think, yeah.

ADV SALUKAZANA: Certainly. Indeed. Thank you. And then,
20 insofar as that is concerned, may I ask that we go back to the statement, specifically at page 1655, starting at paragraph 28, two eight.

ADV MPSHE: Right.

"28 In his affidavit, Adv Ackermann alleges that shortly after Mr Pikoli's suspension on 23

September 2007, I immediately assumed the position of Acting NDPP, and I summoned him to my office and advised him that he was relieved of his duties in relation to TRC cases with immediate effect. This is incorrect. While I confirm that I relieved Adv Ackermann of his operational functions and responsibilities in relation to TRC matters, this did not happen immediately after my appointment, and the suspension of Adv Pikoli. I also explain below the reason and context within which I relieved Mr Ackermann of his operational functions and responsibilities in relation to TRC matters."

ADV SALUKAZANA: 29.

ADV MPSHE:

"29 Soon after my appointment as NDPP, I held briefings with various stakeholders, including those that were responsible for TRC matters as mentioned in paragraph 21 above. During these engagements, it had become apparent to me that there was much acrimony directed towards Adv Ackermann and his management of TRC matters. In my opinion, these were personality issues."

ADV SALUKAZANA: Carry on.

ADV MPSHE:

"Further, during or about November 2007, I received information concerning a complaint lodged by Reverend Frank Chikane, who was the Director General of the Presidency. Reverend Chikane had been a complainant in the matter of State v Van der Merwe and Others. This matter concerned the poisoning and attempted murder by security police of Reverend Chikane by the accused. Mr Ackermann was the prosecutor in the matter. I attach hereto, marked annexure "MJM1" ...[intervenes]"

ADV SALUKAZANA: May I ask that we go to MJM1 because I would like to draw your attention to specific paragraphs. It is at page 1663.

ADV MPSHE: Thank you.

ADV SALUKAZANA: It is MJM1.

ADV MPSHE: My pages do not have 16. Let me check on this one because there are two bundles here.

ADV SALUKAZANA: Certainly. 1663.

ADV MPSHE: This one ends up with 1113.

20 ADV SALUKAZANA: Okay. So, could you just go to the end of the statement that you have?

ADV MPSHE: My statement?

ADV SALUKAZANA: Yes. Where you found it. Maybe the annexures. It is just better to refer to the annexures instead of page numbers. May I ask that you go to the last page?

ADV MPSHE: The last page of my statement?

ADV SALUKAZANA: Of your statement. If you can find that.

ADV MPSHE: Yeah. In the last page, I see Annexure MJM1.

ADV SALUKAZANA: Over the page, that is correct.

ADV MPSHE: Yeah.

ADV SALUKAZANA: Okay. You have already referred to the letter, but I want to specifically ask that you read the third paragraph of the letter. Given the contents that this is the letter that Mr Chikane or Reverend Chikane sent to the minister complaining about the prosecution of his case.

10

ADV MPSHE: The paragraph starting with the "first point".

ADV SALUKAZANA: The first point, that is correct.

ADV MPSHE: Okay.

20

"The first point I would like to raise is the handling of this matter by the National Prosecuting Authority ("NPA"). From my interaction with the relevant officials within the NPA, it is clear to me that the said officials are simply the wrong people to deal with the matter. In fact, they did not seem to understand the nature of the challenge we were facing. Firstly, my court case was used to fight battles between the NPA and the government about the guidelines for dealing with post-TRC cases. Throughout this process, I was left with a feeling that no one in fact cared about

me as a victim. What mattered were the politics around the handling of the post-TRC cases and how people would win their battles."

ADV SALUKAZANA: Let us start with the NPA officials to which the letter refers. Who did you understand them to include? Did it include Mr Ackermann?

ADV MPSHE: Yeah, it did include Mr Ackermann.

ADV SALUKAZANA: In fact, he is named by name in the next paragraph, which I would ask that you read as well.

10 ADV MPSHE: Yeah.

"As part of the consultative processes relating to the case of the State versus Van der Merwe and others, Adv Ackermann, the Special Director in the Priority Crime Investigation Unit, and his assistant visited me (as the victim). Instead of just consulting me as the victim, he entered into an acrimonious argument with me about the approach of the government on post-TRC matters and the guidelines. From this interaction, it was clear that he was radically opposed to the guidelines as agreed upon by Cabinet and the Parliament of the Republic of South Africa. In fact, he seemed to be more interested in prosecution for the sake of it rather than the management of this difficult post-TRC process."

20

ADV SALUKAZANA: Is this one of the issues that you say you considered from stakeholders that affected or reflected badly on Mr Ackermann and his interactions with stakeholders?

ADV MPSHE: Yes, this is one of them, yes.

ADV SALUKAZANA: Thank you. Could you then read the following paragraph, and that is the last paragraph I will ask you to read of this.

ADV MPSHE:

10 "What I detested most was that my case was being used to fight their battles with the government. In pursuit of this objective, a draft letter which was constructed in a manner that would enhance their position in the prescribed forum with other departments was presented to me for my signature. What was more disgusting for me was that when I refused to sign the draft letter, Adv Ackermann then threatened to use section 204 of the Criminal Procedure Act against me to force me to surrender all the information he claimed I had received from Mr Vick on my poisoning. I dared him to do so."

20

COMMISSIONER KGOMO: Mr Vlok.

ADV MPSHE: Oh, Mr Vlok, thank you. Thank you, Commissioner.

"I dared him to do so and reminded him that this was tried against me during the apartheid days and it did not work, and that there is no reason

why it would work now. He backed off and left.

His colleague who was with him is my witness in this regard."

ADV SALUKAZANA: Who is the colleague that was with him?

ADV MPSHE: Adv Mthunzi Mhaga.

ADV SALUKAZANA: Thank you. And then whilst in sort of considering this letter, I ask that you go to MJM2.

ADV MPSHE: I think it should be part of this. It will be down the line.

ADV SALUKAZANA: It is just a couple of pages.

10 ADV MPSHE: Down the line.

ADV SALUKAZANA: Certainly. So if you look at Mr Chikane's signature.

ADV MPSHE: MJM2. Okay, I see MJM3B. Let me go back.

COMMISSIONER KGOMO: That would be at page 1666?

ADV SALUKAZANA: Yes.

ADV MPSHE: 1666. Thank you. Thank you, Commissioner.

ADV SALUKAZANA: It is a letter or a memorandum of 24 January 2008.

ADV MPSHE: Yes, I am there.

20 ADV SALUKAZANA: Thank you very much.

ADV MPSHE: It is a letter to the Minister.

ADV SALUKAZANA: Yes.

ADV MPSHE: Yeah.

ADV SALUKAZANA: And I will not ask you to go there because it is long. It is a letter that is under your signature at 1672. Do you

confirm that that is your signature?

ADV MPSHE: Yes, let me confirm first. Yes, indeed.

ADV SALUKAZANA: All right. So then if we may start with the introductory paragraph, which reads "as requested". Who had made the request that resulted in this letter?

ADV MPSHE: The Minister.

ADV SALUKAZANA: How was the request made?

ADV MPSHE: The request was made in writing to comment or asking the NPA to comment on the complaint by Reverend Chikane.

10 ADV SALUKAZANA: So that is how you came across ...[intervenes]

COMMISSIONER KGOMO: Sorry, before you go too far, the letter is dated the 24 January 2008. Is that correct?

ADV MPSHE: That is correct, Commissioner.

COMMISSIONER KGOMO: Yes. Sorry to interrupt, but you can continue.

ADV MPSHE: Yeah.

ADV SALUKAZANA: Thank you, Commissioner. So is that how you came across or came to know of Mr Chikane's complaint?

ADV MPSHE: Indeed.

20 ADV SALUKAZANA: Certainly. Could you then just explain to us what the nature and spirit of the representations were before I refer to the particular paragraphs? Did you write this on behalf of the NPA or you as the NDPP, or did you write it on behalf of the officials about whom the complaints were made?

ADV MPSHE: No, I wrote this on behalf of the NPA as the head of

the NPA responded to the Minister.

ADV SALUKAZANA: Thank you. Could you at page 1667 read paragraph 2?

ADV MPSHE:

"As a result of this letter and the prominent role played by Adv Ackermann, I have deemed it prudent to relieve him from all TRC-related duties since November 2007."

ADV SALUKAZANA: And can we confirm that November 2007 is
10 after the letter from Mr Chikane?

ADV MPSHE: Indeed, indeed.

ADV SALUKAZANA: Certainly. And then, insofar as how you proceeded going forward, could you please read paragraph 4 on the same page?

ADV MPSHE: Yeah.

"I have decided that all future post-TRC investigations and prosecutions be managed by Dr Ramaite, Adv Mhaga, and the TRC Task Team."

20 ADV SALUKAZANA: So it would be incorrect for anyone to assume, speculate, or indeed contend, as a matter of fact, that after relieving Mr Ackermann of his responsibilities, there was no assignment to other people of the cases?

ADV MPSHE: No, that would be incorrect because there were people who were manning that unit.

ADV SALUKAZANA: And you understood or believed those people to be competent to prosecute the case?

ADV MPSHE: Indeed. Indeed.

ADV SALUKAZANA: Could you go under AD paragraph 4 for us, please?

ADV MPSHE: AD paragraph 4.

10 "Both Advocates Ackermann and Mhaga denied that there was an acrimonious argument. See also paragraph 5 in front. Adv Ackermann admits that he had some concerns about the guidelines and in a number of official memoranda raised his concerns on the constitutionality thereof. Despite reservations, he diligently applied the criteria as stipulated in the guidelines. With the wisdom of hindsight, it appears that there was some merit in Adv Ackermann's reservations. Indicative thereof is the institution of a civil action in the High Court challenging the validity of the TRC guidelines. It is *Nkadimeng and others v NDPP and Ministry of*

20 *Justice and Constitutional Development.*"

ADV SALUKAZANA: Thank you. So would it be fair or reasonable to say that in this, or before you wrote this, you engaged Mr Ackermann about the complaints?

ADV MPSHE: Indeed. Indeed. Both Ackermann and Mhaga.

ADV SALUKAZANA: And you allowed him an opportunity to state or

at least respond to what was said about him?

ADV MPSHE: Indeed.

ADV SALUKAZANA: Thank you.

COMMISSIONER GABRIEL: And would it be correct for me to conclude that you supported them in this letter to the Minister?

ADV MPSHE: Yes, I did. I did.

ADV SALUKAZANA: Thank you. And then if we may go to AD OR response to paragraph 6 which is at 1669 and it is under the heading AD paragraph 6.

10 ADV MPSHE: Paragraph 6.

ADV SALUKAZANA: AD paragraph 6.

ADV MPSHE: Yeah.

"Adv Ackermann admits not having consulted with Reverend Chikane on the details of the plea and sentence agreement. Adv Chikane, (no they said Adv Chikane, all right), was however informed of the proposed suspended sentences."

20 ADV SALUKAZANA: Certainly. So in this, in his engagement with you, Mr Ackermann confirmed one of the complaints that Mr Chikane raised.

ADV MPSHE: Yes, yes. That of not having explained to him in full the meaning of the plea sentencing.

ADV SALUKAZANA: What did you think of the failure to engage Mr Chikane about this?

ADV MPSHE: I think that was out of line by Adv Ackermann because

you need to take on board with you the victim. He has got to understand everything about the plea agreement and he has got to consent thereto. I think it is just a little bit out of line by him.

ADV SALUKAZANA: Certainly.

ADV MPSHE: But he did at the end inform him about the sentence that was proposed in the agreement. Yeah.

ADV SALUKAZANA: Indeed. Thank you very much. If we then could go back to paragraph 30 of your statement that is where the conclusion insofar as those documents are concerned, it is at 1656.

10 In fact, it confirms what was put to you by the Commissioner about supporting Mr Ackermann in your response, but could you please read paragraph 30 for us?

ADV MPSHE:

20 "30 I fully supported Mr Ackermann in his response to the complaint, as is fully set out in my letter to Minister Mabandla; but the perception of him by stakeholders and the acrimony directed against him remained; and this would in my considered view compromise the necessary cooperation between the PCLU and the stakeholders with whom he was required to interphase in his work relating to TRC matters. Accordingly, and with effect from November 2007, I deemed it prudent to relieve Mr Ackermann from TRC-related duties and responsibilities. I was

however confident that this could be done without compromising the work on TRC matters as Adv Chris MacAdam would take over the TRC operational management and responsibilities as soon as he finished his FATF project. I attach hereto my letter dated 24 January 2008 marked as annexure "MJM2" addressed to Minister Mabandla, wherein I confirmed Mr Ackermann's removal and addressed the complaint against Mr

10 Ackermann by Reverend Frank Chikane."

ADV SALUKAZANA: Thank you. Before you removed Mr Ackermann, did you ever engage anyone else, including members of the PCLU?

ADV MPSHE: No, no, no.

ADV SALUKAZANA: Did you engage Mr Ramaite, who you said was the head of the PCLU?

ADV MPSHE: Yes, I did engage with both of them, Mr Ramaite as well as Anton Ackermann.

ADV SALUKAZANA: So, an assumption or speculation that you took

20 this decision based on political interference would not be correct?

ADV MPSHE: That would be incorrect.

ADV SALUKAZANA: An assumption that you did this without thinking about it and without engaging Mr Ackermann would also not be correct?

ADV MPSHE: Very incorrect.

ADV SALUKAZANA: Thank you.

COMMISSIONER GABRIEL: Before you move on, are you moving on to something else?

ADV SALUKAZANA: I am.

COMMISSIONER GABRIEL: So can I ask just two questions here. Adv Mpshe, in paragraph 29 and in paragraph 30 you deal with the reasons for the discord between Adv Ackermann and members of the groups. First you say that it has appeared to you that these were personality issues. And then you refer to the perception of him by the stakeholders in very acrimonious terms. Are you able to explain a bit more about that?

ADV MPSHE: Yeah, on personality issue, I was actually referring to Ackermann himself. He was the type of person who just blabbed and said things that were not supposed to be said. He was that type of person. But he was just a jolly person who just talked. And that is why I say it was a personality issue.

On the question of acrimonious attitude towards him, I was referring specifically to the complaint by Reverend Chikane. As well as insinuations and remarks that one would hear in meetings about him heading the PCLU. There was that feeling that he should have long been removed. He is not the right person to head the TCLU. And that was not in keeping with him doing the work according to them. Yeah, that is what I was referring to.

COMMISSIONER GABRIEL: Okay. Thank you.

ADV SALUKAZANA: Thank you. We are going to move on now to

whether or not Mr Ackermann remained involved, because that is also an insinuation in the Rule 313 in the matters. It is as if you completely sidelined him. Could you read for us paragraph 31?

ADV MPSHE: Yeah.,

10 "31 I refer to an internal memorandum dated 5 June 2008 addressed by Adv Ackermann to Dr Ramaite, the then Deputy National Director of Public Prosecutions. The subject matter of which is the TLC Task Team. In that memorandum, Adv Ackermann refers to a meeting between him, Adv MacAdam and Dr Ramaite, which concerned new internal arrangements and allocation of functions and responsibilities for TLC matters and confirms the following. One, that Adv MacAdam, who had now returned from FATF, will supervise and manage Adv Mhaga. Two, that Adv MacAdam will attend all meetings of the task team and attention will be paid to all investigations registered to date and in that
20 regard, Dr Bukau will also be co-opted to deal with certain matters."

ADV SALUKAZANA: May you just stop there please. What matters are you referring to? Are these the TLC matters or general?

ADV MPSHE: These are TLC matters.

ADV SALUKAZANA: Thank you. You can go on to number three.

ADV MPSHE: Thank you.

"That prosecutors will not perform functions that will usurp the duties of the SAPS and N-I-A, NIA. That the PCLU, as contemplated by the guidelines, will be responsible for operational management of TLC matters under the supervision of Dr Ramaite and that of the NDPP. The memorandum deals with TLC matters, such as the Pebco Three case. I attach a copy of the internal memorandum marked MJM3A, MJM3B, MJM3C, MJM3D. It is noted that these internal arrangements concerning TLC matters were being implemented under the overall supervision of Mr Ackermann."

ADV SALUKAZANA: So he had overall supervision despite you having relieved him of his duties. What do you say about that?

ADV MPSHE: The allegations that I removed him in 2007?

ADV SALUKAZANA: Yes.

ADV MPSHE: And I did not do that in 2007. I did that in 2008, as per letter to the Minister, but what I have just read here indicates that the allegation of 2007 is incorrect because it is clear that way down in 2008 he was still dealing with TRC matters. Am I responding correctly?

ADV SALUKAZANA: You have. It is just there is an issue I wish to get clarity on. You have now twice said you removed him or relieved

him of his duties in 2008. However, in MJM2, if you could go there, that is the letter of 24 January 2008 and if you go specifically to paragraph 2, you say... I will wait for you to get there ...[intervenes]

ADV MPSHE: Is it where I mentioned 2007?

ADV SALUKAZANA: Certainly.

ADV MPSHE: Yeah. You will recall when I read that I said there is a mistake here, yeah.

ADV SALUKAZANA: So you stand by that you only relieved him in 2008 despite what is said here.

10 ADV MPSHE: Indeed.

ADV SALUKAZANA: This is an error in this letter.

ADV MPSHE: It is an error the 2007.

ADV SALUKAZANA: All right. Thank you.

ADV MPSHE: Yeah.

ADV SALUKAZANA: Could you then go to paragraph 32?

COMMISSIONER GABRIEL: Sorry, can I just ask a clarification question? What did you mean in this letter when you say you relieved him of all TRC related duties?

20 ADV MPSHE: That is the management thereof and the prosecution thereof. He was off, but he still remained the head of the PCLU.

COMMISSIONER GABRIEL: In a supervisory capacity.

ADV MPSHE: Indeed. He still remains there.

COMMISSIONER GABRIEL: Thank you.

ADV SALUKAZANA: And in fact, that is what you state at bullet point 4 that it is noted that these internal arrangements concerning TRC

matters were being implemented under the overall supervision of Mr Ackermann.

ADV MPSHE: Yes.

ADV SALUKAZANA: That is in line with what the Commissioner has asked.

ADV MPSHE: That is correct.

ADV SALUKAZANA: Certainly. Could you please read 32 for us?

ADV MPSHE:

10 "32 I refer to an internal memorandum dated 9
June 2008 addressed to me by Adv MacAdam
relating to TRC cases wherein he discusses the
NPA annual plan that required the PCLU to
formulate an action plan for the prompt and
effective disposal of TRC cases. Adv MacAdam
in the internal memorandum that as a
consequence of the action plan decision, Adv
Ackermann and him had meetings with Adv
Mzinyathi and Dr Ramaite, pursuant to which an
agreement was reached that Adv MacAdam
20 should attend the task team meetings as well as
any strategic discussions involving Dr Ramaite
and I. I attach a copy of the memo marked
MJM3E."

ADV SALUKAZANA: We will refer to the memo and its contents later. Could you just go on to 33?

ADV MPSHE: Okay.

"33 The next email is dated 09 July 2008, it is from Ms Helena Zwart, who was an assistant in the office of Adv Ackermann and Adv MacAdam. Its subject matter is also TRC matters and is addressed to Adv. Ackermann. The email lists several TRC matters which Adv MacAdam requests Adv Ackermann to address during his absence the following week. I attach the email marked as annexure "MJM4".

10

ADV SALUKAZANA: 34.

ADV MPSHE:

"34 The next memorandum is dated 01 October 2008 from Adv MacAdam addressed to Dr Ramaite and copied to Adv Ackermann, and deals with the TRC case of Dr Anton Lubowski. I attach the email as annexure "MJM5"."

ADV SALUKAZANA: So it is a year later and Mr Ackermann is still engaged?

20 ADV MPSHE: He is still there and he is still engaged in the TRC matters.

ADV SALUKAZANA: By a year later, for the record, I mean a year after your appointment?

ADV MPSHE: A year after, yes, yes.

ADV SALUKAZANA: Paragraph 35?

ADV MPSHE:

"35 On 10 December 2008, Adv MacAdam addressed an email to Dr Ramaite, in which Adv Ackermann is copied, and the email reports on TRC issues of the year 2008, and notes that the majority of matters referred to therein can only be taken forward with the assistance of SAPS and NIA. It further recommends that, as a matter of urgency in 2009, a meeting should be set up with the acting NDPP, Adv Ackermann and Adv MacAdam to obtain the NDPP's approval on the way forward. I attach a copy of the email marked "MJM6"."

10

ADV SALUKAZANA: And then your conclusion at 36?

ADV MPSHE: Oh.

"36 The memoranda referred to above are a contemporaneous record and reflect that Adv Ackermann was months after my appointment as ANDPP, allocating operational management functions and responsibilities relating to TRC matters: This after consultation with Dr Ramaite, who was the DNPP responsible for the PCLU and TRC matters. Mr Ackermann therefore retained his supervisory role over the staff dealing with TRC matters within the PCLU. I had no

20

objections to this arrangement."

ADV SALUKAZANA: Thank you. So then, to go back to the Rule 3.3 notice, which I accept you do not have, specifically paragraph 271, and in concluding on what you have read to us, it would be incorrect that you removed Mr Ackermann as a result of or after receiving political instruction to remove him from the case.

ADV MPSHE: Completely incorrect.

ADV SALUKAZANA: And he also, at least in the notice, it is stated that Ackermann advised Mpshe that removing him from the TRC cases would not make the cases go away. Is that correct?

ADV MPSHE: I do not remember hearing that from him.

ADV SALUKAZANA: Thank you. We will then move on to paragraph 305.

CHAIRPERSON: Mr Salukazana, if I may just interpose. We have gone past our tea adjournment time. Would this be an appropriate time to adjourn for tea before you go to the next issue?

ADV SALUKAZANA: It would, Chairperson, thank you very much.

CHAIRPERSON: We will adjourn until 11:30.

INQUIRY ADJOURNS

20 INQUIRY RESUMES

CHAIRPERSON: Thank you, Mr Salukazana.

ADV SALUKAZANA: Thank you, Chairperson. We are going to go now to the other allegation or implication at paragraph 305 of the Rule 3.3 and because you do not have it, I will read it:

"It can be safely assumed that little or no work was

carried out by the NPA, SAPS or DSO on the TRC cases during 2008. The Acting NDPP Mpshe had already relieved Ackermann of his responsibilities in respect of the TRC cases. He could hardly be expected to champion the TRC cases going forward and indeed did not.”

Let us start with the last statement that he could not be expected to champion the cases and he did not. This statement is not correct, am I correct, if you take into account that he was still
10 involved in October 2008?

ADV MPSHE: Yes, it is not correct.

ADV SALUKAZANA: And then insofar as the first sentence is concerned that there was little to no work carried out on the TRC cases during 2008, that was not correct. Am I correct?

ADV MPSHE: Not correct at all.

ADV SALUKAZANA: And in fact, in the annexures there are updates that you give to the Minister about what was going on insofar as the cases are concerned and I am going to ask that we refer to two annexures that demonstrate that and the first is MJM7 to your
20 statement and it is at page 1691. It is a memorandum from you to Minister Surty dated 17 February 2009.

ADV MPSHE: Yes, I have it.

ADV SALUKAZANA: What is this document, do you recognise it?

ADV MPSHE: Yes, I do recognise this memorandum which was directed to Minister Surty.

ADV SALUKAZANA: Were you the author of the memorandum?

ADV MPSHE: Yes, I was.

ADV SALUKAZANA: So could you read what the purpose of that memorandum was at paragraph 1?

COMMISSIONER KGOMO: And it is dated the 17 February 2009, is it?

ADV MPSHE: That is correct, Commissioner.

COMMISSIONER KGOMO: Yes.

ADV MPSHE:

10 “The purpose of this memorandum is to inform the Minister of my intention to reconvene the TRC Task Team and to advise him of matters relating thereto.”

ADV SALUKAZANA: Why did you have to reconvene the Task Team, what had happened to it?

ADV MPSHE: The Task Team had gone into some kind of a lull regarding the investigation of TRC matters, nothing was actually going on in that unit or in that structure, and my reconvening thereof was specifically targeted at getting them to assist in the investigations.

20 ADV SALUKAZANA: Thank you. I will then go down to the briefing paragraph which is at 3.1 at page 1692.

ADV MPSHE: Ja, ja.

ADV SALUKAZANA: Could you read that for us, please?

ADV MPSHE:

“Members of my office have met with the Divisional

Commissioner of the Detective Service of SAPS and the Deputy Director-General: Operational Support of NIA. Both agencies have indicated their willingness to again participate in the Task Team and to perform duties within their agencies' mandates."

ADV SALUKAZANA: Could you give us context on what you meant there?

ADV MPSHE: This is as a result of my communicating with them, with the Task Team members who were outside the SAPS [indistinct] and others and requested them to do, to give assistance to the investigations. They then agreed that they will come back and perform the duties. The duties basically is investigations, that is what is meant in that paragraph.

ADV SALUKAZANA: Thank you. Paragraph 3.2?

ADV MPSHE:

"After I have received feedback from you, I intend submitting written invitations to the relevant Directors General, inviting them to nominate staff members to form part of the Task Team and to arrange a date for the first meeting of the Task Team."

ADV SALUKAZANA: 3.3?

ADV MPSHE:

"No request to investigate TRC matters have been received since November 2007 and it is anticipated that once the matters on hand have been dealt with, that the

chapter on these cases may be closed. In its report released in 1998, the TRC did in fact recommend that a time limit should be imposed on such prosecutions.”

ADV SALUKAZANA: Thank you. And then the following paragraphs you list the cases ...[intervenes]

ADV MPSHE: The cases, yes.

ADV SALUKAZANA: That were ongoing.

ADV MPSHE: Ja.

ADV SALUKAZANA: Were these cases, cases that were or at least
10 your office was still, the PCLU was still working on ...[intervenes]

ADV MPSHE: Indeed.

ADV SALUKAZANA: Throughout your term?

ADV MPSHE: Yes, yes.

ADV SALUKAZANA: So this report is an indication that there was work going on and that you were giving a status report on the work that was being done?

ADV MPSHE: Indeed.

ADV SALUKAZANA: So a statement that little to no work was done when you have given a report on at least nine cases is ...[intervenes]

20 ADV MPSHE: Incorrect.

ADV SALUKAZANA: Unfair and incorrect?

ADV MPSHE: Yes.

ADV SALUKAZANA: Thank you.

COMMISSIONER GABRIEL: Can I take you back to paragraph 2.2?

ADV MPSHE: 2.2.

COMMISSIONER GABRIEL: You say:

“Since 2007, the Task Team has not sat, due to the fact that matters relating to it were tabled before the...”

ADV MPSHE: Ginwala Commission.

COMMISSIONER GABRIEL:

“The Ginwala Commission. The effect thereof was that investigations into TRC matters could not continue.”

ADV MPSHE: Ja.

COMMISSIONER GABRIEL: So you are saying from November
10 2007 to when you wrote this letter, February 2009, there were no investigations?

ADV MPSHE: There were no investigations ja, and as that paragraph indicates, 2.2, the main reason why very little was done or nothing was done, was because of the sitting of the Ginwala Commission that was, where Adv Pikoli was appearing.

COMMISSIONER GABRIEL: And the TRC matter figured in there somewhere?

ADV MPSHE: Yes, they did, they did.

COMMISSIONER GABRIEL: All right.

20 ADV MPSHE: Thank you, Commissioner.

COMMISSIONER GABRIEL: Thank you.

ADV SALUKAZANA: Thank you. I will then go back to your statement. Again we are dealing with the allocation of the TRC Portfolio and role of allocation. If you could ...[intervenes]

ADV MPSHE: Is it still on page 16?

ADV SALUKAZANA: No, we are going back to ...[intervenes]

ADV MPSHE: Oh, to the statement.

ADV SALUKAZANA: Page 1659.

ADV MPSHE: Yes.

ADV SALUKAZANA: Of the statement.

ADV MPSHE: Ja.

ADV SALUKAZANA: Paragraph 37.

ADV MPSHE: Ja.

ADV SALUKAZANA: If you could read that for us, please?

10 ADV MPSHE:

“I deny that I stopped or intended to stop the investigation or prosecution of TRC matters, whether by instructions, policy formulation, or any stratagem; or that I acted on any improper political instruction, or that I participated in any collusion to suppress the investigation and prosecution of TRC matters.”

ADV SALUKAZANA: 38?

ADV MPSHE:

20 “I have already explained that I did not engage in any matters relating to the TRC which were being considered by the PCLU.”

ADV SALUKAZANA: What did you mean you did not engage in any matters?

ADV MPSHE: Engage here would mean I did not participate to say when they sit, when the PCLU sit and they consider a particular

application, it would be their duty alone maybe under supervision of a or with the presence of Dr Ramaite, but I would not be sitting in their work processes.

ADV SALUKAZANA: Okay. If you to 39, please?

ADV MPSHE: Thank you:

10 “While I was Acting NDPP, I had no reason to believe that there was any interference with prosecutorial discretion. This is supported by reports that were tabled at meetings I attended with the leaders of various units, including the PCLU. To the extent that there were delays, inactivity, or limited progress in any matter during my tenure as the Acting NDPP, those circumstances must be understood against the practical constraints that existed at the time. The prosecution of complex historical matters is ordinarily dependent on complete investigation dockets, the identification and location of witnesses, sufficient admissible evidence, and the ability of the investigative authorities to prioritise and execute the required investigative steps.

20 Challenges in interdepartmental cooperation and coordination may therefore have affected capacity and timing. Those constraints do not, without more, amount to interference with prosecutorial discretion. There were however constraints regarding the availability of investigators because the SAPS management and the

NPA differed in the interpretation of each other's roles in the implementation of the NPA Policy and Guidelines.”

ADV SALUKAZANA: And in the light of this, to take you back and giving context to the question from the Commissioner about there not being any investigators, what is, does that have an effect on insofar the prosecution of the TRC cases were concerned after the dissolution of the Task Team?

ADV MPSHE: What is that that you said?

ADV SALUKAZANA: I am asking, the Commissioner asked you or
10 referred you to a paragraph of your letter.

ADV MPSHE: Ja.

ADV SALUKAZANA: Of February 2009.

ADV MPSHE: Yes, ja.

ADV SALUKAZANA: Paragraph 2.2 that says as a result of there not being a Task Team ...[intervenes]

ADV MPSHE: Ja.

ADV SALUKAZANA: There have been no investigations or investigators available.

ADV MPSHE: Ja.

20 ADV SALUKAZANA: Here you talk about those constraints.

ADV MPSHE: Yes.

ADV SALUKAZANA: Would I be correct then in saying that amongst those constraints was that there was no Task Team to investigate?

ADV MPSHE: Yes, yes.

ADV SALUKAZANA: And amongst those constraints was also that

there was an issue between SAPS and the NPA and the NIA about investigations?

ADV MPSHE: Indeed, indeed.

ADV SALUKAZANA: And without the investigations, the NPA could not really conduct its work?

ADV MPSHE: It could not do anything because these TRC matters, first when they appeared in the TRC, there were investigations. Remember, I am sorry, the TRC had specialised investigators who came from abroad, I think USA sent us some investigators and I think
10 Germany also sent us some investigators, so what they were doing, they would do investigation in accordance with their mandate but thereafter then you needed SAPS or NIA to continue with investigations to complete a docket to put together the evidence for prosecution purposes.

ADV SALUKAZANA: And without that involvement of investigations ...[intervenes]

ADV MPSHE: Nothing could be done ...[intervenes]

ADV SALUKAZANA: Certainly.

ADV MPSHE: Nothing could be done.

20 COMMISSIONER GABRIEL: What was the issue as you understand it, between NPA and SAPS?

ADV MPSHE: Oh, there is a turf issue, Commissioner.

COMMISSIONER GABRIEL: Explain, please.

ADV MPSHE: Ja it was a turf issue in that what I recall is that the Scorpions, the DSO members were trained by Scotland Yard. They

were trained abroad and not in South Africa like the SAPS members, and that was not taken well by SAPS and that they made it clear to us. Number two, it was the issue of the salary that the DSO, the Scorpions, was given to its members. That affected SAPS in that senior members of SAPS resigned from SAPS to join the DSO, so that created that turf issue.

COMMISSIONER GABRIEL: But you say here that they differed over each other's roles in the implementation of the NPA Policy and Guidelines. What was the difference there? Is that what you have
10 just described?

ADV MPSHE: It is what I have just described as well as, because that implementation as well as the involvement of section 105A of the Criminal Procedure Act, they said that should not have been done or that we should not do as the NPA because these matters are political matters and people need to be seen to be prosecuted and not being given a, I remember one member said to me, 'A free hand after committing a crime'.

COMMISSIONER GABRIEL: Thank you.

ADV MPSHE: Ja, thank you, Commissioner.

20 ADV SALUKAZANA: Thank you. In line with what you have said, I am going to list, refer you to the Rule 3.3 notice, specifically paragraph 306 and will ask for your comment insofar as that is concerned, and it is:

"Macadam records in his affidavit filed in Rodrigues or Rodriguez, that in early 2009, Mpshe summoned him to

his office and showed him a letter written by SAPS, indicating that it was withdrawing from the ITT.”

The ITT is the Task Team?

ADV MPSHE: Yes.

ADV SALUKAZANA: Ja, and...[intervenues]

ADV MPSHE: Ja, that is correct, ja.

ADV SALUKAZANA: So even they list insofar as the Calata statement is concerned and the Rule 3.3, acknowledged that there was a withdrawal by SAPS on investigations?

10 ADV MPSHE: Yes, yes.

ADV SALUKAZANA: And then at 306.3, the Calata affidavit states:

“Mpshe asked Macadam to negotiate with SAPS and try to get them to agree to investigate cases. Mpshe also told Macadam to take over the TRC cases.”

ADV MPSHE: Yes.

ADV SALUKAZANA: So this is in 2009, is that correct?

ADV MPSHE: Well that is correct.

ADV SALUKAZANA: Thank you. I ask that we go back to your statement at paragraph 40, page 1661.

20 ADV MPSHE: Thank you.

ADV SALUKAZANA: If you could read paragraph 41 for us, please?

ADV MPSHE: Oh:

“I do not accept that the position can properly be reduced to a simple assertion that “no work” was done or that matters were “left unattended.” The available

contemporaneous documentary record reflects internal management and supervision arrangements concerning TRC matters within the PCLU during 2008, including the arrangements recorded in MJM3 annexed here above.”

ADV SALUKAZANA: So despite the withdrawal during or at least after 2007, there was still activity within the NPA insofar as those cases are concerned?

ADV MPSHE: Yes, ja.

ADV SALUKAZANA: So it is not that there was no work done in the
10 light of the withdrawal?

ADV MPSHE: Not at all.

ADV SALUKAZANA: So then at 306.2, I beg your pardon for the jumping around, but of the Rule 3.3 it says ...[intervenes]

ADV MPSHE: Okay.

ADV SALUKAZANA:

“Since the SAPS had not been investigating the TRC cases, their withdrawal did not mean much, however according to MacAdam it would mean that going forward, the TRC matters would again not be
20 investigated because the decision had already been taken to disband the DSO.”

To start with the first sentence, since the SAPS had not been investigating the TRC cases, their withdrawal did not mean much. Is it correct that you were not frustrated or impeded or crippled by the withdrawal of investigators?

ADV MPSHE: I would not say we were not frustrated, we were frustrated but the frustration was manageable in the sense that NIA was still there to assist, though they also were assisting on a, can I say a limited scale, but work could still be done despite SAPS' withdrawal.

ADV SALUKAZANA: But would it be correct to say that SAPS' withdrawal was not insignificant?

ADV MPSHE: No, no, it was not insignificant, indeed.

10 ADV SALUKAZANA: Certainly, thank you. I am going to jump back to your statement.

ADV MPSHE: Yes.

ADV SALUKAZANA: And again in the same line of concerning the investigations, if you could read paragraph 42?

ADV MPSHE: Ja:

“I further record that any material progress in TRC prosecutions depended on investigative cooperation, docket readiness, and resourcing, all of which were not within the unilateral control of the NPA.”

ADV SALUKAZANA: Carry on, please.

20 ADV MPSHE: Okay:

“To the extent that it is contended that any alleged inactivity in 2008 is itself proof of intentional suppression or collusion, I deny that inference.”

ADV SALUKAZANA: 44?

ADV MPSHE:

“I dispute that it is factually correct or that it can be assumed that little or no work was carried out by the NPA, SAPS, or DSO on the TRC cases during 2008. I have referred above to internal memoranda from “MJM3 to MJM7” as examples showing that work was being done during 2008 regarding TRC matters. These are merely examples and are not exhaustive. In addition to that, I attach my report to then Minister of Justice and Constitutional Development of the TRC work that was done during the relevant period, marked as Annexure “MJM7”. I also attach hereto a memorandum marked “MJM8” dated 28 May 2009 addressed to Minister Jeff Radebe in which I report on the PEBCO Three matter. The last page of the memorandum is however missing and will be furnished as soon as I find it.”

ADV SALUKAZANA: Thank you. We have dealt with the inactivity as you – do you wish to add anything to the allegation or implication that there was inactivity during 2008 which was within your acting stint?

20 ADV MPSHE: I do not think there is anything I can add further, safe to say that that statement is incorrect.

ADV SALUKAZANA: Thank you.

COMMISSIONER GABRIEL: Were any prosecutions brought during your tenure?

ADV MPSHE: Yes Commissioner, yes.

COMMISSIONER GABRIEL: Can you recall approximately how many?

ADV MPSHE: Well, I cannot.

COMMISSIONER GABRIEL: That is all right if you cannot recall.

ADV MPSHE: I cannot recall. I cannot recall, I am sorry. Thank you.

ADV SALUKAZANA: And addressing the Commissioner's question, may I refer you to MJM7 at page 1691? It is a memorandum from you to the ...[intervenes]

10 ADV MPSHE: To the Minister.

ADV SALUKAZANA: The Minister.

ADV MPSHE: That is the one dated 17 February 2009?

ADV SALUKAZANA: Certainly.

ADV MPSHE: Ja, do you want me to read that as well?

ADV SALUKAZANA: No, I ask that we refer to paragraph 3.4 and the cases listed under that.

ADV MPSHE: Oh, oh yes, ja:

"The following matters are on hand at present."

20 These are matters when I say on hand at present, these are matters that the PCLU was busy with in terms of collating evidence, in terms of ensuring that there is a proper docket with *prima facie* evidence to can go to court. These are the cases that I have lifted, I have listed hereunder.

ADV SALUKAZANA: Okay.

ADV MPSHE: Ja.

ADV SALUKAZANA: All right, that was just to refer to the cases.

ADV MPSHE: Oh sure, sure.

ADV SALUKAZANA: Finally if I may refer to paragraph, list what is paragraph 315 under the implication section of the Rule 3.3 and it says ...[intervenues]

COMMISSIONER GABRIEL: Please can I interrupt you?

ADV SALUKAZANA: Certainly.

COMMISSIONER GABRIEL: Because I know you have all gone to something else.

10 ADV SALUKAZANA: Yes, that is quite correct.

COMMISSIONER GABRIEL: Is that existing letter MJM7, page 1694 ...[intervenues]

ADV SALUKAZANA: Ja.

COMMISSIONER GABRIEL: Paragraph 4, can you just read that?

ADV MPSHE:

“All of the above matters, except for the PEBCO Three case, require investigations by SAPS before I can make a decision whether there are sufficient grounds to institute prosecutions or not.”

20 COMMISSIONER GABRIEL: Okay.

ADV MPSHE: Ja.

COMMISSIONER GABRIEL: So it seems that they were not prosecution ready?

ADV MPSHE: They were not as yet, that is why when the, my lawyer asked me, I said these are cases that they were busy with.

COMMISSIONER GABRIEL: Busy with.

ADV MPSHE: Collating admissible evidence, getting a docket ready for prosecution purposes, but PEBCO Three was already ...[intervenes]

COMMISSIONER GABRIEL: Okay.

ADV MPSHE: In the pipeline.

COMMISSIONER GABRIEL: And this was dovetailed with the period where SAPS was not cooperating?

ADV MPSHE: Indeed.

10 COMMISSIONER GABRIEL: Okay, thank you.

ADV SALUKAZANA: Thank you, Commissioner. Back to the Rule 3.3 notice, specifically the quoted paragraph 315 which says:

“On 1 December 2009, President Jacob Zuma appointed Adv Menzi Simelane as NDPP. This was announced in a government press release dated 30 November 2009, ironically titled “Simelane fit to hold office”. The appointment was made notwithstanding the damning findings made against him by the Ginwala Inquiry.”

20 And then paragraph 316 says:

“While he was DOJ Director-General, Simelane had pressed Pikoli to remove Ackermann from the TRC cases. I can only speculate, but I believe that the probabilities are high that it was also Simelane who asked Acting NDPP Mpshe to remove Ackermann from

the TRC cases following the suspension of Pikoli. The arrival of Adv Simelane at the helm of the NPA was to doom the TRC cases to further neglect.”

I want to direct you to the statement, one, that starts with “I can only speculate”. Is the speculation reasonable that the probabilities are high that Mr Simelane asked you to remove Mr Ackermann?

ADV MPSHE: The speculation as he states for me recalling, is not improbable and I would substantiate that. It is because that that
10 happened to me as well in passing, it was not in a meeting, it was not written anywhere, but I recall I was with Adv Simelane who just remarked to me and said, “Hey Chief, why you are keeping Ackermann there?” So that is why I say that speculation may be closer to what happened.

ADV SALUKAZANA: Certainly.

ADV MPSHE: Ja.

ADV SALUKAZANA: And then we will turn back to your statement, the concluding remarks you make there.

ADV MPSHE: Ja, must I read?

20 ADV SALUKAZANA: Yes, please.

ADV MPSHE: Ja:

“Conclusion

45. For the reasons set out above, I deny that I did anything to stop, suppress, or improperly interfere with TRC-related investigations or prosecutions.

46. I have responded to the allegations in the Rule 3.3 notice as fully as I am presently able to do so on my personal knowledge and on the documents presently available to me.

47. From my knowledge and involvement in the TRC matters, I deny that there was any political suppression or interference with prosecuting any TRC-related matters.”

10 ADV SALUKAZANA: Do you wish to say anything in addition to that?

ADV MPSHE: No.

ADV SALUKAZANA: Thank you.

ADV MPSHE: Unless directed by the Commissioners, I can comment on what they want me to comment on.

ADV SALUKAZANA: Thank you very much.

ADV MPSHE: But I think I stand by that.

ADV SALUKAZANA: Thank you. Chairperson, that is Mr Mpshe's evidence-in-chief.

20 CHAIRPERSON: Thank you, Mr Salukazana. Ms Pillay, are you going to put questions of clarification to Adv Mpshe?

ADV PILLAY: Thank you, Chair. We will not be putting questions of clarification, but we do reserve the right to bring an application to cross-examine which we will be doing shortly.

CHAIRPERSON: Thank you. Ms Rantho?

ADV RANTHO: Thank you, Commissioners. I think my mic is not, it

is on here, it is not. Sorry Commissioners, we have got a challenge with my mic, it does not seem to be working. I thank you, Commissioners. Just a few questions for clarity and Commissioners, I am not aware if, well I just want to confirm if the Secretariat did make available the supplementary affidavit of General Jacobs to the Commission?

CHAIRPERSON: Yes, we have.

ADV RANTHO: And also perhaps to Adv Mpshe?

ADV MPSHE: I do have it.

10 ADV RANTHO: Good afternoon, sir.

ADV MPSHE: Good afternoon, madam.

ADV RANTHO: There is an affidavit of General Jacobs, I think that was put before you and specifically there is a letter attached to it, that SA1 to that affidavit. In essence it is a letter from the Acting National Commissioner at the time, Commissioner Tim Williams, addressed to you. So I would like to confirm if this letter was indeed received by your office, if you have a recollection of this letter from the SAPS?

ADV MPSHE: This very letter?

ADV RANTHO: Ja, it is attached to that affidavit ...[intervenes]

20 ADV MPSHE: There is a letter?

ADV RANTHO: It is attached as SA1, yes. It is dated 7 March 2008.

ADV MPSHE: To Adv Mpshe, Acting Director, is it that?

ADV RANTHO: Yes.

ADV MPSHE: Yes.

ADV RANTHO: That is the one.

ADV MPSHE: As SA1, yes.

ADV RANTHO: Yes.

ADV MPSHE: Yes?

ADV RANTHO: You recall?

ADV MPSHE: If it was referred to me, then it means it was received by my office.

ADV RANTHO: Okay.

ADV MPSHE: Ja.

ADV RANTHO: And again without really delving deeper into the
10 contents of the letter, the first paragraph refers to the ITT meeting
that was scheduled for the 13 March 2008. Do you see that? Just
under the ...[intervenes]

ADV MPSHE: Yes, I see.

ADV RANTHO: Subject.

ADV MPSHE: I see that.

ADV RANTHO: I just want to clarify if that would have or that
accords with what you have just testified on earlier regarding the
invitation that you sent to the SAPS regarding the ITT meeting that
was supposed to be scheduled?

20 ADV MPSHE: Ja.

ADV RANTHO: That talks to that.

ADV MPSHE: Okay. I see the contents thereof, but it does not
trigger my mind.

COMMISSIONER KGOMO: Ja, just speak up, I cannot hear.

ADV MPSHE: Oh, sorry. I said I have just read the contents of the

letter, but it does not trigger my mind as to what is said here, but safe that I did indicate somewhere in my affidavit that I had wanted the Task Team to be...

ADV RANTHO: Put?

ADV MPSHE: To be put back, ja, as he states in his letter.

ADV RANTHO: Thank you.

ADV MPSHE: Ja, that is correct.

ADV RANTHO: Thank you, Adv Mpshe. And then there was a question by Commissioner Gabriel about the turf within the SAPS and
10 the Scorpions?

ADV MPSHE: Ja.

ADV RANTHO: And you remember?

ADV MPSHE: Yes, I do remember.

ADV RANTHO: You recall that you informed the Commissioners that there was an issue about the Scorpions having been trade, I mean trained in Scotland and the packages being better than those of SAPS?

ADV MPSHE: Ja.

ADV RANTHO: And that as you said, may have contributed to sort
20 of a conflict?

ADV MPSHE: Yes.

ADV RANTHO: Between the two institutions?

ADV MPSHE: Yes.

ADV RANTHO: But again I would like to also clarify in relation to the memorandum that is annexed to your affidavit as MJM7, I think

specifically there is a paragraph 3.1 to that memo. That is the memorandum dated 3 March 2009 that is annexed to your affidavit.

ADV MPSHE: Do you want me to go to it?

ADV RANTHO: Yes, for convenience if you may.

ADV MPSHE: Ja, what page is that?

ADV RANTHO: It would be annexure MJM7 to your statement.

COMMISSIONER GABRIEL: 1691.

ADV MPSHE: Thank you.

ADV RANTHO: Oh pages? Thank you, I am indebted,

10 Commissioner.

ADV MPSHE: Thank you, Commissioner. 1691 yes, MJM7?

ADV RANTHO: Correctly so, yes.

ADV MPSHE: Ja.

ADV RANTHO: Paragraph 3.1 of that memo.

ADV MPSHE: Must I read it?

ADV RANTHO: No, no, no, I just want to just refer you to that, where you talk of and that is the memo that you confirmed to the Commissioners that it was signed by you?

ADV MPSHE: Yes.

20 ADV RANTHO: Addressed to the Minister?

ADV MPSHE: Ja.

ADV RANTHO: And what is indicated is that both agencies which now it referred to SAPS and NIA ...[intervenes]

ADV RANTHO: That both agencies indicated their willingness to again participated in the Task Team.

ADV MPSHE: Task Team.

ADV RANTHO: In the context of what you indicated to the Commissioners about the turf that was going on between the SAPS and ...[intervenes]

ADV MPSHE: Yes.

ADV RANTHO: And the Scorpions at the time, I want to understand that your evidence is that notwithstanding whatever conflict that may have prevailed at the time between the two institutions, there was nonetheless willingness on the part of SAPS and NIA to assist?

10 ADV MPSHE: Indeed, indeed, that is correct.

ADV RANTHO: And then also there was an issue that is actually, I think it is if I am not mistaken, is MJMA, but nonetheless, you do not have to go there. That is a memo by Adv Ackermann, I think the one that indicated that SAPS, in fact NPA would not usurp the functions that were reserved for, I think it was [indistinct] ...[intervenes]

ADV MPSHE: SAPS and NIA.

ADV RANTHO: And SAPS and NIA.

ADV MPSHE: SAPS and NIA, yes.

ADV RANTHO: Indeed so, thank you for that.

20 ADV MPSHE: Ja, ja.

ADV RANTHO: And that in light of also what you indicated in paragraph, I think the paragraph of your statement, but I think it is paragraph 39, you spoke of challenges in interdepartmental cooperation and coordination ...[intervenes]

ADV RANTHO: That existed at the time.

ADV MPSHE: Yes.

ADV RANTHO: And to your knowledge, was there any document that related to regulating the relationship between the SAPS and NPA, perhaps in NIA as well insofar as the implementation of these tasks, the tasks assigned to ITT consent that existed maybe?

ADV MPSHE: I do not remember existence of any such document, except that what was between, sorry, or amongst these institutions was for them to conduct their work in accordance with their mandates. For example, the paragraph you quoted right at the
10 bottom, I do not know the page, where I say, "Prosecutors should not be seen to be zapping the paths of SAPS and NIA", we would simply say the prosecutors should not see themselves as NIA or SAPS and do the work that were supposed to be done by SAPS and NIA. That is what I meant.

ADV RANTHO: Okay.

ADV MPSHE: Ja.

ADV RANTHO: Would I be correct in a way, the manner in which the prosecution/investigation of TRC cases was concerned, was done almost in a manner that is not coordinated, so to speak? It was not
20 coordinated, it was not regulated? In other words ...[intervenes]

ADV MPSHE: No, it was not coordinated.

ADV RANTHO: It was not coordinated? Yes.

ADV MPSHE: No, no, no, no.

ADV RANTHO: Okay. And Commissioners, from my side that is about it.

CHAIRPERSON: Thank you, Ms Rantho. Ms Moroka?

ADV MOROKA: No questions of clarification from our side.

CHAIRPERSON: Thank you. From this side, Mr Gwala?

ADV GWALA: No questions, we do not have questions for this witness, Commissioners, thank you.

CHAIRPERSON: Yes. Ms Rikhotso?

ADV RIKHOTSO: Thank you, Commissioner. I do have a few questions of clarification for this witness. May I proceed?

CHAIRPERSON: Yes, you may.

10 ADV RIKHOTSO: Thank you, thank you Commissioner. Adv Mpshe, you near the end of your evidence, you indicated that the speculation by Mr Calata that you had been requested by Adv Simelane to remove Adv Ackermann was ...[intervenes]

ADV MPSHE: No, no, no, no, it is not speculations from me, it is speculations stated in the statement.

ADV RIKHOTSO: Correct.

ADV MPSHE: Yes.

ADV RIKHOTSO: That is the speculation from Mr Calata?

ADV MPSHE: Yes.

20 ADV RIKHOTSO: Correct, but then you indicated that that speculation was not improper?

ADV MPSHE: Yes, correct.

ADV RIKHOTSO: Right. So now you said he had said in passing, "Why are you still keeping Ackermann there?"

ADV MPSHE: That is it.

ADV RIKHOTSO: Do you remember where he said this in passing?

ADV MPSHE: Well the “where” will be in the premises of the NPA in Silverton, but you will remember I said I cannot remember the date and time, but it was not an issue said at the time or within a meeting or a discussion of the PCLU, he just mentioned it in passing to me because he used to call me Chief. He would just say, “Hey Chief, why are you still keeping Ackermann there?” We were walking and that was it.

ADV RIKHOTSO: And could you, I do not know if you, the
10 circumstances that would cause him to ask you such a question, he was DG at the time, am I correct?

ADV MPSHE: Ja.

ADV RIKHOTSO: So is this at the time when the DGs meetings were happening and there was all this acrimonious fighting if I can put it that way between or regarding Ackermann?

ADV MPSHE: Ja, that would be correct and if I may add, in addition to that, I then recalled what Vusi Pikoli would report after attending the meetings of the Task Team, especially where the DGs would be present, that look, Ackermann [vernacular].

20 ADV RIKHOTSO: Mm.

ADV MPSHE: Ja, so when he said it to me now in person, I recalled what Vusi Pikoli had told me.

ADV RIKHOTSO: So would you consider what you, what, the question as to why are you saying ...[intervenues]

CHAIRPERSON: Rikhotso, I think your line of questioning is

bordering on cross-examination, it is no longer clarificatory.

ADV RIKHOTSO: I understand that, Chair.

CHAIRPERSON: Thank you.

ADV RIKHOTSO: Then I will reserve that, those questions for cross-examination.

COMMISSIONER: Ja.

ADV RIKHOTSO: And then, okay yes, just one more thing. Were you ever in any informal meetings with Adv Simelane possibly at airports or garages or any of those places, discussing Ackermann?

10 ADV MPSHE: Discussing Ackermann? No, no, no, not at all.

ADV RIKHOTSO: I have no further clarification questions, I will ...[intervenes]

CHAIRPERSON: Thank you.

ADV RIKHOTSO: Reserve the rest for cross.

CHAIRPERSON: Thank you, Ms Rikhotso. Mr Semenya?

ADV SEMENYA: Chairperson, with your permission and in anticipation of the application by Webber Wentzel to cross-examine, we prefer to defer our questioning after answers to those cross-examination questions have been made.

20 CHAIRPERSON: Thank you. Mr Salukazana, I daresay there is no cross-examination pursuant to the clarification, direct questions that have been posed to Adv Mpshe.

ADV SALUKAZANA: You are correct, Chairperson.

CHAIRPERSON: Thank you.

COMMISSIONER KGOMO: Are you intimidated? [Laughs].

ADV SALUKAZANA: No, no, not at all. [Laughs].

CHAIRPERSON: Adv Mpshe.

ADV MPSHE: Madam?

COMMISSIONER: We thank you for having made yourself available to this Commission for your evidence, hence you may have noted there is an intention to apply for your cross-examination by several parties. Until that has happened, you may be recalled as a witness but for now you are excused as a witness.

ADV MPSHE: Thank you, Chair. Thank you, Commissioners.

10 CHAIRPERSON: Thank you.

NO FURTHER QUESTIONS

ADV SEMENYA: Chairperson, I am advised that the plan to have...

COMMISSIONER: Adv Ntsebeza?

ADV SEMENYA: Adv Ntsebeza and Mr Cajee, we are unable to substitute Mr Ntsebeza with Mr Cajee for tomorrow, he is not available. That puts our calendar in jeopardy somewhat. Consequently we are unable to sit for Wednesday and Thursday. I am corrected, we will sit on Thursday which was as per calendar, the evidence of Mr Cajee.

20 CHAIRPERSON: Yes, so Mr Cajee is unavailable tomorrow morning?

ADV SEMENYA: He is unavailable tomorrow morning in substitution of the evidence, otherwise we ...[intervenes]

CHAIRPERSON: Yes.

ADV SEMENYA: Would have sat for Mr Ntsebeza.

CHAIRPERSON: Yes. Well in as much as we are quite eager to proceed with our proceedings as we have scheduled, we have to postpone these proceedings until Thursday, the 9 April at 10:00 for Mr Cajee's evidence.

ADV SEMENYA: As the Commission pleases.

CHAIRPERSON: These proceedings are adjourned. Thank you, Mr Salukazana.

INQUIRY ADJOURNS UNTIL 9 APRIL 2026

CERTIFICATE OF VERACITY

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

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FORUM OF ORIGIN : Inquiry
CASE NUMBER : N/A
TRANSCRIBERS : M Smit, M Botha
DATE COMPLETED : 2026-04-08
NUMBER OF PAGES : 69 (Including front page)
M Smit: Page 1-37
M Botha: Page 38-67

TRANSCRIBERS :



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