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Office of the Head
Priority Crimes Litigation Unit
VGM Building
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INTERNAL MEMORANDUM

TO: ADV VP PIKOLI
NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

FROM: DR MS RAMAITE
CONVENOR OF THE TASK TEAM ON TRC CASES

SUBJECT: REPORT ON THE PROGRESS MADE BY THE
TASK TEAM ON TRC CASES

DATE: 29 NOVEMBER 2006

1. PURPOSE OF THE MEMORANDUM

The purpose of this memorandum is to inform the National Director about the progress made by the task team established in terms of the prosecution policy guidelines on TRC cases.

2. BACKGROUND ON TRC CASES

As you aware that on 12 October 2006 a task team on all cases emanating from the conflicts of the past was established and I had been appointed as Convenor thereof.

The mandate of the task team is to study all TRC cases in possession of the South African Police Service (SAPS) and the Priority Crimes Litigation Unit with a view of making recommendations to the National Director on whether to prosecute or not.

On 25 October 2006, the task team held its first meeting where audit reports from SAPS and the PCLU were presented and discussed. The report by SAPS had cases which were outstanding inquests and some cases had been finalised in court. The report by the PCLU is divided into three categories of cases. The first category is cases which were finalized in court and it was agreed that these cases are excluded from the mandate of the task team. The second category is matters disposed of by the PCLU in the form of representations from victims or their relatives. The third and last category is cases that have been identified for prosecution.

On 6 November 2006, the task team convened a meeting where recommendations were made in respect of some cases in the third category. The current status of the three categories of cases is stated below.

2.1 CASES FINALISED IN COURT

2.1.1 S v Khwezi Ngoma and Others)

This matter involved four APLA cadres who attacked Willowvale police station in 1994 resulting in the death of a policeman and another injured. They didn't apply for amnesty. They made representations through their attorneys requesting a withdrawal of the charges but it was rejected and entered into plea bargain and received suspended sentences.

2.1.2 S v Aron Tyani & Another

The matter relates to the attempted murder and murder of Sthembele Zokwe an Umkhonto Wesizwe (MK) cadre during 1987 and 1988 by the Transkei security police. They were convicted and sentenced to direct terms of imprisonment in 2005.

2.1.3 S v Eugène Terre'blanche

In November 2003 the accused pleaded guilty to several charges of terrorism, linked to 1994 pre-election bombings. He was sentenced to 6 years wholly suspended.

2.1.4 S v Blani

The accused was convicted on two counts of murder in Grahamstown High Court and sentenced to a direct term of imprisonment.

2.2 TRC MATTERS CLOSED BY PCLU

2.2.1 Death in detention Ahmed Timol

This death in detention matter goes back to 1971.

The nephew of the deceased requested that an allegation that one of the police officers who had interrogated the deceased had confessed to a journalist be investigated.

The DSO traced and interviewed the journalist who denied the allegation. There was no other evidence to prove that the deceased had definitely been murdered and all other crimes had prescribed.

The matter was therefore closed.

2.2.2 Death in detention of Steve Biko

Mr Ngcuka asked that this matter be investigated because of its high profile.

The DPP: Eastern Cape had recommended that no prosecution be instituted due to lack of evidence.

It was established that all the doctors who had treated the deceased were dead, except for the Chief State Pathologist, who, when consulted, conceded that he could not exclude that the injury to the deceased's head could have been accidentally caused.