

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

STATEMENT: APPLICATION TO CROSS-EXAMINE PHILIPPUS JACOBS

I, the undersigned.

JOSEF ARNDT VENTER

do hereby make oath and state that:

1. I am an adult male attorney practising as a Senior Associate at Webber Wentzel at Convention Towers, Cape Town. I am the attorney of record for the families and survivors of apartheid-era crimes (known as the "**Calata Group**") as well as Adv Anton Ackermann SC.
2. The facts contained in this statement are within my own personal knowledge unless the context indicates otherwise and are to the best of my knowledge true and correct.
3. I depose to this statement on behalf of my clients, being the families and survivors of apartheid-era crimes who form the Calata Group. I am duly authorised to do so.
4. This statement is made in support of an application in terms of Regulation 8(3) of the Commission's Regulations, read with Rule 3.7 of the Commission's Rules, to cross-examine Philippus Christoffel Jacobs ("**Mr Jacobs**" or "**Jacobs**").

THE APPLICATION

5. Mr Jacobs has filed two statements with the Commission:
 - 5.1 The statement dated 26 February 2026; and
 - 5.2 The supplementary statement dated 25 March 2026.
6. Our clients wish to put questions to Mr Jacobs in relation to the following aspects arising from his statements and testimony before the Commission on 14 April 2026:



The TRC Task Team

7. Mr Jacobs testified that on 10 October 2006 he was assigned to the TRC Task Team (described as the ITT in Jacobs' statements) by former Police Commissioner Jackie Selebi in terms of paragraph B6 of the amendments to the prosecuting policy (14 April 2026 transcript p 7). Paragraph B6 stated as follows:

"The PCLU shall be assisted in the execution of its duties by a senior designated official from the following State departments or other components of the NPA:

- (a) The National Intelligence Agency.
- (b) The Detective Division of the South African Police Service.
- (c) The Department of Justice & Constitutional Development.
- (d) The Directorate of Special Operations."

8. Our clients wish to establish from Mr Jacobs what the nature of his assignment to the Task Team by Commissioner Selebi entailed, particularly:
- 8.1 What the mandate was that he received from the Commissioner;
 - 8.2 What the Commissioner's understanding of SAPS' role in the Task Team was;
 - 8.3 What his understanding of SAPS' role in the Task Team was; and
 - 8.4 What role SAPS actually fulfilled on the Task Team.
9. Our clients wish to establish whether Jacobs has any knowledge about the process that led to the development of the amendments to the prosecuting policy considering his background and involvement in drafting, reviewing and presentation of SAPS legislation and the fact that he described the amendments to the prosecuting policy as "Cabinet's approved guidelines" (Jacobs bundle pp 1763 and 1811).
10. Our clients wish to question Jacobs about the view held by Commissioner Selebi (and supported by NIA) that a recommendation from the TRC Task Team and the Directors-General was necessary in the prosecution of each TRC case before the NDPP made any decision. The Commissioner's view was presented on several

occasions by Jacobs (Jacobs bundle p 1754 and 1756) and Major General Lekalakala (14 April 2026 transcript p 46) who also represented SAPS on the Task Team.

11. We wish to enquire why this requirement does not amount to a clear and unwarranted interference in the work of the NPA to conduct prosecutions as the NPA sees fit under the Constitution and the NPA Act.
12. Our clients wish to obtain clarity from Jacobs about the consultations and briefings, including what instructions, if any, he received from Commissioner Selebi in relation to specific cases or the functioning of the TRC Task Team more broadly. These questions will be asked in the context of statements made by Jacobs during his examination in chief that:
 - 12.1 the minutes of the Task Team meetings were not shared with Commissioner Selebi, and that he briefed the National Commissioner from time to time on the proceedings of the Task Team (14 April 2026 transcript p 77); and
 - 12.2 At all material times during his tenure as a member of the SAPS, he had to perform his work subject to the National Commissioner's approval, who was the person responsible for decision making on behalf of the SAPS (Jacobs bundle p 1714).
13. We wish to know from Jacobs whether he was aware of the overriding concern of the government at that time, namely that prosecutions of former apartheid officials (such as the accused in the Chikane case) "*would give rise to a call for prosecution of ANC cadres arising out of their activities pre-1994.*"
 - 13.1 It will be put to Jacobs that this was ultimately why Selebi insisted on the prerequisite of a DG's Forum (of which he was a member) recommendation before the NDPP could take TRC prosecution decision.
 - 13.2 It will also be put to Jacobs that Selebi wanted the removal of Ackermann from the TRC cases, not because he was pursuing charges against the ANC 37, but because prosecuting former apartheid officials would give rise to calls for cases against the ANC.

The SAPS audit report(s) presented at the TRC Task Team

14. Jacobs stated in his evidence in chief that he was not hands on with TRC cases and sought the services of one Senior Superintendent Hennie Brits to compile the SAPS report of all TRC cases; after he was requested to do so at the TRC Task Team meeting on 12 October 2006 (Jacobs bundle p 1720). According to Jacobs, he made an oral presentation of the SAPS cases at the TRC Task Team meeting on 25 October 2006 (14 April 2026 transcript p 18).
15. Later in his evidence in chief, Jacobs stated that after the 25 October 2006 meeting, he compiled a SAPS audit report and presented the written report at the TRC Task Team meeting on 6 November 2006 (14 April 2026 transcript p 36). The SAPS audit report is attached to Jacobs' first statement as PCJ8 (Jacobs bundle p 1743).
16. Our clients wish to clarify the following with Mr Jacobs:
 - 16.1 The statement that he presented the SAPS report orally at the meeting of 25 October 2006. The text on the written SAPS audit report that was presented at the 6 November 2006 meeting records that:

“At the last meeting of the Committee, a list of dockets in the possession of the South African Police Service, relating to the conflicts of the past was provided to the Committee. ...”
 - 16.2 Whether the report that was presented at the 25 October 2006 meeting differed from the written audit report that was presented at the 6 November 2006 meeting. If so, our clients seek clarity on the differences between the two reports.
 - 16.3 To what extent did Brits, Bester, or any other SAPS official, play a role in compiling the written SAPS audit report that was presented by Jacobs at the 6 November 2006 meeting.
 - 16.4 Whether the report presented contained all the TRC cases that were in the possession of SAPS. If not, why were all the TRC cases in SAPS' possession not reflected in the report as requested by Dr Ramaite at the 12 October 2006 meeting (see PCJ3, Jacobs bundle p 1720)?

17. Mr Jacobs stated in his evidence in chief that he received copies of 73 decisions that were taken by Advocate Ackermann SC on various dockets from Senior Superintendent Louis Bester.
 - 17.1 The decisions were used by Jacobs to compile the SAPS audit report that was presented at the 6 November 2006 meeting (14 April 2026 transcript pp 36 and 37).
 - 17.2 Jacobs testified that he did not receive the actual dockets from Bester but only copies of the 73 decisions (14 April 2026 transcript p 38).
18. Our clients wish to establish from Mr Jacobs:
 - 18.1 Why all 73 decisions were not reflected in the SAPS audit report that was presented by Jacobs at the 6 November 2006 meeting.
 - 18.2 Whether he had sight of the original decisions that were made by Ackermann SC. If not, whether he requested the original decisions.
 - 18.3 Whether he requested to peruse the dockets in question.
19. In his evidence in chief, Jacobs stated that the cases reflected in the SAPS audit report that was presented by Jacobs at the 6 November 2006 meeting were cases in which SAPS sought clarity from the PCLU regarding the holding of inquests (14 April 2026 transcript p 41).
 - 19.1 Our clients dispute Jacobs' version and our clients wish to ascertain the intention of Jacobs and SAPS in putting up of these cases at that time.
 - 19.2 It will be put to Jacobs that SAPS put up these cases in order to bolster the false narrative that Ackermann SC was pursuing criminal investigations against the ANC 37 in late 2006. This is particularly in light of the following facts which Jacobs was likely aware at the time that he presented the SAPS audit report:
 - 19.2.1 The PCLU audit reports dated 24 October 2006 and 30 October 2006 addressed the decision taken in 2004 not to prosecute the ANC 37. These audit reports were presented at the TRC Task Team meetings of 25 October 2006 and 6 November 2006 respectively. Jacobs was present



at both Task Team meetings and therefore had no reason to revisit the case(s) against the ANC leadership (cases number 2.1, 2.5, 2.6 and 2.7 on the SAPS audit report) at the 6 November 2006 meeting.

19.2.2 It will be put to Jacobs that his claim of the possible holding of inquests is unsustainable in light of the following facts:

19.2.2.1 In *Messina CR 57/11/85 MZ Ncube and two others* (case number 2.1 on the SAPS audit report), the accused were arrested, charged, convicted and sentenced on a number of criminal charges, including the murder of two policemen Nel and Gerber and an inquest was therefore not required (see Macadam documents bundle pp 124 to 130).

19.2.2.2 In *Ellisras CR A28/8/88 MJ Rapholo* (case number 2.2 on the SAPS audit report), inquests were held in 1989 in respect of all those who died during the incident, there was therefore no need to conduct further inquests (see Macadam documents bundle pp 124 and 131).

19.2.2.3 In *King Williams Town CR 397/11/92 TT Xundu* (case number 2.3 on the SAPS audit report), the inquests into the deaths of the four persons identified by Ackermann on 13 August 2003 was held on 18 February 2004, more than two years before Jacobs presented the matter to the TRC Task Team (see Macadam documents bundle pp 124 and 132 to 135).

19.2.2.4 In *Diepkloof CR 228/8/89 Michael Ndlovu, William Mafa and Ben Bani* (case number 2.4 on the SAPS audit report), Ackermann recorded in his memorandum dated 4 September 2003 (A47) that an inquest into the death of the Constable Mayembela was held on 6 October 1994. There was thus no need to conduct a further inquest. (see Ackermann memorandum A47 in Jacobs bundle);

19.2.2.5 In *Umbumbulu CAS 35/4/87 Steven Mkulusi, Moses Mkize and Sakhile Nzama* (case number 2.5 on the SAPS audit report), Ackermann decided on 3 October 2003 (A54) that SAPS must establish whether an inquest was held into the death Warrant



Officer B Lembede on 12 April 1987. If an inquest was not already held, it should be done (see Ackermann memorandum A54 in Jacobs bundle). The inclusion of this matter in the SAPS audit report is thus questionable because the decision made by Ackermann was clear and unambiguous in respect of what was required from the SAPS.

19.2.2.6 In *Case Docket Jeppe CR 47/7/88* (case number 2.5 on the SAPS audit report), inquests were held in 1988 in respect of the two deceased in the incident. Unidentified persons were held responsible for the deaths (see Macadam documents bundle pp 124 and 136 to 137). Contrary to what is stated in the SAPS audit report, no inquests were thus outstanding. On 9 May 2001 the TRC granted amnesty to Aggie Shoke, Harold Matshidi, Lester Dumakude and John Dube for the murder of the deceased (AC/2001/161). A further inquest was therefore not required nor was one recommended by Ackermann when he made his decision in respect of this matter on 3 October 2003 (see Ackermann memorandum A65 in Jacobs bundle); and

19.2.2.7 In Mayville CR No, A188/1/89; CR Swart Plain CR A567/3/89; CR Swart Plain CR A425/4/89 Mohammed Rafiq Rohan, Riaz Saloojee, Abubaker Ismael (case number 2.5 on the SAPS audit report), not a single death occurred and therefore an inquest could not be held (see Ackermann memorandum A73 dated 10 October 2003 in Jacobs bundle).

The appointment of investigators for TRC cases

20. In December 2006, Jacobs sent a "courtesy request" to SAPS Divisional Commissioner: Detective Service, General JF De Beer, to arrange investigators by provincial commissioners for eight TRC cases (14 April 2026 transcript p 74). The request for investigators was made by way of an undated confidential Information Note (PCJ17, Jacobs bundle pp 1763 to 1767).

20.1 We wish to know whether De Beer responded, and if so, why his response was not provided in the bundle.

21. Reference will also be made to the De Beer letter to four provincial commissioners dated 6 December 2006 (PCJ18, bundle page 1766) with Jacobs listed under enquiry requesting one investigator from each of the 4 provinces and 1 from Head Office and asking that their availability be confirmed.
- 21.1 We wish to know whether Jacobs drafted this letter for De Beer;
- 21.2 Who selected the identified officers;
- 21.3 Whether Head Office and/ or the provincial commissioners responded, and if so, why their responses have not been provided in his bundle.
22. Noting that Jacobs reported to the TRC Task Team on 29 January 2007 (the last Task Team meeting held) that *"feedback was being awaited from the Provincial Commissioners on the appointment of investigators and that some had already provided their lists in that respect"* we would like to pose the following questions:
- 22.1 Whether De Beer, Head Office and/or the Provincial Commissioners ever advised or reported to him on whether the investigators were appointed, and if so, whether they commenced work on the 8 cases. If they did not, why they did not communicate in this regard.
- 22.2 Whether subsequent to 29 January 2007, he ever followed up to establish what transpired and to see if the investigations commenced, and if so, to provide details on such follow-up.
- 22.3 If he did not, the reason(s) he did not; and whether this was because of the effective collapse of the Task Team, bearing in mind that the SAPS suspended its involvement in early March 2007 and the Task Team never met again after 29 January 2007.
23. It will be put to Jacobs that there is no evidence on record that the 8 investigations proceeded and that:
- 23.1 it is the evidence of Adv Magha, who was handling several of the TRC cases at the PCLU, that the cases were never investigated by the SAPS – *"I served on the TRC task team ... but there was never a dedicated investigative capacity*

that was allocated or assigned to the cases that I handled” (Magha transcript, p 70).

23.2 All the 8 cases mentioned remain unresolved today, nearly 20 years later.¹

24. In Jacobs’ undated confidential Information Note to De Beer (PCJ17, Jacobs bundle pp 1763 to 1767), he set out the purpose of the requested investigations:

“The purpose of the investigation is to enable the relevant Committee to make a recommendation regarding possible prosecution to the NDPP, in accordance with the said guidelines.”

25. The ‘relevant Committee’ was the TRC Task Team and the ‘guidelines’ were the amendments to the prosecution policy. It will be put to Jacobs that:

25.1 this was the actual purpose behind the request for investigators, namely, to advise the Task Team on the making of recommendations of possible prosecutions in the identified cases; rather than full investigations in the normal course of criminal investigations; and

25.2 this explains why, following the collapse of the Task Team (arising from the dispute between SAPS/NIA and the NPA described below), these investigations never proceeded;

25.3 It also explains why the NPA did not follow up on this initiative but rather made direct approaches to the SAPS with pleas for investigators (as per Macadam’s 2015 affidavit).

¹ Cradock 4: no prosecutions and reopened inquest only commenced in 2025 and is still ongoing in 2026; PEBCO 3: prosecution never reinstated and reopened inquest only to commence in October 2026 (only 1 surviving suspect); S v Coetzee: indictment only issued in 2016 following application to compel by Thembi Simelane in 2015, remains unresolved; S v Hentie Botha and Others: accused only charged in 2024; COSAS 4 – two surviving accused only charged in August 2021, remains unresolved; Heidelberg and St James attacks: Nature of investigation into APLA commander Letlapa Mphahlele unknown, unresolved; Bathandwa Ndondo: Former Transkei Security Branch officer charged in November 2025, unresolved; Moss Morudu: remains never recovered, symbolic burial in 2013; inquest apparently to be held on undisclosed future dates.

The Collapse of the Task Team

26. Pursuant to the above requests to De Beer and the Provincial Commissioners:

- 26.1 Commissioner Selebi informed NDPP Pikoli that he did not agree with the NPA's interpretation of the amendments to the prosecution policy and insisted that a prerequisite before the NPA could act was a recommendation by the Directors-General (Jacobs bundle p 1756).
- 26.2 Pikoli in turn escalated the dispute to the Minister of Justice, Bridgette Mabandla (Jacobs bundle p 1762)
- 26.3 SAPS received an invite to a Task Team meeting scheduled for 13 March 2008, but Acting National Police Commissioner T Williams stated that *"until such time that the matter has been cleared up, I am of the view that the Committee cannot function meaningfully"* and he refused to participate *"until such time that the matter is resolved, I have instructed the representatives of the South African Police Service not to attend meetings of the Task Team"* (Jacobs bundle "SA1", p 1808).
- 26.4 It will be put to Jacobs that, since the matter was not resolved because the NPA would not agree to its hands being so tied, and indeed it proceeded with the Chikane case without waiting to hear from the DGs,
- 26.4.1 the SAPS not only withdrew from the Task Team, but also
- 26.4.2 persisted in withholding investigative support for the TRC cases going forward, and that
- 26.4.3 this explains why only the Chikane case (which was previously investigated with the Basson case) went ahead – and not a single prosecution or inquest proceeded for a period of 9 years thereafter.

The forged memorandum of 26 June 2003

27. Advocate Ackermann SC disputes Jacobs' assertion that the so-called memorandum of 26 June 2006 was not forged. The NPA issued a press release on

21 August 2007 stating that the document was a forgery and that an immediate investigation had been authorised.

28. We wish to put the following questions to Jacobs:

- 28.1 Where did Jacobs source the impugned memo (presumably the same document at A15) which he faxed to Ackermann on 20 August 2007 (following the publishing of the article in the Rapport on 19 August 2007)? Who gave him the document?
- 28.2 If the impugned document was just a file note for the case docket, this would explain why the SAPS had access to it. However, the impugned document purports to be a memo addressed from the Head of the PCLU to the Deputy NDPP. Why would SAPS be in possession of such an internal memo?
- 28.3 Ackermann denies he would have addressed a memo in Afrikaans to Ramaite who is not a native Afrikaans speaker. Surely this must have raised suspicion about the document?
- 28.4 Why would Ackermann write such a memo in June 2006 (English translation, annexed hereto marked "A" and Afrikaans version (A15) with forgery highlighted annexed as "B") when in 2004 he concluded that no case had been made out against the ANC leadership and NDPP Ngcuka released a press statement on 15 May 2004 noting that there was no basis upon which to prosecute the ANC leadership.
- 28.5 Ackermann's letter faxed on 20 August 2007 to (Jacobs, Bundle 1772) requested Jacobs to have the document delivered to his office by no later than 16h00 on the same date;
- 28.6 Although the original memorandum was not made available to Ackermann SC on 22 August 2007, LJ Bester head of SAPS CATS sent an Information Note to Divisional Commissioner PJL du Toit: Forensic Science Laboratory and Criminal Record Centre stating:

The original document is attached, as well as the copy that was faxed, together with a fax received from Advocate Ackermann on 20 August 2007. (Underline added)

- 28.7 Ackermann wrote to Leonard McCarthy on 27 September 2007 and complained that he has still not been furnished with the original memo (Ackermann COI Bundle p 119, see also p 127).
- 28.8 Why was the original memo not provided to Ackermann SC or the NPA in 2007 when it was requested for independent examination?
- 28.9 It will be put to Jacobs that the failure to provide Ackermann SC or the NPA with the alleged original memo in possession of SAPS was not an oversight but was aimed at preventing an independent forensic investigation being conducted by the NPA.²
- 28.10 Since the original was apparently in the possession of SAPS why has only a copy been placed before this Commission? Presumably it cannot be found. What explains its disappearance?
29. In addition, the following queries will be put to Jacobs:
- 29.1 Why he failed to fax the complete forged memorandum to Ackermann SC upon request. The copy of the memorandum that Jacobs faxed to Ackermann SC on 29 August 2007 consisted only of the first and third pages (PCJ22, Jacobs bundle p 1773 to 1175) whilst the copy that was in the possession of SAPS, and recently obtained by the Commission, consists of all three pages (Memorandum A15 attached to the Jacobs bundle);
- 29.2 Whether the two investigations by SAPS into the forged memorandum (Jacobs bundle pp 1777 to 1802) was truly independent given that the first report was compiled by a police officer; and the second report by a former police officer. The independence of the independent investigator, JF Hattingh, appointed by SAPS to conduct the second investigation is also questioned because Hattingh served in the police from 1981 to 2006 (Jacobs bundle p 1788);

² The absence of the original is a serious limitation because key forensic features disappear or degrade in a copy. Examining a copy is materially less reliable, and any competent expert must qualify their opinion accordingly. The weight of the evidence is reduced if only a copy is used. If forgery is alleged or disputed, the failure to produce the original will count against the party relying on the document.



- 29.3 Whether Jacobs applied his mind objectively to the glaring discrepancies on the forged memorandum, including:
- 29.3.1 Ackermann's file notes were referenced in numerical order. The first memorandum was referenced A1. Memo A15, which is the forged memo, was purportedly written on 26 June 2006. Memo A16, which follows A15, is also dated 26 June 2006. Memo A17 is, however, dated 11 July 2003. The subsequent memos (A18 to A73) are dated between 11 July 2003 and 10 October 2003.
- 29.3.2 The memos A1 to A16 are all dated 26 June 2006 and are all addressed to Ramaite whereas A17 to A73 are all from 2003 and are only file notes, which are not addressed to anyone.
- 29.3.3 None of the memos A1 to A16 reflect any recent developments or need for further investigations which would have caused Ackermann to suddenly knock off 16 memos in one day on 26 June 2006.
- 29.3.4 The telephone number reflected on the memorandum '845 6432' was the number in use in 2003 (see Macadam bundle p 1428), whereas Ackermann SC's telephone number since at least 16 May 2006 was 012 845 6474 (see Ackermann NPA docs from COI bundle pp 7, 81 and 119; Jacobs bundle pp 1718, 1723 and 1737);
- 29.3.5 The fact that the secretary who worked for the PCLU in 2003, Ms Tia Pienaar, was no longer in the employ of the NPA when the 26 June 2006 memos were purportedly typed. Ms Pienaar's initials 'tp' appear at the bottom of the 2006 memos (A1 to A16) despite the fact that she was not with the PCLU in 2006; and
- 29.3.6 The marked differences between the first two handwritten '6s' contained in the date (26/6/2006) and the last '6' on page three of the forged memorandum. (The 6 in 26, the 6 for June and the 6 in 2006).
- 29.4 Whether Jacobs has any knowledge about the leaking of the forged memorandum to Rapport journalist Sonja Carstens, whose article of 18 August 2007 triggered the controversy surrounding memorandum and the allegations

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against Ackermann SC (Jacobs bundle p 1769); and whether the leaking of an internal document to the press was investigated by SAPS, and if not, why not?

29.5 Why nobody in SAPS (the SAPS forensic investigators or anyone else in SAPS) sought an interview with Ackermann to hear his explanation why the 26 June 2006 memo was a forgery?

29.6 Why the instructions by Bester to Du Toit (Jacobs bundle p 1777) and Hattingh (Jacobs bundle p 1786) was:

29.6.1 confined to only these aspects: the authenticity of Ackermann's signature, the paper used in the document, any indication of amendments or alterations to the document; but

29.6.2 excluded the obvious differences in the hand written '6s' which appear in the date at the bottom of page 3 of the memorandum and the use of Afrikaans to address a memorandum to an English speaking recipient as lines of enquiry – and

29.6.3 whether other information on the document was consistent with a June 2006 communication.

29.7 We wish to know from Jacobs if the investigators had been asked to probe the excluded aspects whether their conclusions may have been different.

29.8 It will be put to Jacobs that Ackermann was not interviewed, and the above aspects excluded from the instructions in order to ensure that the forensic investigation produced a favourable outcome for the SAPS.

29.9 It will be put to Jacobs that he and the SAPS leadership failed to apply their minds and considered the impugned memo in isolation. They relied exclusively on handwriting experts (knowing that SA case law has held that such expert evidence is not decisive) and failed to evaluate the disputed document in the context of all the relevant circumstances and evidence.

29.10 It will be put to Jacobs that the document was manifestly altered by elements within SAPS in order to place pressure on the Government and Pikoli to



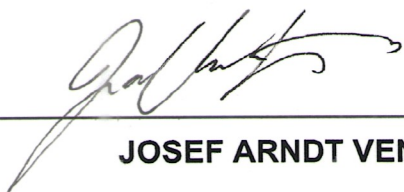
remove Ackermann from the TRC cases; and to ultimately bring an end to the TRC prosecutions against all sides in the conflict.

General questions regarding TRC cases

30. Our clients wish to put questions to Mr Jacobs regarding, why in January 2007 he believed that the Highgate Hotel matter did not require further investigation (Jacobs bundle p 1753). This question arises in the light of the inquest finding of December 2025 that the culprits were likely engaged in a false flag operation.

CONCLUSION

31. The issues outlined above lie at the heart of the Commission's terms of reference, namely whether efforts were made to stop the investigation or prosecution of TRC cases. The evidence of Mr Jacobs raises serious questions about the role of the SAPS - and especially that of Commissioner Selebi - in impeding the work of the ITT and the prosecutorial authority of the NDPP.
32. These questions cannot adequately be addressed through clarification questions alone and must be posed through cross-examination.
33. It is in the best interests of the work of the Commission, and of the families and survivors whom the Calata Group represents, that the Calata Group's counsel be permitted to cross-examine Mr Jacobs on the matters set out above.
34. In the light of the above, I humbly request the Chairperson to permit the Calata Group's counsel to cross-examine Mr Jacobs.



JOSEF ARNDT VENTER

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

MILNERTON on 30 April 2026, 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.



[Handwritten signature]

COMMISSIONER OF OATHS

Full Names:

Business Address:

Designation:

[Handwritten initials]

REF: A15

ENQUIRY: Adv A R Ackermann SC

TEL: 845 6432

SPECIAL LITIGATION UNIT

26 June 2006

MEMORANDUM

To: Dr S Ramaite SC

From: A R Ackermann SC

Subject: THE STATE v

- (1) MTHETHELEDI ZEPHANIA MNCUBE
- (2) MZONDELELI EUELID NONDULA
- (3) JABULANI SYDNEY MBULI

Case files:

- (1) Messina MR 67/12/85: Murder of 2 SAP members
- (2) Messina MR 57/11/85: Landmine explosion
- (3) Messina MR 58/11/85: Landmine explosion
- (4) Messina MR 67/11/85: Landmine explosion
- (5) Messina MR 65/11/85: Landmine explosion
- (6) Messina MR 66/11/85: Landmine explosion
- (7) Messina MR 34/12/85: Landmine explosion
- (8) Messina MR 41/12/85: Landmine explosion
- (9) Messina MR 21/02/86: Landmine explosion
- (10) Alldays MR 10/10/86: Landmine rendered safe
- (11) Alldays MR 11/10/86: Landmine rendered safe

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1. BRIEF DESCRIPTION OF OFFENCES

The investigation relates to 8 landmine explosions that occurred in the Messina area, 2 landmines that were rendered safe in the Alldays area, as well as the escape of a suspect during which two police officers were shot dead.

The following landmine incidents are relevant:

- (1) A landmine explosion on 26 November 1985 at Weipe, Messina district, under a private vehicle, resulting in the death of EDWARD MELUBA and the injury of ELIJA MAKGAMATA. (Messina MR 57/11/85)
- (2) A landmine explosion on 26 November 1985 in the Messina area which damaged the private vehicle of GERT DE VILLIERS. (Messina MR 58/11/85)
- (3) A landmine explosion on 27 November 1985 at Weipe, Messina district, during which a private tractor was damaged and which caused the death of GLABI PHILEMON NCUBE. (Messina MR 67/11/85)

- (4) A landmine explosion on 27 November 1985 on the farm Bergen-on-Zoom, near Messina, under a military (SADF) vehicle, which caused injuries to Lt PRINSLOO and a passenger.
- (5) A landmine explosion under a SAP Casspir on 27 November 1985 on the farm Overvlakte in the Messina district, during which Constable P MOTAUNG was injured. (Messina MR 66/11/85)
- (6) A landmine explosion on 12 December 1985 under a military (SADF) vehicle on the farm Berg-on-Zoom during which two persons, FOURIE and P MAPOTELE, were injured. (Messina MR 34/12/85)
- (7) A landmine explosion on 15 December 1985 at Soutpansberg, Messina, which resulted in the deaths of 6 persons and injuries to 5 others. All the victims were members of the DE NYSSCHEN and VAN ECK families travelling in a private bakkie. (Messina MR 41/12/85)
- (8) A landmine explosion under a private vehicle on 12 February 1986 on the farm Overvlakte, Messina, during which WILLEM DU PLESSIS JANSE VAN RENSBURG was injured. (Messina MR 21/2/86)
- (9) On 8 October 1986, two separately placed landmines on the farm Samaria, Pondrift, Alldays were detected and rendered safe. (Alldays MR 10/10/86 and 11/10/86)

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The investigation further relates to an armed attack on 26 December 1986 on a SADF patrol during which 3 ANC members were shot dead and one (MNCUBE) was arrested. MNCUBE later managed to escape by shooting and killing two SAP members, namely ALOFF GERBER and Sgt NEL. (Messina MR 67/12/86)

The first two persons mentioned above (MNCUBE and NONDULA) were later arrested and prosecuted, convicted and sentenced for all the aforementioned offences, while the third person (MBULI) was never arrested.

2. AMNESTY

Amnesty was granted on 16 March 2001 to all the above-mentioned persons for all offences related to the said explosions. The first-mentioned (MNCUBE) also received amnesty for the murder of the two SAP members.

3. REMARKS

The ANC approved the use of landmines in the Messina border area and instructions in this regard were issued to members through the command structure of Umkhonto we Sizwe (MK). (Amnesty decision of the aforementioned persons).

According to evidence given, the aforementioned persons were under the command of a certain MANCHECK, who issued instructions and reported to MK commanders. MANCHECK is deceased and there is no evidence regarding his link with the MK high command.

All the other ANC members (foot soldiers) involved in these offences are deceased.

4. DECISION

In respect of the so-called "foot soldiers", no further investigation is necessary. In respect of the ANC leadership who issued instructions for the landmine campaign and who did not receive amnesty, a decision must still be taken at an appropriate time after all relevant parties have been consulted.

The above is a difficult decision.


Adv A R Ackermann S C 26/6/2000
SPESIALE DIREKTEUR b
/tp



Verw : A15
Navraag: Adv A R Ackermann S C
Tel : 845 6432

**SPECIAL LITIGATION UNIT /
SPESIALE LITIGASIE EENHEID**

26 Junie 2006

MEMORANDUM

AAN : Dr S Ramaite S C

VAN : A R Ackermann S C

ONDERWERP : **DIE STAAT teen**

- (1) MTHETHELEDI ZEPHANIA MNCUBE
- (2) MZONDELELI EUELID NONDULA
- (3) JABULANI SYDNEY MBULI

Saakdossiere :

- (1) Messina MR 67/12/85 : Moord van 2 SAP lede
- (2) Messina MR 57/11/85 : Landmynontploffing
- (3) Messina MR 58/11/85 : Landmynontploffing
- (4) Messina MR 67/11/85 : Landmynontploffing
- (5) Messina MR 65/11/85 : Landmynontploffing
- (6) Messina MR 66/11/85 : Landmynontploffing
- (7) Messina MR 34/12/85 : Landmynontploffing
- (8) Messina MR 41/12/85 : Landmynontploffing
- (9) Messina MR 21/02/86 : Landmynontploffing
- (10) Alldays MR 10/10/86 : Landmyn onskadelik gestel
- (11) Alldays MR 11/10/86 : Landmyn onskadelike gestel

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1. KORT BESKRYWING VAN MISDAAD

Die ondersoek het betrekking op 8 landmyn ontploffings wat in die Messina omgewing plaasgevind het, 2 landmyne wat in die Alldays omgewing onskadelik gestel is asook die ontsnapping van 'n verdagte waartydens twee polisiebeamptes doodgeskiet is.

Die volgende landmynvoorvalle het betrekking :

- (1) 'n Landmynontploffing op 26 November 1985 by Weipe, Messina distrik, onder 'n privaat voertuig wat die dood van **EDWARD MELUBA** en die besering van **ELIJA MAKGAMATA** tot gevolg gehad het. (Messina MR 57/11/85)
- (2) 'n Landmynontploffing op 26 November 1985 in Messina omgewing wat die privaat voertuig van **GERT DE VILLIERS** beskadig het. (Messina MR 58/11/85).
- (3) 'n Landmynontploffing op 27 November 1985 by Weipe, Messina distrik, waartydens 'n privaat trekker beskadig is en wat die dood van **GLABI PHILEMON NCUBE** gehad het. (Messina MR 67/11/85).
- (4) 'n Landmynontploffing op 27 November 1985 op die plaas Bergen-on-Zoom, naby Messina, onder 'n militêre (SAW) voertuig wat die besering van Lt **PRINSLOO** en 'n passasier veroorsaak het.
- (5) 'n Landmynontploffing onder 'n SAP Casspir op 27 November 1985 op die plaas Overvlakte in Messina distrik, waartydens Konst **P MOTAUNG** beseer is. (Messina MR 66/11/85).
- (6) 'n Landmynontploffing op 12 Desember 1985 onder 'n militêre (SAW) voertuig op die plaas Berg-on-Zoom waartydens twee persone, **FOURIE** en **P MAPOTELE** beseer is. (Messina MR 34/12/85).
- (7) 'n Landmynontploffing op 15 Desember 1985 te Soutpansberg, Messina wat die dood van 6 persone en die besering van 5 ander persone tot gevolg gehad het. Al die slagoffers was lede van die **DE NYSSCHEN** en **VAN ECK** gesinne wat met 'n privaat bakkie gereis het. (Messina MR 41/12/85).
- (8) 'n Landmynontploffing onder 'n privaat voertuig op 12 Februarie 1986 op die plaas Overvlakte, Messina waartydens **WILLEM DU PLESSIS JANSE VAN RENSBURG** beseer is. (Messina MR 21/2/86).
- (9) Op 8 Oktober 1986 is twee afsonderlik gestelde landmyn op die plaas Samaria, Pondrft, Alldays opgespoor en onskadelik gestel. (Alldays MR 10/10/86 en 11/10/86).

Die ondersoek het verder op 'n gewapende aanval op 26 Desember 1986 op 'n SAW patroolie betrekking waartydens 3 ANC-lede doodgeskiet en een (MNCUBE) gearrester is. MNCUBE het later daarin geslaag om te ontsnap deur twee SAP-lede nl ALOFF GERBER en Sers NEL dood te skiet. (Messina MR 67/12/86).

Eersgenoemde twee persone hierbo (MNCUBE en NONDULA) is later gearrester en is weens al die gemelde misdade vervolgt, skuldig bevind en gevonnissen, terwyl die derde persoon (MBULI) nooit gearrester was nie.

2. AMNESTIE

Amnestie is op 16 Maart 2001 aan al die bogenoemde persone verleen vir alle misdade wat met gemelde ontploffings verband hou. Eersgenoemde (MNCULBE) het ook amnestie vir die moord van die twee SAP lede ontvang.

3. OPMERKING

Die ANC het die gebruik van landmyne in die Messina grensgebied goedgekeur en opdragte in die verband is deur die bevelstruktuur van Umkhonto we Sizwe (MK) aan lede gegee. (Amnestie uitspraak van vermeldes).

Volgens getuienis gelewer was die vermeldes onder bevel van ene MANCHECK wat opdragte gegee en aan MK gesagvoerders verslag moes doen. MANCHECK is oorlede en daar is geen getuienis oor sy skakeling met die MK oppergesag nie.

Al die ander ANC-lede (voetsoldate) wat by hierdie misdade betrokke was is oorlede.

4. BESLISSING

Ten opsigte van die sogenaamde voetsoldate is geen verdere ondersoek nodig nie. Ten aansien van die ANC leieskap wat die opdragte vir die landmynveldtog gegee het en nie amnestie ontvang het nie, moet 'n besluit tegelegener tyd nog geneem word nadat al die relevante partye gespreek is.

Bovermelde is 'n moeilike besluit.


Adv A R Ackermann S C
SPESIALE DIREKTEUR

/tp

AD


REF: A15

ENQUIRY: Adv A R Ackermann SC

TEL: 845 6432

SPECIAL LITIGATION UNIT

26 June 2006

MEMORANDUM

To: Dr S Ramaite SC

From: A R Ackermann SC

Subject: THE STATE v

(1) MTHETHELEDI ZEPHANIA MNCUBE

(2) MZONDELELI EUELID NONDULA

(3) JABULANI SYDNEY MBULI

Case files:

(1) Messina MR 67/12/85: Murder of 2 SAP members

(2) Messina MR 57/11/85: Landmine explosion

(3) Messina MR 58/11/85: Landmine explosion

(4) Messina MR 67/11/85: Landmine explosion

(5) Messina MR 65/11/85: Landmine explosion

(6) Messina MR 66/11/85: Landmine explosion

(7) Messina MR 34/12/85: Landmine explosion

(8) Messina MR 41/12/85: Landmine explosion

(9) Messina MR 21/02/86: Landmine explosion

(10) Alldays MR 10/10/86: Landmine rendered safe

(11) Alldays MR 11/10/86: Landmine rendered safe

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1. BRIEF DESCRIPTION OF OFFENCES

The investigation relates to 8 landmine explosions that occurred in the Messina area, 2 landmines that were rendered safe in the Alldays area, as well as the escape of a suspect during which two police officers were shot dead.

The following landmine incidents are relevant:

(1) A landmine explosion on 26 November 1985 at Weipe, Messina district, under a private vehicle, resulting in the death of EDWARD MELUBA and the injury of ELIJA MAKGAMATA. (Messina MR 57/11/85)

(2) A landmine explosion on 26 November 1985 in the Messina area which damaged the private vehicle of GERT DE VILLIERS. (Messina MR 58/11/85)

(3) A landmine explosion on 27 November 1985 at Weipe, Messina district, during which a private tractor was damaged and which caused the death of GLABI PHILEMON NCUBE. (Messina MR 67/11/85)

(4) A landmine explosion on 27 November 1985 on the farm Bergen-on-Zoom, near Messina, under a military (SADF) vehicle, which caused injuries to Lt PRINSLOO and a passenger.

(5) A landmine explosion under a SAP Casspir on 27 November 1985 on the farm Overvlakte in the Messina district, during which Constable P MOTAUNG was injured. (Messina MR 66/11/85)

(6) A landmine explosion on 12 December 1985 under a military (SADF) vehicle on the farm Berg-on-Zoom during which two persons, FOURIE and P MAPOTELE, were injured. (Messina MR 34/12/85)

(7) A landmine explosion on 15 December 1985 at Soutpansberg, Messina, which resulted in the deaths of 6 persons and injuries to 5 others. All the victims were members of the DE NYSSCHEN and VAN ECK families travelling in a private bakkie. (Messina MR 41/12/85)

(8) A landmine explosion under a private vehicle on 12 February 1986 on the farm Overvlakte, Messina, during which WILLEM DU PLESSIS JANSE VAN RENSBURG was injured. (Messina MR 21/2/86)

(9) On 8 October 1986, two separately placed landmines on the farm Samaria, Pondrift, Alldays were detected and rendered safe. (Alldays MR 10/10/86 and 11/10/86)

Page 3

The investigation further relates to an armed attack on 26 December 1986 on a SADF patrol during which 3 ANC members were shot dead and one (MNCUBE) was arrested. MNCUBE later managed to escape by shooting and killing two SAP members, namely ALOFF GERBER and Sgt NEL. (Messina MR 67/12/86)

The first two persons mentioned above (MNCUBE and NONDULA) were later arrested and prosecuted, convicted and sentenced for all the aforementioned offences, while the third person (MBULI) was never arrested.

2. AMNESTY

Amnesty was granted on 16 March 2001 to all the above-mentioned persons for all offences related to the said explosions. The first-mentioned (MNCUBE) also received amnesty for the murder of the two SAP members.

3. REMARKS

The ANC approved the use of landmines in the Messina border area and instructions in this regard were issued to members through the command structure of Umkhonto we Sizwe (MK). (Amnesty decision of the aforementioned persons).


According to evidence given, the aforementioned persons were under the command of a certain MANCHECK, who issued instructions and reported to MK commanders. MANCHECK is deceased and there is no evidence regarding his link with the MK high command.

All the other ANC members (foot soldiers) involved in these offences are deceased.

4. DECISION

In respect of the so-called "foot soldiers", no further investigation is necessary. In respect of the ANC leadership who issued instructions for the landmine campaign and who did not receive amnesty, a decision must still be taken at an appropriate time after all relevant parties have been consulted.

The above is a difficult decision.


Adv A R Ackermann S C
SPESIALE DIREKTEUR
/tp

26/6/200

b

Verw : A15

Navraag: Adv A R Ackermann S C

Tel : 845 6432

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SPESIALE DIREKTEUR

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26/1/2000 b