

**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 KD Moroka (SC) – DoJ representative
Adv Tlotlego Tsagae (DoJ representative)
Adv Yanela Ntloko- NPA representative
Adv Motlalepule Rantho (for SAPS)
Adv Ebenezer Propy (for SAPS)
Adv Irene Dikgale (for SAPS)
Adv Varney (SC) – The Calata Group
Adv D Pillay – The Calata Group
Mr Jao Venter – The Calata Group
Ms A Thakor – The Calata Group
Ms Vuya Nako– The Calata Group
Adv Nwabisa Mtshizana (for Ex-NDPP's Officials)
Adv Vivian Rikhotso (for Adv Menzi Simelane)
Adv Bridgette Nthambeleni (for Adv Jiba)

25 MAY 2026

DAY 50

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MzansiSA Business Solutions
Arbour Square
Cnr Melle & Juta Street
Ground Floor, Office 3
Braamfontein, 2001
TEL: 011 339 1289 Cell: 0794374335
E-mail: transcription@mzanzisa.com

PROCEEDINGS ON 25 MAY 2026

CHAIRPERSON: Good morning and happy Africa Day to you all. Adv Moroka had dressed for the party.

ADV MOROKA: Dressed for the party, Chair.

ADV SEMENYA: Good morning, Chairperson and Commissioners. We have Dr Ramaite back for those who intend to cross-examine.

CHAIRPERSON: Yes, thank you. Dr Ramaite, you are reminded that you are still under your former oath?

DR RAMAITE: Correct, I confirm, Chair.

10 MASHAU SILAS RAMAITE: (still under oath)

CHAIRPERSON: Thank you. Ms Moroka?

ADV MOROKA: Chair, when we went in, we were still trying to figure out whether Dr Ramaite has the complete bundle. We were still determining with our learned friends whether he has the statements that we want to refer to. I am not sure he has.

CHAIRPERSON: Yes.

ADV MOROKA: But we will get to it when we get to it.

CROSS-EXAMINATION BY ADV MOROKA: Ntate Ramaite, dumela?

20 DR RAMAITE: Ahee, ma'am.

ADV MOROKA: We are going to start asking you questions essentially about pre-the TRC and post-the TRC period. And in so doing, I would want you to respond to what I am going to put to you as the evidence that was given by Rev Chikane and Ntate Pikoli to see whether you agree or disagree with the statements that they

made in front of this commission.

DR RAMAITE: Yes.

ADV MOROKA: Firstly, when Rev Chikane spoke and gave his evidence, he talked about the many compromises that had to be struck.

DR RAMAITE: Yes.

ADV MOROKA: As you recall, it was essentially a war of attrition between two parties, the freedom fighters, including the people in South Africa, and the apartheid regime. So he said that when all of
10 that was over, there had to be sacrifices because we had to move into a transition, into a reformed and transformed society. And that was a negotiated settlement. There was no winner takes all. And that was the context of the arrangements between the warring factions.

DR RAMAITE: Yes.

ADV MOROKA: Do you agree with that?

DR RAMAITE: Yes.

ADV MOROKA: And you would also agree that the truth and reconciliation process was a mechanism to prepare the road ahead for the parties that fought against each other, bitterly for that matter.
20 You would agree with that.

DR RAMAITE: Yes.

ADV MOROKA: So, when giving his personal account, Rev Chikane would say that it was not a technical issue about charging people, but to get to the truth. That was his view of how he felt the TRC process would have tried to tell the truth for the perpetrators, to tell the truth

so that the victims would know what happened ...[intervenes]

DR RAMAITE: Yes that is correct ...[intervenes]

ADV MOROKA: to themselves and to their loved ones.

DR RAMAITE: Yeah, I agree.

ADV MOROKA: I am not referring specifically to the record, Chair, because I am assuming this is common cause, unless I am directed to, direct you to where Rev Chikane says these things, it would be in his evidence, the transcript of the 23 May. And that really, there were conflicting interests and it was a complex set of circumstances and
10 we are dealing with a fragile transition and political complexity.

DR RAMAITE: Yes.

ADV MOROKA: And that people had different ideas of how we were going to make this all work.

DR RAMAITE: Yes.

ADV MOROKA: There would be those who would say, let the sleeping dogs lie. Ntate Commissioner Kgomo said, I cannot remember the word ... [Tse di robetseng, di robale], but there were those who insisted that the truth must be told.

DR RAMAITE: Yes.

20 ADV MOROKA: And therefore, again speaking personally for himself, he thought that he could not accept that sleeping dogs, let sleeping dogs must lie because he wanted to know what had happened to him himself, who had poisoned him, under which orders, and why he was poisoned.

DR RAMAITE: Yes, that is understandable.

ADV MOROKA: And you were at a point involved in the prosecution or trying to bring those who had done this to account. Therefore, you would understand the sentiments that he espoused.

DR RAMAITE: Yes.

ADV MOROKA: At the same time, you have got the evidence of Ntate Pikoli, who also talked about the dilemma of having emerged from the conflict and that the defenders of apartheid were on one side and the fighters against apartheid on the other, and that we had a very fragile peace in South Africa. And for him, it was a matter of
10 national concern. You would accept that too.

DR RAMAITE: Yes, I accept that.

ADV MOROKA: And he mentions this in his transcript of the 12 March 2026. So, at the end, you would also then accept that in this context, there were sensitivities and political complexities, because on the one hand, you had perpetrators of acts of violence who killed, tortured, and assassinated their victims, and on the other hand, you had victims who sought justice.

DR RAMAITE: Yes.

ADV MOROKA: And this then leads us, Ntate Ramaite, to the
20 President's speech. Did you hear the President's speech? Were you told of the President's speech?

DR RAMAITE: I did not hear it, but I do think that at some stage, a copy was obtained by the NPA, a copy of the speech.

ADV MOROKA: Did you read it?

DR RAMAITE: Yeah, I mean, I ...[intervenes]

ADV MOROKA: Can I essentially summarise what the President was concerned about?

DR RAMAITE: That is fair enough.

ADV MOROKA: That the President was really saying that the business of the TRC was not complete. That there were people who had, there had been hope that everybody would come and tell their story, what they had done, so that the victims could find closure. But in essence, people were not granted amnesty, and those that were not granted, on top of the fact that those that were not granted
10 amnesty, there were those, many of those who did not come forward to come in.

DR RAMAITE: Yes, yes.

ADV MOROKA: So you accept that?

DR RAMAITE: Yeah.

ADV MOROKA: And Rev Chikane also, in his evidence made reference to the speech, and Adv Pikoli also made reference to the speech.

DR RAMAITE: Yes.

ADV MOROKA: And they understood what the President was
20 saying, and what the President was trying to say going forward. We need to look at post-TRC, a pathway for post-TRC matters.

DR RAMAITE: Yes.

ADV MOROKA: You have a look on your face. Do you agree?

DR RAMAITE: No, I am trying, I am trying, I am trying to get the gist, to the gist.

ADV MOROKA: The gist of the speech.

DR RAMAITE: No, no ...[intervenes]

ADV MOROKA: The gist of what I am saying ...[intervenes]

DR RAMAITE: I got, I got, I got, I got that.

ADV MOROKA: Yeah. Okay. And, and, and, and, and Adv Pikoli then tells the court, the commission, that there had to be found a way of giving, of giving content to what the President has said ...[intervenes]

DR RAMAITE: Yes ...[intervenes]

10 ADV MOROKA: And a pathway forward.

DR RAMAITE: Yes.

ADV MOROKA: Therefore, having laid ...[intervenes]

COMMISSIONER KGOMO: Mr, Dr Ramaite, do not quickly say yes. I think you must wait until the full question has been asked. It may become a bit confusing when, when the yes comes too soon.

DR RAMAITE: Thank you, Chair, Commissioner. I will do that. I will do that. I will try to do that.

ADV MOROKA: And I will try to give you time to, to internalise the question and then give me an answer.

20 DR RAMAITE: Yeah.

ADV MOROKA: Fair enough. So, if we go to the, to the Minister's call to you, if you recall, Minister Mabandla. The 4 November 2004 call.

DR RAMAITE: The call to me.

ADV MOROKA: To you.

DR RAMAITE: Yes, yes.

ADV MOROKA: Thank you.

DR RAMAITE: I remember that.

ADV MOROKA: Yeah. And the Minister told you that there was a task team, which was appointed. And this task team would be the DG Forum to develop a mechanism to deal with TRC cases.

DR RAMAITE: Yes.

ADV MOROKA: That is what she... you are not supposed to take your time.

10 DR RAMAITE: Oh, yeah.

ADV MOROKA: You and I are the same. I do not take time. If you agree with me, you agree with me. It is not a trick question.

DR RAMAITE: No, no, no, I get that. At times, I am trying to figure out where the question ends, you see. So, that is what I am trying to get.

ADV MOROKA: Fair enough. Fair enough. Fair enough. The Minister told you that there were guidelines that were being formulated. And that this, and this Committee of Directors-General is busy with, with the guidelines. She told you in this phone call. ...

20 [Indigenous language, 10:20]

DR RAMAITE: Should I answer?

ADV MOROKA: Yes.

DR RAMAITE: Yes, yes. It is correct.

ADV MOROKA: And one of the, one of the Directors-General was Mutangra, my ex-partner.

DR RAMAITE: No, no, no, no, no, I did not say that he was, he was. I said, in my evidence I said, I knew of the Directors-General, Director-General, Directors-General Forum. Now, I knew about its existence because at some point, my younger brother was a Director-General and he was, Chair ...[intervenes]

ADV MOROKA: Of the Forum.

DR RAMAITE: I did not, I did not ...[intervenes]

ADV MOROKA: So ...[intervenes]

DR RAMAITE: Yeah, there was no evidence of him being involved
10 at all.

ADV MOROKA: So, you, the Minister did not mention that forum.

DR RAMAITE: No, no ...[intervenes]

ADV MOROKA: In the telephone call ...[intervenes]

DR RAMAITE: She said, she said that there was a mechanism and guidelines that were being developed by Directors, a task team of the Directors-General.

ADV MOROKA: Okay. All right.

DR RAMAITE: Not, and my understanding, I did not understand her
20 to mean that it was all the Directors-General. I understood him to mean that there was a task team of, consisting of certain Directors-General.

ADV MOROKA: Agreed. So, if I can direct you then to the 13 November, you had a consultation with Ntate Semanya.

DR RAMAITE: Yes.

ADV MOROKA: And you were talking about this telephone call.

DR RAMAITE: Yes.

ADV MOROKA: With the Minister. And you were asked whether you were instructed not to arrest the accused in the Chikane matter.

DR RAMAITE: Yes.

ADV MOROKA: And your response was, the Minister did not instruct me to not arrest. And if I can, it would be helpful if you could go to that, to that affidavit because I am going to ask you a number of questions on that affidavit.

DR RAMAITE: To my affidavit?

10 ADV MOROKA: Yeah.

DR RAMAITE: Okay. It is a transcript of the affidavit and it is at page 48.

DR RAMAITE: No. I would not ...[intervenes]

ADV MOROKA: On the paginated, page 19 of the document itself.

DR RAMAITE: This is, in this?

ADV MOROKA: The outside is written consultation.

DR RAMAITE: I did not get a chance to familiarise myself with it.

ADV MOROKA: We will help.

DR RAMAITE: With the file. Can you help me? Yes.

20 ADV MOROKA: Our apologies, Chair. Apologies, Chair. We had listed it and we had indicated to, to our young gentleman at the corner there that it is not in the, in the file. My apologies. All right.

DR RAMAITE: Yes, I think I have it.

ADV MOROKA: And if you were to go to page 19. The middle of the page.

DR RAMAITE: Sorry. Page 19.

ADV MOROKA: It is, at the top it is 48, but in the ...[intervenes]

DR RAMAITE: Yeah, yeah, I can see that, yes.

ADV MOROKA: Yes.

DR RAMAITE: Mm-hmm.

ADV MOROKA: And in the middle there you say, Dr Ramaite says:

"No, no, no, she did not. She did not instruct me not to arrest. She said there are, well, there is a committee of this Directors-General that is busy with guidelines regarding the TRC matters."

10

You recall saying that?

DR RAMAITE: Yeah.

ADV MOROKA: And then, when you testified on the 23 February, do you have your transcript there?

DR RAMAITE: Is it part of. Oh, yeah.

ADV MOROKA: It will be on 23rd. There is a transcript page.

DR RAMAITE: You see the difficulty, it is going to take some time because I did not have time to familiarise myself with the, with the contents of the file.

20 ADV MOROKA: Sorry, sorry. Apologies about that [cell phone interference, 16:10]. So what we are going to do, Dr Ramaite, we are going to look at your, your interview as it were the consultation of the 13 November and your evidence of the 23 February.

DR RAMAITE: Okay. All right.

ADV MOROKA: Page 30.

DR RAMAITE: Okay.

CHAIRPERSON: Three zero.

ADV MOROKA: Page 30 of the transcript.

CHAIRPERSON: Three zero.

ADV MOROKA: Yes, Commissioner. And it will be lines 9 and 10.

DR RAMAITE: 9 and 10. Oh, yeah. "So she gave you an order to stop" and then I say "an instruction".

ADV MOROKA: Yes. And then after the call, because of what had transpired with the call, you then had a conversation with Adv
10 Ackermann.

DR RAMAITE: Yes.

ADV MOROKA: And you tell him that because of the uncertainty regarding how to go about or how to proceed with the matters that you will, you, it is better for you guys ...[intervenes]

DR RAMAITE: For us to wait ...[intervenes]

ADV MOROKA: to wait.

DR RAMAITE: Yeah.

ADV MOROKA: Okay. Now, again on the 26 November, you state that your understanding was that an effective moratorium was in
20 place.

DR RAMAITE: Yes.

ADV MOROKA: But on the 13 November, if you go to your statement of the 13 November, when you were questioned by the evidence leaders, you say you were clear. If I can go there because I see you look, if you can go to your, your statement at page 25 line,

page 25, line 22.

DR RAMAITE: Whose statement is it now?

ADV MOROKA: The 13 November statement. Remember I said we are going to put juxtapositions ...[intervenes]

DR RAMAITE: Yeah. Yeah.

ADV MOROKA: statements here.

DR RAMAITE: Oh, is that during the consultation?

ADV MOROKA: Consultation, so, yes ...[intervenes]

DR RAMAITE: Yeah, oh, all right, okay.

10 ADV MOROKA: the consultation statement.

DR RAMAITE: Okay. Let us open it. Page?

ADV MOROKA: Page 26, line 14. You say there that:

"The word moratorium had been an unfortunate use of the word moratorium."

You see that?

DR RAMAITE: Can you just tell me the line again?

ADV MOROKA: The line is line 14.

DR RAMAITE: Where I say yeah, look, is that, is that.

ADV MOROKA: You can read it.

20 DR RAMAITE:

"Yeah, look that is why I am saying it might have been an improper, I do not know, an unfortunate use of the word moratorium."

ADV MOROKA: Do not, do not, do not, do not close the page ...[intervenes]

DR RAMAITE: Okay.

ADV MOROKA: Do not close it, because you then proceed and you say, what you meant to say that, and this is at line 5, page 31.

DR RAMAITE: Line 5.

ADV MOROKA:

"That what you meant to say is you should not proceed until the guidelines are resolved."

You would agree that it was a pause.

DR RAMAITE: Hang on, just give me the line again.

10 ADV MOROKA: Line 5.

DR RAMAITE: Oh, will that be a moratorium?

ADV MOROKA: No, that would be a pause.

DR RAMAITE: Oh, okay, let me just go through it.

ADV MOROKA:

"And Adv Semenya says, let us use the word pause."

DR RAMAITE: Yes, yes, I see that.

ADV MOROKA: Do you see that?

DR RAMAITE: Mm-hmm.

20 ADV MOROKA: And then again on the very same statement, you tell the evidence leader that:

"Let us stop, let us not proceed with this matter, but they continue doing an assessment of all the cases they had. In fact, looking, even looking at the Chikane matter."

DR RAMAITE: Yeah.

ADV MOROKA: Do you recall saying that?

DR RAMAITE: Yes.

ADV MOROKA: Okay. So, in essence, you stop, you pause prosecutions while you, and while these were paused, those responsible for the TRC matters continued to assess them. Would I be correct to say that?

DR RAMAITE: Yes.

ADV MOROKA: And that is why in your affidavit dated the 26
10 November, you say that the TRC matters that you filed with the commission, you tell the commission in that statement that you filed with the, you say that:

"During 2003, 2004, and five, the PCLU identified a number of TRC related cases for further investigation and possible prosecutions."

DR RAMAITE: Yes.

ADV MOROKA: You say that in your affidavit dated the 26
November.

DR RAMAITE: Yes.

20 ADV MOROKA: And then you say that, at the statement of the 13 November, you again say, you explained to Adv Semenya that Ackermann, Adv Ackermann, may have misunderstood you that you did not mean discontinue. You wanted to avoid any conflict with the Minister. That is what you said.

DR RAMAITE: Where, where is that?

ADV MOROKA: Find it just now. I am referring to the statement of 13 November.

DR RAMAITE: 13 November, where is that now?

ADV MOROKA: I am looking for it. I think it will be on page 16. That would be at lines 8, 9, 10.

DR RAMAITE: What page?

ADV MOROKA: Page, sorry, page 16.

DR RAMAITE: Page 16. Line, sorry.

ADV MOROKA: And it starts, the paragraph starts technically.

10 DR RAMAITE: Yes.

ADV MOROKA:

"All I wanted, I do not know whether we misunderstood each other or whether we misunderstood each other. But all I wanted, and you remember at the time I was acting, I wanted to avoid this conflict between the responsibility of the Minister..."

And I take it yourself.

DR RAMAITE: Yes.

20 ADV MOROKA: And that it may be that you and Adv Ackermann misunderstood each other.

DR RAMAITE: Let me just...

ADV MOROKA: Because the issue starts on the previous page.

DR RAMAITE: Yeah, yeah.

ADV MOROKA: Would I be correct in saying that?

DR RAMAITE: Yeah. Whether we understood or misunderstood each other.

ADV MOROKA: Yes. Thank you.

DR RAMAITE: Yeah.

ADV MOROKA: And then you say it again on that very same affidavit at page 32, line 2.

DR RAMAITE: Yeah, where I say:

10 "No, no, no, no, that decision is not made by you,
 by someone outside. That decision is made by
 me as acting in DPP."

Yes.

ADV MOROKA: Now if we can move to the policy directives themselves.

DR RAMAITE: Yes.

ADV MOROKA: And again you are still at the same affidavit. You tell ...[intervenes]

DR RAMAITE: What page?

ADV MOROKA: Page 19.

DR RAMAITE: 19. One nine.

20 ADV MOROKA: One, one.

DR RAMAITE: Yeah. All right.

ADV MOROKA: You tell the evidence leaders that you expressed discomfort with the manner in which it might border into interfering with prosecutorial decision.

DR RAMAITE: Yes.

ADV MOROKA: And you raised a concern with the Minister.

DR RAMAITE: Correct.

ADV MOROKA: Because in your view there was already a policy in place that covered everything.

DR RAMAITE: Exactly.

ADV MOROKA: You did not relate this to the President's speech where he said there are outstanding matters that still needs to be looked into.

DR RAMAITE: No, not at all. And remember that this arises from,
10 you know, the Minister saying to me that there is this committee that is busy developing policy guidelines, specifically in relation to TRC matters.

ADV MOROKA: Yeah, what I am trying to say to you, or maybe let me put it this way, Mr Pikoli was of the view that there is a link between what they were doing and the President's speech. I am saying to you, during that telephone conversation there was no such link.

DR RAMAITE: No. For me, no.

ADV MOROKA: And that is why there is a difference between
20 yourself and Mr Pikoli because when Mr Pikoli gets asked about why is it that these guidelines are being formulated and he consider that as an interference and he says no.

DR RAMAITE: Yeah, well, I would not have thought about that because at that stage when the Minister called me, so basically we had to wait for the guidelines. It was only when the guidelines were

actually published that, you know, that we got to know what they entailed ...[intervenes]

ADV MOROKA: What I am trying to ...[intervenes]

DR RAMAITE: and indeed, they, in essence confirmed my concern that it might border into interference with prosecutorial decision-making.

ADV MOROKA: The point that I am trying to get to, Ntate Ramaite, is that when this telephone call, the conversation between you and the Minister happened, you did not know of the President's speech.

10 You had not heard of it, you had not read it.

DR RAMAITE: No.

ADV MOROKA: And can I refer you to what Rev Chikane also says about trying to prepare guidelines. He says this in his transcript, I think you have Chikane there, but I can just read it to you.

DR RAMAITE: Yeah, sure.

ADV MOROKA: Because his evidence is that:

20 "The guidelines were being developed to allow a possibility of those who were prepared to disclose what they did to arrange for key bargaining and sentencing arrangements to dispose of their cases and not as a general amnesty or an interference and not to go ahead with prosecution."

Do you understand what he was saying?

DR RAMAITE: I understand it, but I do not necessarily agree.

ADV MOROKA: Correct.

DR RAMAITE: In fact, I do not agree.

ADV MOROKA: Yes. So you and Adv Pikoli on this issue do not agree. Would I be correct? The issue that he was the driver of the guidelines. He found that there was nothing wrong in drafting those guidelines. You thought these guidelines were incorrect, they should not be drafted. That is the essence of the difference between the two of them.

DR RAMAITE: Yeah, to the extent that they specifically applied to
10 the, you know ...[intervenes]

ADV MOROKA: TRC cases.

DR RAMAITE: Yeah, TRC cases.

ADV MOROKA: You differed.

DR RAMAITE: Yeah.

ADV MOROKA: He says that he found nothing mischievous about the fact that... maybe let me put this to you, he found there was nothing untoward about the President's speech. You cannot comment because you do not ...[intervenes]

DR RAMAITE: Yeah, I cannot comment on that.

20 ADV MOROKA: Yeah. And also, that he had no, you have already said it, he said he had no discomfort with the development of the guidelines. You have told the commission that you differed. I am correct in that?

DR RAMAITE: Yeah ...[intervenes]

ADV MOROKA: There is nothing wrong with two lawyers differing.

DR RAMAITE: Yeah, I mean, my view, and that is once the guidelines were published, my view, and then I expressed that view at various meetings of the Executive Committee, was that they were likely to be unconstitutional.

ADV MOROKA: And do you, and I would imagine in those interactions and in those conversations, Adv Pikoli disagreed with you.

DR RAMAITE: Well, I mean, I do not recall, you know, I cannot remember him voicing any view, but I mean, obviously what I do know
10 is that Ackermann actually agreed with me on that score.

ADV MOROKA: Yes, yes. That is what I am saying. I am saying, you and Ackermann on one side agreed with each other, Pikoli did not agree with you.

DR RAMAITE: Well, I mean, I am unable to express a view on that, but I cannot ...[intervenes]

ADV MOROKA: Were you not in those meetings? Was he not there?

DR RAMAITE: Well, remember that, Advocate, and I think we must make a distinction between the period when I was acting NDPP and
20 the period, I think, from February when Adv Pikoli was then NDPP. And those guidelines actually came out during Adv Pikoli's tenure as NDPP. And in fact, well, okay, sorry.

ADV MOROKA: What I am trying to get to, Ntate ...[intervenes]

DR RAMAITE: Ramaite...

ADV MOROKA: Ramaite...

DR RAMAITE: Yes.

ADV MOROKA: is that you had conversations amongst yourselves as executives.

DR RAMAITE: Yes.

ADV MOROKA: You are saying you and Ackermann had a similar view on these issues, on the guidelines.

DR RAMAITE: Yes, that is correct.

ADV MOROKA: I am saying to you, Pikoli had a different view.

10 DR RAMAITE: I cannot remember him having a different view, unfortunately.

ADV MOROKA: And therefore, I was asking the question, did you not have meetings where he was involved as an executive, as a leader of the team, where all of you spoke about these issues?

DR RAMAITE: Yes, we did express, I and then Ackermann did express, but what I am saying is I cannot remember him disagreeing with our view.

ADV MOROKA: He was the driver of the other view, was he not?

DR RAMAITE: I cannot remember him being the driver of the other view.

20 COMMISSIONER KGOMO: Ms Moroka, I am getting a bit lost now. If you say to Dr Ramaite they differed in approach, you may have put that statement of Adv Pikoli to him. Maybe you must go to it again, so that, at least for myself, so that I can try to make out whether there is in fact a difference. And as I sometimes say, you find that there is a difference without a distinction.

ADV MOROKA: It was a fundamental difference, and that is what we are going to argue. But I will, Commissioner Kgomo, take Mr Ramaite to the transcript by Mr Pikoli.

COMMISSIONER KGOMO: Yes.

ADV MOROKA: And it was not about the content, it was about whether they ever discussed this issue.

COMMISSIONER KGOMO: Yes, let us go there.

ADV MOROKA: Can you go to the transcript at line 10?

DR RAMAITE: Which transcript?

10 ADV MOROKA: I am sorry, I am sorry, Pikoli, the 7 May.

DR RAMAITE: Which transcript now?

ADV MOROKA: You will get help soon.

DR RAMAITE: I have 12th of ...[intervenes]

ADV MOROKA: No, no, no, not the 12th, 7 May.

DR RAMAITE: All right, all right. I should have familiarised myself with this then it is going to ...[intervenes]

ADV MOROKA: No, there are too many.

DR RAMAITE: Yeah, had I familiarised myself, at least I would... it would be much quicker for me. The 7 May, yeah, I have got it at what
20 page? Sorry?

ADV MOROKA: Shall we start off at page 3?

DR RAMAITE: Page 3.

ADV MOROKA: Line 21.

DR RAMAITE: Okay. Okay, I can see that.

ADV MOROKA: And then if you go to... Ntate Kgomo you

...[intervenes]

COMMISSIONER KGOMO: Yes, but for the purposes of the record, can that just be read?

ADV MOROKA: Can you read line 3 then? Page 21. No, I am sorry. Page 6, lines 17 to 23.

DR RAMAITE: Which one is it? Is it page 3 or 6?

ADV MOROKA: Same, same, same, same ...[intervenes]

DR RAMAITE: No, no, no ...[intervenes]

COMMISSIONER KGOMO: is... no, you were at page ...[intervenes]

10 ADV MOROKA: I say the first page 3 was about Mbeki's speech. Then he goes on at page 6.

COMMISSIONER KGOMO: Yes, but Ms Moroka, what I am saying is that, the witness says he sees it, but does the record see it if he does not read it ...[intervenes]

ADV MOROKA: No, I have given him the wrong page.

COMMISSIONER KGOMO: into the record ...[intervenes]

ADV MOROKA: because ...[intervenes]

COMMISSIONER KGOMO: Oh, okay ...[intervenes]

20 ADV MOROKA: It is where it starts. It starts with Mbeki's speech, and then the following three pages that follow, he talks about Mbeki's speech, then he goes to page 6, lines 17 to 23. Are you there?

DR RAMAITE: Okay, yeah, I see that.

COMMISSIONER KGOMO: So, line 17 would start with, "yes, I did not have a problem." Is that so?

ADV MOROKA: Yes.

COMMISSIONER KGOMO: Yes. Can you read that?

DR RAMAITE: It reads as follows.

10 "Yes, I did not have a problem with that because I
thought it was a question of trying to
accommodate the outstanding TRC matters which
could, which were not attended to during the life
of the TRC. Therefore, a mechanism had to be
found to deal with those outstanding matters. So,
I felt that for as long as they fall within the
Constitution and the law, then there will be
nothing wrong in amending the prosecution
policy."

ADV MOROKA: Thank you.

DR RAMAITE: Yeah.

ADV MOROKA: We then move on to page 10.

DR RAMAITE: Yes.

ADV MOROKA: Line 23.

DR RAMAITE: Line 23.

20 "Yeah, it takes me back to what I have always
been saying, starting with the policy statement
that was made by the President in Parliament in
2003 that everything had to be done within the
framework of the law and the Constitution, and
therefore, the question of amending the
prosecution policy was seen as a mechanism to

be able to allow the process to go forward."

ADV MOROKA: Thank you. And then if you go to line, to page 23.

DR RAMAITE: Mm-hmm.

ADV MOROKA: And that would be line 11, sorry, page 10, line 23, to page 11, line 14. It is a long one, I do not think we need to read it.

DR RAMAITE: I think we have read that, we have read that.

ADV MOROKA: Oh, that is what we just read?

DR RAMAITE: Yes.

ADV MOROKA: Thank you. So, the question, even though I did not
10 want to get into the substance, but we have gone into the substance,
the question was that, all I am saying is that there were differences
between yourself and Ntate Pikoli, and you are saying you do not
recall that there was a difference, or you do not recall the
conversation where the differences were debated between the two of
you.

DR RAMAITE: My understanding, and I think that is what Mr Pikoli is
referring to, he is referring to at the time that he was the Director-
General, and not at the time that he was NDPP. So, I mean
...[intervenes]

20 ADV MOROKA: No, he was NDPP.

DR RAMAITE: Sorry?

ADV MOROKA: He was NDPP. Because remember, when he
moved from being a Director-General, he went to become the NDPP,
and this process was completed during his tenure as NDPP.

DR RAMAITE: Yes.

COMMISSIONER KGOMO: In 2004?

ADV MOROKA: In 2004.

DR RAMAITE: That is correct, yes.

ADV MOROKA: So, I am not sure that your statement is correct.

DR RAMAITE: No, but if you look at what you read, I think he is referring to what the President said in 2003.

ADV MOROKA: Okay, maybe then go to page 6.

DR RAMAITE: Page 6.

ADV MOROKA: Lines 17 to 23.

10 DR RAMAITE: Mm-hmm.

"Yes, I did not have a problem with that, because
I thought it was a question of trying to..."
...[intervenes]

ADV MOROKA: No, no, where it says, "I became the NDPP."

DR RAMAITE: Page 6?

ADV MOROKA: Page 7. Is it page 7 or page 6? My apologies, it is page 7.

DR RAMAITE: Okay.

ADV MOROKA: He became the NDPP in 2005.

20 DR RAMAITE: Yes.

COMMISSIONER KGOMO: You are at line 10, you see?

ADV MOROKA: I am at line 10. So, you see that even as the NDPP, the work continued.

DR RAMAITE: Yeah.

ADV MOROKA: And his view on what he was doing was different

from yours.

DR RAMAITE: Well, again, it is a question of the time, you see, because after he became NDPP, I do not recall him actually differing with us.

CHAIRPERSON: Ms Moroka, at an appropriate time, you will indicate so that we can adjourn for tea.

ADV MOROKA: I have got... I am sure this is really my last interaction with ...[intervenes]

CHAIRPERSON: Yes.

10 ADV MOROKA: If we can round it up.

CHAIRPERSON: Yes, you may.

ADV MOROKA: Commission, please. So, if you... we took you to line 10, right? But if you go to line 1, 2, 3, 4, 5, line 15.

DR RAMAITE: What page?

ADV MOROKA: The same page, page 7.

DR RAMAITE: Page 7. All right. Okay, 15.

ADV MOROKA: Yes.

DR RAMAITE:

20 "No, certainly at that time I did not see anything wrong with that. I actually supported the process."

ADV MOROKA: And you understand what the process is?

DR RAMAITE: Yeah, I think it is the process of amending the policy.

ADV MOROKA: And all I am asking you, without taking it anywhere, Mr Ramaite, is just to say, you, yourself and Pikoli differed. He even

gave evidence and told us, if I could take you to his transcript again on the 13 March, which is my final question.

CHAIRPERSON: Yes.

DR RAMAITE: Sorry.

ADV MOROKA: The transcript, Pikoli, 13 March, page 159.

DR RAMAITE: 13 March, page, sorry? Page?

ADV MOROKA: Page 159.

DR RAMAITE: Yes. What paragraph?

ADV MOROKA: Line 20.

10 DR RAMAITE: Sorry. 20, okay.

"All of us sitting here, we are lawyers. You can put 10 lawyers in a room and perhaps give them the same set of facts, but it is not improbable that you might get 10 different answers. It is not about that, it is about the truth. This is about making a determination as to into who was responsible for the absence of prosecutions when the law was quite clear."

20 ADV MOROKA: You see that he did differ with you, and there is nothing wrong with lawyers differing.

DR RAMAITE: Yeah, well, if that is what you are saying, but I ...[intervenes]

ADV MOROKA: No that is not what I am saying, that is what he is saying.

DR RAMAITE: Well, I will accept that. Thank you. Those are the

questions, Chair.

CHAIRPERSON: Thank you, Ms Moroka. We will take a tea adjournment and reconvene at 11:20.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Are you next in line, Ms Ntloko?

ADV NTLOKO: I am indeed, Chair.

CHAIRPERSON: Yes.

CROSS-EXAMINATION BY ADV NTLOKO: Thanks. I have heard
10 different variations of how people call you, what do you prefer to be referred to?

DR RAMAITE: Mister.

ADV NTLOKO: Mr Ramaite?

DR RAMAITE: Yes.

ADV NTLOKO: Okay and not doctor?

DR RAMAITE: Sorry?

ADV NTLOKO: Not Dr Ramaite? It is well earned title.

DR RAMAITE: Yes indeed, indeed.

ADV NTLOKO: Exactly, that is why I am asking.

20 DR RAMAITE: Chair, Chair, it is a strange thing, I used to prefer being called doctor but my mom actually said you... I think it is probably a question of just being humble, you know.

CHAIRPERSON: Mm.

DR RAMAITE: Really.

CHAIRPERSON: You know, humility has nothing to do with the

Dr Ramaite.

DR RAMAITE: I accept it, Chairperson.

ADV NTLOKO: I think with the leave of the Chair, I will refer to you as Dr Ramaite.

DR RAMAITE: It is okay.

ADV NTLOKO: Okay, I think let us just start off with a few things, it is Ntloko, the last name is Ntloko.

DR RAMAITE: Yes.

ADV NTLOKO: I am for the NPA.

10 DR RAMAITE: All right.

ADV NTLOKO: Dr Ramaite, what is your home language?

DR RAMAITE: I prefer Venda although, though also Sepedi but I prefer Venda.

ADV NTLOKO: And then what other languages are you proficient in?

DR RAMAITE: Tsonga, a little bit of IsiXhosa and a fair amount of IsiZulu.

ADV NTLOKO: Are you proficient in Afrikaans and English?

DR RAMAITE: Yes, I ...[intervenes]

20 CHAIRPERSON: Ms Ntloko, are you about to cross-examine him in any of those languages?

ADV NTLOKO: Chair, we could start in IsiXhosa, he has just indicated he is an expert.

CHAIRPERSON: Yes.

ADV NTLOKO: Not at all Chair, it is just to ascertain a few things.

CHAIRPERSON: Yes.

DR RAMAITE: Yes, I do speak Afrikaans, I can read Afrikaans. In fact, at university I studied full Afrikaans which was then called Afrikaanse Nederlands.

ADV NTLOKO: And then during your tenure in the NPA, did you then ever had to converse in Afrikaans with any of your colleagues?

DR RAMAITE: Ja, not really but I mean specifically in, within the PCLU, I mean at times Anton Ackermann would write his letters in Afrikaans and I would be able to read them.

10 ADV NTLOKO: Were they written to you or were they ...[intervenes]

DR RAMAITE: Ja, he would ja, but remember that he would write these, these letters or rather this, this internal ...[intervenes]

ADV NTLOKO: Memorandums.

DR RAMAITE: Communication mainly for purposes of record.

ADV NTLOKO: Mm-mm.

DR RAMAITE: Ja, but then he would give me a copy.

ADV NTLOKO: In Afrikaans?

DR RAMAITE: In Afrikaans, yes.

20 ADV NTLOKO: Okay, I think then we can move to the bundle that is before you. It was the DoJ bundle, we had looked at it and with the wood again let us save some trees. I will just the same bundle.

DR RAMAITE: Is it the same as the ones that I have? Will it be the safe?

ADV NTLOKO: It should be, yes.

DR RAMAITE: Oh, okay.

ADV NTLOKO: So the first page you would see there... What I want us to go through is the Constitution and the NP Act which are in those bundles for comprehensive ...[intervenes]

DR RAMAITE: Yes, just ...[intervenes]

ADV NTLOKO: I will ask [Indistinct] to just assist us with that.

DR RAMAITE: Or perhaps you may, you may refer to the section, hopefully I will have them in my hand.

ADV NTLOKO: Well ...[intervenes]

DR RAMAITE: But well okay, no it is fine, let us just ...[intervenes]

10 ADV NTLOKO: Commissioner Kgomo has indicated we need to put these in the, you know ...[intervenes]

DR RAMAITE: Okay, just tell me which.

ADV NTLOKO: So we will start at section 179(1).

DR RAMAITE: Which bundle is it? No, no, no, it seems I do not have those.

ADV NTLOKO: I am sure I can assist you.

DR RAMAITE: Oh, all right. Ja all right, thanks. Okay, yes.

ADV NTLOKO: So we are at section 179.

DR RAMAITE: Mm-mm.

20 ADV NTLOKO: It is just some legal propositions that I think we can agree on.

DR RAMAITE: Ja.

ADV NTLOKO: So section 179(1)(a) establishes a single National Prosecuting Authority headed by the NDPP appointed by the President.

DR RAMAITE: Yes.

ADV NTLOKO: You agree with that, yes.

DR RAMAITE: Yes.

ADV NTLOKO: And then section 179(2) provides:

“That a Prosecuting Authority has the power to institute criminal proceedings on behalf of the state, and you accept that this power would be vested on a NDPP or an Acting NDPP.”

DR RAMAITE: Ja, that is correct.

10 ADV NTLOKO: Yes and then section 179(4) of the Constitution provides:

“That the National Legislation must ensure that a Prosecuting Authority exercises its function without fear, favour or prejudice.”

DR RAMAITE: That is correct.

ADV NTLOKO: And you agreed that then the legislation referred there, would then be the NPA Act?

DR RAMAITE: That is correct.

ADV NTLOKO: And then we move to section 179(5)(a).

20 DR RAMAITE: Yes.

ADV NTLOKO: Which basically says:

“That the NDPP must determine with the concurrence of the Cabinet member responsible for the administration of justice and after consulting the DPPs.”

And I am shortening it because it is the Director of Public

Prosecutions, Prosecution Policy. And then section 179(6) of the Constitution says:

“That the Cabinet member responsible for the administration of justice must exercise final responsibility over the Prosecuting Authority.”

DR RAMAITE: Ja.

ADV NTLOKO: And we accept that would be the Minister of Justice?

DR RAMAITE: That is correct.

ADV NTLOKO: Okay, all right. Now can we then look into the NPA
10 Act? You should have one, a copy in front of you ...[intervenes]

DR RAMAITE: I have one, which sections?

ADV NTLOKO: We will start with the preamble.

DR RAMAITE: Oh all right, okay.

ADV NTLOKO: It just always makes life slightly easier to start from
that beginning. It would be the second page. It reads as follows:

“And whereas the Constitution provides that the
National Director of Public Prosecutions must
determine, with the concurrence of the Cabinet member
responsible for the administration of justice, and after
20 consulting the DPPs, Prosecution Policy which must be
observed in the prosecution process.”

That is what the Act says.

DR RAMAITE: Yes.

ADV NTLOKO: And then can we now move to section 21?

DR RAMAITE: Yes.

ADV NTLOKO: So section 21(1) and note I am reading this whole and well I am looking at Commissioner Kgomo for the record purposes, is it okay if I just ask the witness to read section 21 of the National Prosecute... The NPA Act?

DR RAMAITE: Both sections?

ADV NTLOKO: Yes.

DR RAMAITE: Okay:

- 10 “21(1) The National Director shall, in accordance with section 179(5)(a) and (b) and any other relevant section of the Constitution-
- (a) with the concurrence of the Minister and after consulting the Directors, determine Prosecution Policy; and
- (b) (b) issue policy directives, which must be observed in the prosecution process, and shall exercise such powers and perform such functions in respect of the Prosecution Policy, as determined in this Act or any other law.
- 20 (2) The Prosecution Policy or amendments to such policy must be included in the report referred to in section 35(2)(a): Provided that the first Prosecution Policy issued under this Act shall be tabled in Parliament as soon as possible, but not later than six months after the

appointment of the first National Director.”

ADV NTLOKO: Okay and then can we go to section 22(1)?

DR RAMAITE:

10 “22(1) The National Director, as the Head of the Prosecuting Authority, shall have authority over the exercising of all powers, and the performance of all the duties and functions conferred or imposed on or assigned to any member of the Prosecuting Authority by the Constitution, this Act or any other law.”

ADV NTLOKO: So do you accept from what we have now read, that the NDPP or Acting NDPP would bear the ultimate responsibility of the NPA?

DR RAMAITE: Yes.

ADV NTLOKO: And do you also then accept that an NDPP and I will use NDPP whether it is acting or not.

DR RAMAITE: Ja.

20 ADV NTLOKO: For purposes of this, it would then also have the ultimate responsibility of determining what gets prosecuted and what does not get prosecuted?

DR RAMAITE: Ja, perhaps, well I mean I do not know if I should because I am trying to figure out, you see because the National Director himself does not conduct prosecutions.

ADV NTLOKO: Yes, but whether ...[intervenes]

DR RAMAITE: But it ...[intervenes]

ADV NTLOKO: A decision, a final decision on that aspect would lie at... We have just read through what his responsibilities are or her responsibilities, the current one is a he, yes, what the responsibilities of an NDPP would be.

DR RAMAITE: Yes, that is correct, ja.

ADV NTLOKO: And that would include the process that needs to be observed, one, in the prosecution?

DR RAMAITE: Ja.

10 ADV NTLOKO: And secondly, he would in fact have the final, has the power and authority to exercise all power and functions in relation to the NPA?

DR RAMAITE: Yes.

ADV NTLOKO: And therefore he would then have the ultimate responsibility to determine whether or not particular policies are passed within the NDA or not?

DR RAMAITE: Yes.

ADV NTLOKO: And that includes policies to the Prosecuting Authority?

DR RAMAITE: Yes.

20 ADV NTLOKO: And then can we then move to section 32(1)(b)?

DR RAMAITE: I do not have, unfortunately. Do you have a copy of the full NPA? I do not have.

ADV NTLOKO: It should be in the bundle but ...[intervenes]

DR RAMAITE: Where?

ADV NTLOKO: I can give you my copy.

DR RAMAITE: Where?

ADV NTLOKO: You can have my copy, it is clearly marked and it makes it easier, I would just use the electronic version.

DR RAMAITE: Section 32?

ADV NTLOKO: (1)(b).

DR RAMAITE: Ja, impartiality of and (1), sorry, (1)(b)?

ADV NTLOKO: Yes.

DR RAMAITE:

10 “Subject to the Constitution and this Act, no organ of state and no member or employee of an organ of state nor any other person shall improperly interfere with, hinder or obstruct the Prosecuting Authority or any member thereof in the exercise, carrying out or performance of its, his or her powers, duties and functions.”

ADV NTLOKO: Okay and we have read this is the law?

DR RAMAITE: Ja, that is the law.

ADV NTLOKO: And then can we go to...? I think I have given you the, and in terms of the very Act if you look at section 41(1).

20 DR RAMAITE: 41, offences and penalties?

ADV NTLOKO: Yes.

DR RAMAITE:

“Any person who contravenes the provisions of section 32(1)(b) shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not

exceeding 10 years or to both such fine and such imprisonment.”

ADV NTLOKO: So having established firstly the duties of the NDPP and now having gone through this section, would you agree that the NPA Act places a duty of on a NDPP as a Head of the NPA not to permit any interference with the work of the NPA?

DR RAMAITE: Yes.

ADV NTLOKO: And it goes further in fact, to actually put a positive duty to do something if there is any interference in that regard,
10 because it criminalises the interference?

DR RAMAITE: Ja well, but I mean that will ultimately... You see the end and then that is where the catch comes in. That will ultimately depend on the NDPP himself having to decide.

ADV NTLOKO: Yes.

DR RAMAITE: Ja, that is correct.

ADV NTLOKO: And when should the NDPP decide?

DR RAMAITE: Well whenever there is either an allegation or he, it appears to him that there has been a contravention of the section. You know but to whether in any given situation that decision will be
20 taken, it is not a given.

ADV NTLOKO: Okay, can you just expand on that? When you say whether in any situation that decision will be taken, what is ...[intervenes]

DR RAMAITE: Ja, you see it ...[intervenes]

ADV NTLOKO: It is not a given?

DR RAMAITE: It depends on different circumstances. I mean for example, it will be easier if it is just let us say you know, an outside person interfering with the work of the NDPP and look, I mean that will be possible. But in fact to be fair, in my experience I am not aware of any instance where that section has actually been used.

ADV NTLOKO: And so then in your experience why would it be used if there is allegations of interference or if there is interference?

DR RAMAITE: It depends on the culprit if I were to put it, you know, I mean if I were to put it in that way. Our experience has been cases
10 like these are not easy. In fact, the likelihood would have been that it would create even more tensions within the you know, within the NPA.

ADV NTLOKO: So what then gives leeway to the other, what the law requires of the NDPP or the NDPP making the decision themselves to say well look, I do not think this is serious enough to warrant me actually utilising that ...[intervenes]

DR RAMAITE: No, no, it did not mean that it was serious enough. I think it was probably you know, one having to seriously consider whether it was worthwhile.

20 COMMISSIONER KGOMO: Ms Ntloko, you are theorising, are you going to refer to specific incidents so that we can see whether this falls within the Terms of Reference? Because it is all theory now.

ADV NTLOKO: Commissioner Kgomo, I am not sure it is because we are here to, firstly the term say that if there is interference with the NPA ...[intervenes]

COMMISSIONER KGOMO: Okay, you are now going to demonstrate that it is not theoretical. Carry on.

ADV NTLOKO: Oh no, the NPA does not know anything about interference, Commissioner Kgomo. I think I should put it on record, we have said this over and over again. So this is us trying to establish what would happen firstly if there is interferences, we understand that and then secondly, what would have been the steps. So I cannot in all fairness establish interference.

COMMISSIONER KGOMO: I have said carry on.

10 ADV NTLOKO: Thank you. So during your tenure, this is my last question Mr Ramaite, during your tenure if there was interference, what would have then been expected of you as the Acting NDPP?

DR RAMAITE: It would have as I said, it would have depend, I mean it would depend on the circumstances of the interference. I mean I do not, I cannot speculate because I mean I would have to decide when confronted with the facts, but if I were to give you an answer, I mean I would be giving you a supposition.

ADV NTLOKO: Okay, then I think we can ask then a blunt question, were you subjected to interference during your tenure at the NPA and
20 if you were, what did you do about it?

DR RAMAITE: I am trying to be careful here again, you know, because I do not understand as to what form of interference. I think it might be useful to be specific.

ADV NTLOKO: Well I am using the Terms of Reference that is:

“The Commission must in relation to the period since

2003, enquire and to make findings, report and make recommendations concerning the following guided by the Constitution, relevant legislation, policies and guidelines whether why and to what extent and by whom efforts or attempts were made to influence or pressure members of the police [that is for the police, I will not enter that' or the NPA to stop investigating or prosecuting TRC cases, whether members..."]

And it is a long ...[intervenes]

10 DR RAMAITE: Well ja.

ADV NTLOKO: But we have established I mean earlier in fact, using the Act itself.

DR RAMAITE: Ja.

ADV NTLOKO: That says, "Subject to the Constitution, no organ of state or member of an organ of state nor any other person shall improperly interfere with, hinder or obstruct the Prosecuting Authority or any member thereof in the exercise, carrying out or performance of its, his or her powers, duties".

20 So then I think the direct question is, if you are reading section 32, during your tenure did this happen where an organ of state or a member or an employee of an organ of state or any other person, did they, was there any improperly or enter... Sorry, was there any person who improperly interfered with, hindered or obstructed the Prosecuting Authority or any member thereof in carrying out their performance during your tenure?

DR RAMAITE: Look, I mean I acted three times and the only inter, well let me – and talking about Executive, you know anyone from the Executive, the only instance where I had an interaction with the Executive was with the Minister during my first acting stint with the Minister, when she called me and then in relation to the Frank, to the Chikane matter and stated that they were in the process of developing a Prosecution Policy and that we should in the meantime not proceed with the Chikane matter and other TRC matters.

And at that stage I did not regard you know, as any form of
10 interference because she had said that the reason for her request was that they were busy developing Prosecution Policy and my attitude was to wait and see the content of the Prosecution Policy. It was only after I had seen the content of the Prosecution Policy that I formed the view that this would be improper.

ADV NTLOKO: Improper to just close off this, improper to fall within the definition of section 32?

DR RAMAITE: Well I mean I am not so sure whether that, whether that would be an interference but my, the view that I formed was I mean to have the TRC cases decided, well or discussed with you
20 know the relevant Directors-General in particular, SAPS and NIA and then have them making recommendations to the NDPP, that in my view was improper interference in the independent of the NDPP because it is only the NDPP who can make that decision and nobody outside of that sphere.

ADV NTLOKO: Okay, so if you are saying then making

recommendations would have constituted interference, what then did you do about that? And I [indistinct] ...[intervenes]

DR RAMAITE: Well ja, I mean that was during Mr Pikoli's time and in fact that is what eventually – disagreement about the approach in the prosecutorial decision making is what ultimately led to a stalemate.

ADV NTLOKO: And then during your time?

DR RAMAITE: No, not during my time, not during my tenure.

ADV NTLOKO: But would not even if you were not a NDPP, if you
10 then as a member of the NPA know about interference that falls
within section 32(1)(b), would there be no obligation on you to act on
it?

DR RAMAITE: Well I did raise it with the NDPP and expected the
NDPP to take it up, which I understand in fact and I believe he did
take up with the National Commissioner and the Director-General of
NIA.

ADV NTLOKO: Okay and then just in one last question, it appears at
the very least from the NPA and every other witness here, that all
matters that – let me just check quickly and this is our last question,
20 the only matters that were halted were during your tenure that no
other NDPP had.

DR RAMAITE: Sorry?

ADV NTLOKO: All other NDPPs. Can I just ask this question?
During your tenure, Ms Moroka, let me not say miss because...
Madam Moroka never said that during your tenure when you were

performing ...[intervenes]

DR RAMAITE: Sorry, sorry, just come again, you said?

ADV NTLOKO: When Madam Moroka asked ...[intervenes]

DR RAMAITE: Oh ja, okay, I thought ...[intervenes]

ADV NTLOKO: That already had ...[intervenes]

DR RAMAITE: You are addressing me as Madam Moroka and indeed you are not, ja you are not.

CHAIRPERSON: It did sound like that.

ADV NTLOKO: Not at all.

10 DR RAMAITE: All right, apologies then.

ADV NTLOKO: Have you seen how pretty she is? Oops. So...

COMMISSIONER GABRIEL: Ask your question.

ADV NTLOKO: Yes. Now when Madam Moroka was asking, but during your tenure just to close off, there were, you still continued with investigations and reviewing of files in the NPA?

DR RAMAITE: No I, one needs to clarify that, we could not proceed with investigations because we, the PCLU did not have investigative capacity.

ADV NTLOKO: Okay.

20 DR RAMAITE: So they could not do any investigation, but they continued going through the dockets and identifying you know, the witnesses that may be, that may be required and if any further evidence... So what one is saying is they continued working on the cases.

ADV NTLOKO: Yes.

DR RAMAITE: Even though they, well in the hope that ultimately you know, investigative capacity would be available.

ADV NTLOKO: Thank you.

DR RAMAITE: Ja.

ADV NTLOKO: That is all, thanks.

CHAIRPERSON: Thank you, Ms Ntloko. Ms Rantho?

DR RAMAITE: I am not going to need this? Oh all right, maybe you should, you can take this.

FEMALE SPEAKER: Yes.

10 DR RAMAITE: Oh, okay.

FEMALE SPEAKER: We are going to use this one, this is the ...[intervenes]

DR RAMAITE: Oh, okay.

ADV RANTHO: Apologies Commissioners, I am just waiting for the bundle.

CHAIRPERSON: Yes.

FEMALE SPEAKER: We will start here.

DR RAMAITE: The pages on these?

FEMALE SPEAKER: Yes.

20 DR RAMAITE: Oh, all right.

FEMALE SPEAKER: Yes.

DR RAMAITE: Okay.

FEMALE SPEAKER: Yes, that one is ...[intervenes]

DR RAMAITE: Oh all right. Okay, thank you.

CROSS-EXAMINATION BY ADV RANTHO: Good morning,

Commissioners and good morning, Mr Ramaite.

DR RAMAITE: Good morning, madam.

ADV RANTHO: I am going to canvass a very few questions with you.

DR RAMAITE: Yes.

ADV RANTHO: I represent the South African Police Service.

DR RAMAITE: Yes.

ADV RANTHO: And my last name is Rantho.

DR RAMAITE: Okay.

10 ADV RANTHO: Yes, you testified before the Commission that and you formed part of those individuals that were involved in the establishment of the PCLU. Is that not so? So you were there when the PCLU was formed or established?

DR RAMAITE: Yes, we conceived the idea of the special you know, because it was formed as a specialised unit.

ADV RANTHO: Yes.

DR RAMAITE: To do specific, with a specific category of cases.

ADV RANTHO: Yes and in accordance with the proclamation that gave powers to the PCLU, they were or the PCLU was clothed with
20 investigation and prosecutorial powers. Is that not so?

DR RAMAITE: Not investigation.

ADV RANTHO: Okay, perhaps if you may explain because the proclamation says that, in particular I refer to the one where Adv Ackermann was appointed to head the PCLU and it appears in the bundle, 1456.

DR RAMAITE: 1456, sorry.

ADV RANTHO: Page 1456 in the bundle.

DR RAMAITE: Let us see. Ja, you see the bundle that I have
...[intervenes]

ADV RANTHO: Bundle 1.

DR RAMAITE: Starts from page, I have got page 1 up to 247 and
thereafter it jumps to page 1698.

ADV RANTHO: Bundle 8, you have bundle 8 in front of you?

DR RAMAITE: Sorry?

10 ADV RANTHO: Bundle 8.

DR RAMAITE: The bundle that I was given was not...

ADV RANTHO: Okay, maybe ...[intervenes]

DR RAMAITE: There is no indication of that.

ADV RANTHO: Okay, let me just assist. Sorry Mr Ramaite, it is
something that is of common cause, it is a proclamation by the
President, the one that was giving effect to the appointment of
Adv Ackermann to head the PCLU.

DR RAMAITE: Yes?

ADV RANTHO: Yes, so the ...[intervenes]

20 DR RAMAITE: And ...[intervenes]

ADV RANTHO: Okay ja, I just want to read out.

DR RAMAITE: Okay, sure.

ADV RANTHO: To assist in the question ...[intervenes]

DR RAMAITE: Sure, sure.

ADV RANTHO: That I was... The proclamation reads thus:

“To exercise powers, carry out the duties and perform the functions necessary within the office of the National Director of Public Prosecutions as directed by the National Director and in particular, to head the Priority Crimes Litigation Unit and to manage and direct the investigation and prosecution of crimes contemplated in the implementation of”...[intervenes]

DR RAMAITE: Yes.

ADV RANTHO: Yes, so I just wanted to understand in terms of that
10 direction or management and direction of the investigation.

DR RAMAITE: Yes, well it does refer to investigations but the emphasis on the management and direction of the investigations. The investigations are not done by the PCLU itself, the investigations are done by the police but then the PCLU manages and directs those investigation, in other words the head of the PCLU or prosecutors in the PCLU would give directions to investigators as to what needs to be done. That is what it means.

ADV RANTHO: Okay. Evidence has been led that PCLU never had capacity and I think you have just confirmed that during your
20 examination by Ms Ntloko that there has never been capacity.

DR RAMAITE: Investigative capacity, ja, investigative capacity.

ADV RANTHO: And the prosecution, was there capacity in terms of prosecution?

DR RAMAITE: Well I mean there were not enough but you know, initially the personnel was there. I mean there was Anton

Ackermann, there was Chris Macadam, there was Tori Pretorius and then there was Mthunzi Mhaga, so were coping but I mean we would have welcomed additional prosecutorial capacity. The capacity that we are talking about is investigative capacity, that is what is, was lacking.

ADV RANTHO: And what efforts did you put in place to ensure that there was investigation capacity?

DR RAMAITE: I mean there was a lot of effort and I think Adv Ackermann would have spoken about that, you know, interaction
10 with the police, you know, requests to the National Commissioner. But I mean ...[intervenes]

ADV RANTHO: No, particularly yourself.

DR RAMAITE: Sorry?

ADV RANTHO: Adv Ackermann was reporting to you, correct?

DR RAMAITE: Yes.

ADV RANTHO: Yes and I want to find out from you what measures did you put in place to ensure that there was investigative capacity?

DR RAMAITE: We, I mean I was, you know I am a part of the efforts and it was a collective effort, it was not an individual effort. But at the
20 end of the day ultimately one, we were not getting any assistance, we relied on you know, the NDPP to persuade you know, SAPS to provide the capacity.

ADV RANTHO: What efforts were those, Mr Ramaite?

DR RAMAITE: Requesting the police, ja.

ADV RANTHO: Specifically when and who did you direct the request

to?

DR RAMAITE: No, I did not personally.

ADV RANTHO: Okay.

DR RAMAITE: It was Anton Ackermann and the NDPP as I said.

ADV RANTHO: Okay. All right, thank you. Let us go to the decision to prosecute in the Chikane matter.

DR RAMAITE: Yes.

ADV RANTHO: It is common cause that already in November 2004, you had taken a decision that the matter was ripe for prosecution, right?

DR RAMAITE: Ja, that decision was taken by me.

ADV RANTHO: Yes and then pursuant to that decision also you decided that the prosecution would be suspended pending the development of guidelines, is it not?

DR RAMAITE: That is correct.

ADV RANTHO: And then further in your affidavit, you informed the Commission that pursuant to your engagement with somebody from the Ministry, you took a decision. It was also in November 2004, not to prosecute or not to continue with TRC related prosecutions and that?

DR RAMAITE: No, that was pursuant to my conversation with the Minister.

ADV RANTHO: Yes. Would I be correct that at the time when you decided that the Chikane matter was ripe for prosecution, there was no need for further assistance in terms of investigation on the part of

the [indistinct] ...[intervenes]

DR RAMAITE: Ja, I mean the Chikane matter, we had already taken a decision so there was, no further investigation was required.

ADV RANTHO: Now if I may refer you to paragraph 42 of your affidavit?

DR RAMAITE: Let me just get it, I will have it just now. Oh ja, where is it? Oh ja, okay. Okay I have got it, I found it.

ADV RANTHO: Yes.

DR RAMAITE: Do not worry, it is okay. Paragraph 42?

10 ADV RANTHO: 42 and 43 to be specific.

DR RAMAITE: 40, sorry?

ADV RANTHO: 42 and 43.

DR RAMAITE: Okay ja:

20 “The next meeting was held on 6 November 2006. The Chikane matter was discussed for the first time in this meeting. Mr Lekalakala informed the meeting that the National Commissioner of Police believed that Reverend Chikane was not interested in a prosecution. Adv Ackermann informed the meeting that Reverend Chikane had left the matter in the hands of the prosecution. The meeting ended without any resolution and with no commitment regarding the provision of investigative capacity.”

ADV RANTHO: Yes.

DR RAMAITE:

“I reported the development and outcome of the meeting to Adv Pikoli.”

ADV RANTHO: Now that the matter was ripe for prosecution, what investigative capacity were you expecting from the SAPS?

DR RAMAITE: No, I mean look, you see you must remember that this follows the meeting I think of the 25 October, the previous meeting. Now at the previous meeting an audit report was given by Adv Ackermann. Amongst the matters that were reported on in terms of the audit report, was the Chikane matter and the, what was being
10 said, what he was saying was, ‘Well the Chikane matter is one of those matters where we are not going to need investigative capacity because the investigation has been finalised’, but then there were others where it was clear from the audit report that we would need investigative capacity.

ADV RANTHO: So it would be incorrect to say that what is stated in paragraph 42, in actual fact is not a true state of affairs?

DR RAMAITE: No, no, no, it is a true state of affairs. As I am explaining that this, this thing arises, this thing arises from the report because in the previous meeting in his report, Adv Ackermann had
20 actually mentioned the Chikane matter, all right. And then he said what, that matter, the investigation has been finalised, this is not going to be... But then incidentally and strangely enough the Chikane matter then arose in the meeting of the 6 November.

ADV RANTHO: Yes, but what I am asking you is, there was no need for investigative capacity in relation to the Chikane matter. Is that not

so?

DR RAMAITE: Yes, even if there was no need, but then it arose.

ADV RANTHO: It may well have, but there was no need because the matter was ripe for prosecution.

DR RAMAITE: There was no need.

ADV RANTHO: Yes and then if you go to paragraph 43?

DR RAMAITE: Yes.

ADV RANTHO:

10 “A further meeting was held in early December 2006 to try and resolve the impasse. At this meeting, Police Deputy Commissioner Jacobs informed the meeting that the National Commissioner was not prepared to provide any investigative capacity in the Chikane matter, because Reverend Chikane had not been consulted and did not wish to become involved in the prosecution.”

You say then you reported to NDPP?

DR RAMAITE: Yes.

20 ADV RANTHO: Yes. What I am saying is that what is stated in paragraph 43 cannot be correct, because there was no need for investigative capacity in the Chikane matter.

DR RAMAITE: Ja, it is correct. You see, the Chikane matter was, arose for the first time in the meeting of the 6 November and it arose again in another meeting and I think that was the meeting of the 16 November. It was raised again you see, and then... So in other

words if I may put it in this way, you know I mean the Chikane matter kept on arising and it appears to me that it was actually the trigger of all these things, so ...[intervenes]

ADV RANTHO: We will deal with it, Dr Ramaite. My question was directed at that which you alleged that the police were not prepared to provide investigative capacity?

DR RAMAITE: Yes.

ADV RANTHO: How so, because the matter was right for prosecution?

10 DR RAMAITE: But it was in relation to the other matters, to the other TRC matters.

ADV RANTHO: But your affidavit specifically says the meeting, I mean, 'Commissioner Jacobs informed the meeting that the National Commissioner was not prepared to provide any investigative capacity in the Chikane matter because he had not been consulted'. So it specifically spoke ...[intervenes]

DR RAMAITE: Yes, but Mr Ntuli

ADV RANTHO: To the Chikane matter.

20 DR RAMAITE: Yes but you see, that is what he said, but that was not the true position.

ADV RANTHO: So we can accept that ...[intervenes]

DR RAMAITE: It is ...[intervenes]

ADV RANTHO: It is what is stated in paragraph 43 was not correct because ...[intervenes]

DR RAMAITE: No, it is correct, I maintain that it is correct.

ADV RANTHO: How correct is that, Dr Ramaite?

DR RAMAITE: As it appears it is correct because indeed Commissioner Jacobs conveyed the National Commissioner Selebi's sentimental view in respect of ...[intervenes]

ADV RANTHO: Who were [indistinct] ...[intervenes]

DR RAMAITE: In the Chikane matter, but that was not the real issues.

ADV RANTHO: Okay, okay. I do not want us to really waste time on this point, we can agree that reference to a lack of investigative
10 capacity in paragraph 43 cannot be a true reflection of what was the situation at the time, because the matter was ripe for prosecution, is it not?

DR RAMAITE: No, I maintain that it is true, that it refers specifically to other cases other than the Chikane matter. The Chikane matter in my view was given as a you know, as a what do they call it, as a red herring.

ADV RANTHO: We will deal with that Chikane matter, we will deal with the minutes, but I think we will argue in closing that what is stated in paragraph 42 and 43 of your affidavit, is contrary to what
20 you informed the Commission, that the Chikane matter was ripe for prosecution as far back as November 2004 and I do not want us ...[intervenes]

DR RAMAITE: No, no, no.

ADV RANTHO: To argue any further.

DR RAMAITE: I will accept that, I cannot take it further than that.

ADV RANTHO: Going back to the same decision of the Reverend Chikane matter, in your affidavit you informed the Commission that subsequent to that decision of pending the prosecution, the Chikane matter and further prosecutions in other TRC related matters, you then only came or came to deal with the TRC cases during 2006 when you were appointed to chair ...[intervenes]

DR RAMAITE: Yes.

ADV RANTHO: The Task Team.

DR RAMAITE: Yes, that is correct.

10 ADV RANTHO: Yes, ja. And I think we can accept that from November 2004 until October 2006 as you stated in your affidavit, that was the first sitting that took place, there has never been any engagement regarding the prosecution of or investigation of TRC cases, is it not?

DR RAMAITE: Well the, remember I was also the Deputy National Director responsible for the PCLU, so the work continued. They continued going through you know, I mean going through the dockets as it were.

20 ADV RANTHO: But on your own version you suspended, you placed the moratorium on the ...[intervenes]

DR RAMAITE: On the prosecutions.

ADV RANTHO: Yes.

DR RAMAITE: Not on doing work on the cases.

ADV RANTHO: All right. We can then go to the domination of the Chikane matter in the meetings.

DR RAMAITE: Yes.

ADV RANTHO: You remember you testified that the domination of the Chikane matter actually was a cause of concern for the meetings as you said?

DR RAMAITE: Ja that was my view, that was a view that a formed, yes.

ADV RANTHO: Yes and do you remember as to which of the meetings were characterised by the discussions around the Chikane matter?

10 DR RAMAITE: The third meeting I think, ja, after the audit report was tabled at the meeting, at the second meeting.

ADV RANTHO: So that would have been the 6 November meeting?

DR RAMAITE: Ja, I think so.

ADV RANTHO: 6 November 2006, is it not?

DR RAMAITE: Yes. Ja, after the meeting of the 25th, I think after the meeting of the 25 October.

ADV RANTHO: Commissioners, the meeting of 6 November is PCJ6, it is on page 1735.

DR RAMAITE: I do have it, do not worry.

20 FEMALE SPEAKER: Okay.

ADV RANTHO: You have the minutes?

DR RAMAITE: Ja.

ADV RANTHO: And you were the Chairperson, you were present in that meeting, is it not?

DR RAMAITE: Yes. Oh sorry, sorry, sorry.

ADV RANTHO: You were not?

DR RAMAITE: Sorry let me just check and verify. No, I was present initially at the beginning of the meeting.

ADV RANTHO: Yes.

DR RAMAITE: But I asked to be excused because I had another meeting with the NDPP.

ADV RANTHO: Indeed so.

DR RAMAITE: And I think it was chaired by Mr Ngidi from the DSO.

ADV RANTHO: Thank you, that is ...[intervenes]

10 DR RAMAITE: Yes.

ADV RANTHO: That is what is reflected in the minutes. Would you agree with me these are the only or these minutes reflect the first time in which the Chikane matter was discussed ...[intervenes]

DR RAMAITE: Was raised, ja.

ADV RANTHO: The context was raised, yes.

DR RAMAITE: Ja, ja.

ADV RANTHO: Yes. Now your evidence to say that the Chikane matter dominated the meetings of the Task Team, cannot be correct.

DR RAMAITE: Let me just ...[intervenes]

20 ADV RANTHO: You said the Chikane matter dominated the meetings of the Task Team.

DR RAMAITE: Ja, subsequent meetings of the Task Team, starting with the meeting of the 6 November.

ADV RANTHO: Meeting of the 6 November. Perhaps if I may take you specifically to page 1736 of the bundle that is in front of you?

DR RAMAITE: Yes.

ADV RANTHO: PCJ6.

DR RAMAITE: Yes.

ADV RANTHO: And can you read out where it says, 'According to Adv Ackermann the complainant', that is now the, I think third paragraph ...[intervenes]

DR RAMAITE: Yes, I ...[intervenes]

ADV RANTHO: From the last one, yes.

DR RAMAITE: Can see that.

10 ADV RANTHO: Can you just read it out?

DR RAMAITE: Ja:

“According to Adv Ackermann, the complainant that is reverend, indicated that he leaves the matter in the hands of the NPA. It was then decided that the latter’s attitude be accepted and the matter was therefore closed pending a feedback on his attitude.”

ADV RANTHO: Yes, so we can accept that during that meeting of the 6 November 2006, the meeting resolved that the matter be closed pending consultation with [indistinct] ...[intervenes]

20 DR RAMAITE: Ja, I mean that was to dispel any notion that Reverend Chikane did not want prosecution.

ADV RANTHO: Yes.

DR RAMAITE: Ja.

ADV RANTHO: But that was...

DR RAMAITE: Yes, yes.

ADV RANTHO: Yes, yes and the only time this Chikane matter was discussed subsequent to that, was during the meeting of the 29 January 2007 ...[intervenes]

DR RAMAITE: No, I just need to check again, but I do think that it was ...[intervenes]

ADV RANTHO: That is PCJ11.

DR RAMAITE: Because it was mentioned again, let me just see, I just want to check, 6 November. May I just, please just...? But I do recall that it might not appear in the minutes, but I do recall that it was
10 raised again.

ADV RANTHO: In which meeting, Dr Ramaite?

DR RAMAITE: I think it was the next meeting that would have been the meeting of the 16 November.

ADV RANTHO: The meeting of the 16 November is PCJ9 and the minutes are recorded from page 1750 of the bundle in front of you.

DR RAMAITE: Ja, but I am now speaking from my own recollection, because I do recall that it was, that was not the only time that the Chikane matter was raised, so it kept on arising.

ADV RANTHO: But I can confirm that in terms of the meeting that
20 you said was subsequent to the 6 November, that was on the 16 November 2006 ...[intervenes]

DR RAMAITE: Yes.

ADV RANTHO: The Chikane matter was never discussed.

DR RAMAITE: No but I am saying I recall the matter arising again.

ADV RANTHO: Where?

DR RAMAITE: At the next, at the subsequent meeting and that would have been the meeting of the 16th.

ADV RANTHO: But it is not recorded. In fact Adv Ackermann during his cross-examination, he admitted that the Chikane matter was only dealt with on the 6 November and the 29 January 2007.

DR RAMAITE: Of January. Well I cannot explain, but I do recall, I may be wrong in my recollection.

ADV RANTHO: But we can accept that on the basis of the minutes that are in front of the Commission, the 16 November, there is no
10 talking about ...[intervenes]

DR RAMAITE: It is not recorded but as I say, I am talking from my own recollection.

DR RAMAITE: And you can also go to the meetings of, the minutes of the 4 December 2007, that is PCJ10, page 1752. And you were the Chairperson of that meeting or you were present?

DR RAMAITE: Yes, I was present.

ADV RANTHO: Yes. Again the perusal of those minutes reveal that no such discussion about the Reverend Chikane matter ever took place.

20 DR RAMAITE: I accept that.

ADV RANTHO: You would accept that?

DR RAMAITE: Mm-mm.

ADV RANTHO: And then you can go to PCJ11 that is on page 1753.

DR RAMAITE: Yes.

ADV RANTHO: Do you see that is a meeting of 29 January 2007?

And you were not present in that meeting?

DR RAMAITE: I was not present in that meeting.

ADV RANTHO: And you can see from the minutes if I take you to paragraph, in the third one there, it is the one that starts with Adv Ackermann as he requested members of the inputs.

DR RAMAITE: Ja.

ADV RANTHO: For their input. You see that?

DR RAMAITE: Mm-mm.

ADV RANTHO: That is when the issue of Commissioner Jacobs
10 discussing the Chikane matter, arose.

DR RAMAITE: Yes.

ADV RANTHO: Once again.

DR RAMAITE: Ja, I see that.

ADV RANTHO: So we can accept that on the basis of the records that are before the Commission, the Chikane matter was discussed on the 6 November by the ITT and the 29 January 2007?

DR RAMAITE: I accept that.

ADV RANTHO: You also stated in your affidavit that there was a meeting that took place in early December 2006.

20 DR RAMAITE: Yes.

ADV RANTHO: Where Commissioner Jacobs spoke about the National Commissioner's view and ...[intervenes]

DR RAMAITE: Yes.

ADV RANTHO: And a lack of willingness to assist with ...[intervenes]

DR RAMAITE: Yes.

ADV RANTHO: Yes and that takes us back to the paragraphs that I canvassed with you earlier, your paragraph 42, 43 ...[intervenes]

DR RAMAITE: Yes, yes, yes.

ADV RANTHO: For the [indistinct] police. Now I wanted to understand what meeting or which meeting was that?

DR RAMAITE: Sorry?

ADV RANTHO: Which meeting was that?

DR RAMAITE: The meeting ...[intervenes]

10 ADV RANTHO: Actually because in your affidavit you talked to early December.

DR RAMAITE: Ja, I mean I think I ...[intervenes]

ADV RANTHO: Which meeting is that, was that?

DR RAMAITE: At that time, at the time that I did the affidavit, I did not have any documentation, but that could have been the meeting of the 4 December.

ADV RANTHO: But the meeting of the 4 December does not say anything about Commissioner Jacobs expressing any view of the National Commissioner?

20 DR RAMAITE: It does not, but I still maintain that he did, he did in fact mention, raised that issue and I then subsequently reported it to the National Director of Public Prosecutions, Mr Pikoli.

ADV RANTHO: But if it was raised, why was it not recorded in the minutes of the ...[intervenes]

DR RAMAITE: I cannot explain that.

ADV RANTHO: Commissioner Jacobs testified before the Commission that no such discussion took place during that meeting.

DR RAMAITE: But I maintain that he did, it arose, he did in fact raise it and that is why I then went to report it to Adv Pikoli. I requested Adv Pikoli to take the issue up with the National Commissioner which I believe he did.

ADV RANTHO: Evidence before the Commission about Adv Pikoli taking up the matter with the National Commissioner, emanated from the discussions between General Jacobs and Adv Mthunzi Mhaga on
10 the 6 December 2006 about ...[intervenes]

DR RAMAITE: No, no.

ADV RANTHO: The National Commissioner.

DR RAMAITE: By the 6 December I had already reported back to the National Director.

ADV RANTHO: Were you furnished with the minutes of the meetings after the sitting of the minutes?

DR RAMAITE: After the?

ADV RANTHO: After the sitting of the meetings?

DR RAMAITE: Ja, the minutes were circulated but I mean that was a
20 long time ago, so I could not recall the content.

ADV RANTHO: Ja. No, I am interested to know if the minutes of the 4th ...[intervenes]

DR RAMAITE: Of the 4th?

ADV RANTHO: December, yes, among others were circulated after the meeting had sat?

DR RAMAITE: Ja, they would have been circulated. They would be circulated. I do not think that they would have been circulated immediately because what I seem to recall and I stand to be corrected, I may be wrong, but what I seem to recall was that there was a toing and froing around the content of the minute, of the final minutes between Mthunzi and Commissioner Jacobs.

ADV RANTHO: Yes, but when you saw the minutes of the 4 December not reflecting, that which was sent to the Commissioner today that was the view expressed by Commissioner Jacobs

10 ...[intervenes]

DR RAMAITE: No but the minutes only came much later, I had already reported that incident, that issue to Adv Pikoli.

ADV RANTHO: So you insist it was discussed on the 4 December?

DR RAMAITE: Yes, yes, after the meeting.

ADV RANTHO: After the meeting?

DR RAMAITE: Yes.

ADV RANTHO: Was it during the meeting or after the meeting?

DR RAMAITE: No, after the meeting, at the end of the meeting when the meeting closed, I then went to report to Adv Pikoli, because it
20 appeared that we were not going to get any resolution.

ADV RANTHO: So this matter was discussed on the 4th but it was not recorded in the minutes?

DR RAMAITE: That is what I said but I cannot explain why it does not appear, but I am adamant that that issue did arise and I did report it to Adv Pikoli.

ADV RANTHO: We can accept that your recollection is not supported by any evidence other than what you are saying you can recall?

DR RAMAITE: But that I am adamant that it did arise.

ADV RANTHO: And then the same minutes ...[intervenes]

DR RAMAITE: Of?

ADV RANTHO: Specifically if I may refer you to the minutes of the 16 November 2006.

DR RAMAITE: 16th?

10 ADV RANTHO: 16th, yes.

DR RAMAITE: All right.

ADV RANTHO: The ones ...[intervenes]

DR RAMAITE: Ja, ja, I have got it.

ADV RANTHO: Appearing on page 1750 ...[intervenes]

DR RAMAITE: Yes.

ADV RANTHO: And 1751.

DR RAMAITE: I do have it, ja.

ADV RANTHO: Specifically if you go to page 1751 and then the paragraph, the second one [indistinct].

20 DR RAMAITE: Ja.

ADV RANTHO: Then can you read out what is written there?

DR RAMAITE:

“Adv Mthunzi and Commissioner Jacobs undertook to compile such a report with a view of identifying cases for appointment of investigating officers by SAPS as

Commissioner Jacobs indicated that he, Commissioner De Beer, has undertaken to appoint investigators for all cases.”

ADV RANTHO: Thanks and then maybe just go to the one second from bottom.

DR RAMAITE:

“It was agreed that the Task Team has indeed made progress as there were already cases identified for investigations and interim recommendations made on some cases.”

ADV RANTHO: Yes and you chaired that meeting, you were the Chairperson of that meeting?

DR RAMAITE: Let me just verify. Yes, I did.

ADV RANTHO: Yes, so we can accept that on the basis of what is recorded there in the meeting that you were also present ...[intervenes]

DR RAMAITE: Yes.

ADV RANTHO: In, it was agreed by the meeting that there was progress made insofar as the provision of investigative capacity was concerned?

DR RAMAITE: Yes, insofar as the provision, but you know whether in fact that capacity was provided subsequently or not, that is a different matter.

ADV RANTHO: We are not talking subsequent, we will get to subsequent.

DR RAMAITE: Okay.

ADV RANTHO: We are talking to that which is recorded that as at 16 November ...[intervenes]

DR RAMAITE: That is correct, yes, as ...[intervenes]

ADV RANTHO: You were satisfied that there was progress being made?

DR RAMAITE: Yes, as from that date, yes.

ADV RANTHO: Yes. So the meeting of 29 January 2007, you cannot talk to that because you were not present. We can accept
10 that?

DR RAMAITE: Yes, yes.

ADV RANTHO: And the view expressed by Commissioner Jacobs, you said it was during the meeting?

DR RAMAITE: Sorry?

ADV RANTHO: The views expressed on behalf of the National Commissioner by Commissioner Jacobs, you said they were presented during the meeting, it was not outside the meeting? In other words what Commissioner Jacobs said was the view of the National Commissioner, so I am trying to ascertain that you said that
20 was communicated to you during ...[intervenes]

DR RAMAITE: During the meeting, yes.

ADV RANTHO: The meeting, okay.

DR RAMAITE: Yes.

ADV RANTHO: So you did not have any interaction with Commissioner Jacobs outside the meeting?

DR RAMAITE: Ja look, I mean I could have. We did have some discussions at a later stage, ja.

ADV RANTHO: Okay and then maybe if then I take you to your concluding paragraphs in your affidavit?

DR RAMAITE: Yes.

ADV RANTHO: I think that is paragraph 50 if I am not mistaken.

DR RAMAITE: Paragraph?

ADV RANTHO: Five-zero.

DR RAMAITE: Five-zero, let me just see.

10 ADV RANTHO: Ja, it is in the bundle that is before you, the Ramaite bundle, 246 in your affidavit.

DR RAMAITE: I am just trying to... I thought I had put it aside and just, can you just? What page is it by the way? Sorry.

ADV RANTHO: Page 246 of SAPS index, cross-examination of ...[intervenes]

DR RAMAITE: Two-four ...[intervenes]

ADV RANTHO: Of Dr Ramaite, ja, page 246.

DR RAMAITE: Ja, I am so sorry because I had... Can you help me again? I am a bit – I had closed it when I was...

20 FEMALE SPEAKER: Okay.

DR RAMAITE: Oh ja, it should be, oh ja there, there it is, thank you. Thank you, yes.

ADV RANTHO: Okay, you stated in paragraph 50 that you regarded imposition of a moratorium by the Executive as political interference, correct?

DR RAMAITE: Mm.

ADV RANTHO: And then you went on to paragraph 51 and 52 to testify about the [indistinct] into prosecutorial independence.

DR RAMAITE: Yes.

ADV RANTHO: Just to confirm that the South African Police Service was not part of this political interference that you are referring to, is that not so?

DR RAMAITE: Ja look, I mean I was very careful not to, because you know this, when it ended, I may be wrong in this you know, talking about political in the broader sense and I think I was talking about it in the form of Executive interference and then you know, mainly because in other words the Executive would be part of the political arm of Government.

ADV RANTHO: Who would have been the Executive in this context?

DR RAMAITE: It would have been the, well the Head of the South African Police Service who is part of the Ministry of Police and the Director-General of NIA.

ADV RANTHO: And if you can be specific insofar as the Executive on the part of the South African Police Service, who was that Executive and what role specifically ...[intervenes]

DR RAMAITE: That would have been Mr Selebi.

ADV RANTHO: The records before the Commission show that the late Commissioner Selebi was the National Commissioner of the Police, not the Minister of Police, she was not ...[intervenes]

DR RAMAITE: Ja, but I am not talking about the Minister of Police, I

am talking about, he was the Administrative Head of the Department.

ADV RANTHO: So he was not part of the Executive that you are referring to?

DR RAMAITE: Ja well, I mean I considered him as part of the Ministry of Justice.

ADV RANTHO: How could it be so when he was the National Commissioner of the Police, he was the Accounting Officer just like the NDPP was in charge of the prosecution?

10 DR RAMAITE: No, but he had no business in the prosecution decision making.

ADV RANTHO: I am referring to what is stated in paragraph 50 and I want us to agree that the late Commissioner Selebi could not have been part of the Executive that have been referred to, Dr Ramaite. He was not part of the Executive.

DR RAMAITE: Ja well, I mean that is with, you know my view is he was part of the Executive arm of Government.

ADV RANTHO: Perhaps if you may assist in terms of what your understanding is in terms of the composition of the Executive?

DR RAMAITE: Well it consists of Cabinet Ministers.

20 ADV RANTHO: Yes.

DR RAMAITE: Ja.

ADV RANTHO: So the National Commissioner was not. Even to date the National Commissioner is not part of the Cabinet Ministers.

DR RAMAITE: Ja okay.

ADV RANTHO: Yes.

DR RAMAITE: I will accept that.

ADV RANTHO: So we can agree that if at all, your interference or political interference referred to members or Executive members being involved, it could not have included the National Commissioner of the Police.

DR RAMAITE: I accept that.

ADV RANTHO: And we can also accept that you pointed out correctly that the National Commissioner was the Head of the Police. Is that not so?

10 DR RAMAITE: Yes.

ADV RANTHO: And he was in charge of the Police Service?

DR RAMAITE: Yes.

ADV RANTHO: He was the Accounting Officer for the Police Service. Is that not so?

DR RAMAITE: Yes.

ADV RANTHO: Yes, so meaning anything that had to do with policy, the NPA would have to discuss it with him as the relevant official that was in charge of the SAPS ...[intervenes]

20 DR RAMAITE: Ja, but that would not include prosecutorial decision making.

ADV RANTHO: I accept that.

DR RAMAITE: Yes.

ADV RANTHO: But that we spoke of investigation and the investigation would have fell under the National Commissioner. Is that not so?

DR RAMAITE: Well it would have, it would fall under the police, of course ultimately the National Commissioner, but what we required was the provision of investigations, not decisions regarding you know, the prosecution itself after the completion of the investigations.

ADV RANTHO: We can accept that, yes. But what I was asking you was that insofar as investigation of cases was concerned, that fell within the purview of the National Commissioner.

DR RAMAITE: That is correct, yes.

ADV RANTHO: Yes, so it would not have been wrong for the
10 National Commissioner of the Police to interact with the National Director of Public Prosecutions in regard to [indistinct] ...[intervenes]

DR RAMAITE: Ja, interaction broadly you know, but specifically insofar as it relates to prosecutorial decision making, no.

ADV RANTHO: Yes, because you derived your powers from or you derived your powers from the National Prosecuting Act.

DR RAMAITE: And the Constitution.

ADV RANTHO: Yes and likewise the National Commissioner also acted in accordance with the Constitution and the South African Police Service Act.

20 DR RAMAITE: Insofar as investigations are concerned, yes.

ADV RANTHO: That is correct.

DR RAMAITE: Ja.

ADV RANTHO: We can agree on that one, yes. Perhaps just also one thing that I needed to clarify with you, in paragraph 23 ...[intervenes]

DR RAMAITE: Of?

ADV RANTHO: Of your affidavit.

DR RAMAITE: Yes.

ADV RANTHO: You spoke of a transfer of dockets, about 400 dockets that were transferred ...[intervenes]

DR RAMAITE: Paragraph 23, yes.

ADV RANTHO: Yes.

DR RAMAITE: Mm-mm.

ADV RANTHO: You see where it is stated that, 'Some 400 or so
10 investigation dockets were transferred to the PCLU?'

DR RAMAITE: Mm.

ADV RANTHO:

“Adv Ackermann, SC and Chris Macadam, who was assigned as Deputy DPP in the PCLU, conducted an initial audit of TRC-related cases and identified some 21 cases which required further investigation.”

DR RAMAITE: Ja.

ADV RANTHO: Yes. I wanted to understand, investigation dockets, what is meant by that?

20 DR RAMAITE: Well investigation dockets are dockets in respect of which no final decision on whether to prosecute or not, has been made and basically still under investigation.

ADV RANTHO: Okay.

DR RAMAITE: They seem to become investigation dockets once a decision whether to prosecute or not to prosecute, has been made.

ADV RANTHO: Okay. Adv Bulelani Ngcuka, Adv Pikoli and Adv Macadam testified before the Commission that some 400 plus dockets at some point were taken to the police during the time when Adv Bulelani Ngcuka was still the NDPP.

DR RAMAITE: Yes.

ADV RANTHO: Do you know about that?

DR RAMAITE: Yes, that was the time. What happened during the time, I was DPP.

ADV RANTHO: So you know about those?

10 DR RAMAITE: Yes, I know about those.

ADV RANTHO: Adv Macadam in his evidence before the Commission, he testified that the reason why those dockets were transferred to the police, is because there was no action, no further action required at that time.

DR RAMAITE: No, no, no, no, I, well I think Adv Pikoli would have spoken about that because he was present when the dockets were actually handed, you know, handed back. You know and that arose from some allegations that amongst those dockets were dockets involving the so-called ANC 37.

20 ADV RANTHO: Yes.

DR RAMAITE: And you know, there were accusations that the NPA wanted to actually proceed with those prosecutions and there was a direction that those dockets should actually be returned, you know, that to address those allegations.

ADV RANTHO: Be returned to who?

DR RAMAITE: To the police.

ADV RANTHO: But you indicated in your affidavit that those, the matter, TRC-related matters have always been with or housed at the NPA?

DR RAMAITE: No, there were dockets that were already in the NPA, in the DPP's office, arising from the Goldstone Commission. All right, now those dockets were being investigated, I think it was, I do not know if it was a Brigadier or a Captain Brits, all right.

ADV RANTHO: Senior Superintendent Brits, yes.

10 DR RAMAITE: Ja, Superintendent Brits and he was based at the DPP's office in Pretoria where I was the DPP at that stage.

ADV RANTHO: So we can accept that those dockets were housed at the DPP's office at the time?

DR RAMAITE: They were housed at the DPP's office but they were under the care of this Senior Superintendent Brits.

ADV RANTHO: Who was seconded to assist, is that ...[intervenes]

DR RAMAITE: Who was, ja, he came with Dr D'Oliveira from the Goldstone Commission, I believe.

20 ADV RANTHO: And Senior Superintendent Brits was reporting to who at that time in terms of progress?

DR RAMAITE: Well I am not so sure because when – I never interacted with him. In fact, when I was appointed, I was appointed DPP. As far as I can remember he was interacting I think with Ackermann and Paul Fick.

ADV RANTHO: Okay, so we can accept that he was not reporting to

the National Commissioner insofar as the investigation of those cases were concerned?

DR RAMAITE: Well he was, well ja but I mean I cannot speak on that because I do not know.

ADV RANTHO: Okay. One last thing, do you know perhaps what was the reason for the ITT not to continue with its work following the meeting of the 29 January 2007?

DR RAMAITE: I do not know. What I do know as well, I mean we tried to implore upon the NDPP to try and resolve the, you know, the
10 impasse with the National Commissioner. I do not know, but what I subsequently gathered was that you know, I mean that was the last straw in the whole thing and after that you know, there was no agreement as to the provision of investigative capacity.

ADV RANTHO: What impasse was that?

DR RAMAITE: In respect of the provision of investigative capacity.

ADV RANTHO: No, I am trying to understand as to why from 29 January 2007 the ITT never carried on with its work. Remember you were the Chairperson of the ITT.

DR RAMAITE: Ja, I mean there was not, rather there was no
20 agreement on the role of and functions of the Task Team and then in particular in relation to the decision making process.

ADV RANTHO: Mm.

DR RAMAITE: You know the prosecutorial decision making process.

ADV RANTHO: So there was no agreement on the role of the ITT?

DR RAMAITE: Ja, there was no agreement.

ADV RANTHO: Between who and who?

DR RAMAITE: Between us, well particularly me and Anton Ackermann and the representatives of the police, and I would say that was Commissioner Jacobs Lekalakala.

ADV RANTHO: Mm.

DR RAMAITE: Mm.

ADV RANTHO: Okay, pursuant to that disagreement, what happened, what steps did you take to deal with that which you term as impasse?

10 DR RAMAITE: But as I say, I reported it to Adv Pikoli and implored on him to take it up with the National Commissioner.

ADV RANTHO: And what happened afterwards, did you follow up with Adv Pikoli as you ...[intervenes]

DR RAMAITE: Ja, we did follow up but I mean it was never resolved until Adv Pikoli left.

ADV RANTHO: The evidence that is before the Commission which was confirmed by Adv Pikoli, is the letter that he addressed to the National Commissioner, I am sorry, the National Commissioner addressed to Adv Pikoli.

20 DR RAMAITE: Yes.

ADV RANTHO: Perhaps if I may assist you, that is PCJ ...[intervenes]

DR RAMAITE: Sorry, it is PCJ what? Sorry.

ADV RANTHO: I will, just give me a few minutes. Sorry about that. It would be PCJ13 and in the bundle before you, that is Jacobs

bundle, you can go to page 1756.

DR RAMAITE: 17?

ADV RANTHO: 56.

DR RAMAITE: 17 sorry?

ADV RANTHO: 1756, 1756.

DR RAMAITE: 1756?

ADV RANTHO: Yes.

DR RAMAITE: Oh. All right, sorry, I am sorry, I did not hear you
...[intervenes]

10 ADV RANTHO: No problem.

DR RAMAITE: Correctly. 1756 yes, yes, I have got it.

ADV RANTHO: And then there is another letter that appears as
PCJ14 just after that one.

DR RAMAITE: After, okay.

ADV RANTHO: It would be on page 1758.

DR RAMAITE: Yes.

ADV RANTHO: Addressed to Adv ...[intervenes]

DR RAMAITE: Simelane.

ADV RANTHO: Menzi Simelane.

20 DR RAMAITE: Yes.

ADV RANTHO: Then after that one, there is another one, PCJ15
appearing on page 1760. It was addressed to the late Mr Manzini.

DR RAMAITE: Yes.

ADV RANTHO: Of National Intelligence Agency. And all these
letters are framed, well ...[intervenes]

DR RAMAITE: At a similar version?

ADV RANTHO: A similar version, yes, yes.

DR RAMAITE: Ja.

ADV RANTHO: And essentially what is communicated to Adv Pikoli by the National Commissioner, is that which you probably referred to as an impasse. If perhaps I may just give you ...[intervenes]

DR RAMAITE: Ja, yes, yes.

ADV RANTHO: Yes.

DR RAMAITE: Mm.

10 ADV RANTHO: So we can accept that this impasse or alleged impasse was not just between the SAPS and the NPA, it would have extended to Mr Menzi Simelane, Mr Manzini ...[intervenes]

DR RAMAITE: But who are actually the principals of the Task Team.

ADV RANTHO: Yes.

DR RAMAITE: Ja.

ADV RANTHO: Ja, meaning the confusion was not confined to the NPA and the Police only, it would have extended to other role players as well.

20 DR RAMAITE: Ja, I apologise if I created the impression that it was confined to Mr Selebi, but that was not what I intended to say.

ADV RANTHO: Okay and then, yes, thank you for that. The response perhaps of Adv Pikoli to the letter by the late National Commissioner appears as PCJ16, that would be page 1762 of the same bundle that is in front of you, the Jacobs bundle.

DR RAMAITE: One-seven sorry?

ADV RANTHO: Six-two.

DR RAMAITE: Six-two, yes. Ja.

ADV RANTHO: Perhaps if you may just read out where he says, 'Advise'. You can confirm that that letter was address to Mr JS Selebi, right?

DR RAMAITE: Yes.

ADV RANTHO: Yes and then it is dated 6 February 2007?

DR RAMAITE: Mm.

ADV RANTHO: Which was the ...[intervenues]

10 DR RAMAITE: Yes.

ADV RANTHO: Same day on which the letter of the National Commissioner was written to Adv Pikoli.

DR RAMAITE: Yes.

ADV RANTHO: Ja, so perhaps if you may read it, 'I advise that', perhaps just to read that?

DR RAMAITE:

20 "I advise that it is clear that our understanding of the mandate of the Task Team as well as the guidelines that Cabinet approved, are not the same. In the circumstances, this matter as well as other issues that have emerged in the course of the NPA dealing with the TRC cases, are currently being taken up with the Minister of Justice and Constitutional Development."

ADV RANTHO: Yes, so Adv Pikoli undertook in terms of that letter, that he would take the matter up with the Minister, is it not?

DR RAMAITE: Ja, I see that from the letter.

ADV RANTHO: Yes, you see it in the letter?

DR RAMAITE: Ja.

ADV RANTHO: Yes and he confirmed during his testimony that indeed, he was going to engage the Minister and ...[intervenes]

DR RAMAITE: Ja, I have no reason to disbelieve that.

ADV RANTHO: Yes, indeed. Now going back to your paragraph 50 ...[intervenes]

DR RAMAITE: Yes.

10 ADV RANTHO: And where you said the involvement of the Executive in your view meant political interference, what do you make of Adv Pikoli who was the DPP at the time, undertaking to engage a member of the Executive regarding the issues or the impasse between?

DR RAMAITE: Well I can only note that, I mean that is what happened. I do not think I can say anything in that regard.

ADV RANTHO: But we can accept on the record that it was the, Adv Pikoli who actually undertook to engage the ...[intervenes]

DR RAMAITE: I accept ...[intervenes]

20 ADV RANTHO: The Minister?

DR RAMAITE: I accept that, ja.

ADV RANTHO: You cannot dispute that. Commissioners, that brings an end to cross-examination on the part of the SAPS.

CHAIRPERSON: Thank you, Ms Rantho. Mr Soni?

CROSS-EXAMINATION BY ADV SONI: Chairperson and

Commissioners, just a few issues that arise from the evidence, Chairperson. Dr Ramaite, a fair amount of evidence has been given in this Commission relating to the documents that constitute annexures to Mr Jacobs' affidavit and the PCJ1 to I think 15 or whatever it turns. You have that, you have that pile with you?

DR RAMAITE: Ja, so ...[intervenes]

ADV SONI: The PCJ documents.

DR RAMAITE: Let me just locate it, PCJ1.

ADV SONI: These are the minutes of or part of them are the
10 minutes of the meeting of the Task Team.

DR RAMAITE: Yes.

ADV SONI: Now one of the issues I would like to raise with you is this, we had assumed, well firstly you accept that it was Adv Mhaga who compiled the minutes?

DR RAMAITE: Yes, yes.

ADV SONI: You accept that for the most part we can accept the minutes as correct?

DR RAMAITE: Yes.

ADV SONI: May I then ask you to please look at PCJ3?

20 DR RAMAITE: 3, yes.

ADV SONI: Now this is the first meeting of the Task Team and it was addressed as you will see in the, after the names of the persons who were present, it was addressed by the then NDPP Adv Pikoli.

DR RAMAITE: That is correct.

ADV SONI: All right. May I ask you to look at around line 10 and

well, perhaps let me just ask you, one of the purposes of the Task Team and I am not saying it was the only purpose, was to work out how it is that the prosecuting authorities would be given investigating assistance?

DR RAMAITE: That is correct.

ADV SONI: All right. If you look at around line 10 and I will just read it to you, it says:

“SAPS has to provide investigating officers for all cases identified for prosecution.”

10 DR RAMAITE: That is correct, Chair.

ADV SONI: You see that?

DR RAMAITE: Yes.

ADV SONI: And I take it that it would be a fair assumption that one of the purposes of the Task Team was to ensure that a mechanism was achieved whereby that investigating assistance was given?

DR RAMAITE: That is correct as well.

ADV SONI: Now the Task Team we know, met for the first time on the 12 October and the last time on the ...[intervenes]

DR RAMAITE: I think it is the 29 January.

20 ADV SONI: 29 January.

DR RAMAITE: Yes.

ADV SONI: So about four, five months.

DR RAMAITE: Yes.

ADV SONI: Okay. Now you were the Chairperson of the Task Team, you had been appointed by Adv Pikoli for this purpose?

DR RAMAITE: That is correct.

ADV SONI: Now before I get to the Task Team itself, I just want to raise with you paragraph 23 of your affidavit, please.

DR RAMAITE: Where is that again? Let me see, sorry. Sorry, I closed it again so I am just trying to find it again. Ja, sorry. Oh ja, there it is. Okay, I have got it, thanks.

ADV SONI: All right, so ...[intervenes]

DR RAMAITE: Ja, sure.

ADV SONI: At paragraph 23 and just to facilitate the, this
10 interaction, I am just going to read some parts of that paragraph to you. It says:

“Some 400 or so investigation dockets [that is in the middle of that paragraph] were transferred to the PCLU. Adv Ackermann and Chris Macadam who were assigned as Deputy DPP in the PCLU, conducted an initial audit of TRC-related cases and identified some 21 cases which required further investigation.”

DR RAMAITE: Yes.

ADV SONI: And the next paragraph goes:

20 “Although I was not involved in the day-to-day operational activities of the PCLU, Adv Ackermann kept me abreast of the work of the Unit by way of monthly reports.”

DR RAMAITE: Yes.

ADV SONI: Now these monthly reports, I take it, would have been

filed at the offices of the PCLU?

DR RAMAITE: Ja, yes.

ADV SONI: And then it says:

“These reports were tabled and discussed at the monthly meetings of the EXCO of the NPA, which was chaired by the NDPP and made up of all the DPPs and SDPPs.”

DR RAMAITE: That is correct.

ADV SONI: I want to ask you this, was this only at the time of
10 Adv Ngcuka or was it also at the time of Adv Pikoli?

DR RAMAITE: You mean ...[intervenens]

ADV SONI: These monthly meetings?

DR RAMAITE: The meetings? No, during, well ja, Adv Ngcuka as well as Adv Pikoli and other NDPPs.

ADV SONI: So if we want to know what was discussed by the NPA on a monthly basis, we would be able to go to those monthly meetings?

DR RAMAITE: Yes.

ADV SONI: Who kept those records?

20 DR RAMAITE: I think it was the office of the NDPP. At that time, at that stage I think it was the Chief of Staff of the NDPP.

ADV SONI: Who was who?

DR RAMAITE: Oh I cannot recall, what was his name now? I cannot remember his name now, that it is a long time ago. I think he left soon after I left. Danie, Danie, what was his name, Danie? But

his name was Danie. I remember the name Danie. I cannot remember the surname.

ADV SONI: But you said ...[intervenes]

DR RAMAITE: Danie Smit.

ADV SONI: Danie Schmidt?

DR RAMAITE: Smit, is it Smit or Schmidt? I think it is Mr Smit, ja.

ADV SONI: But you say he was the Chief of Staff of ...[intervenes]

DR RAMAITE: Of the ...[intervenes]

ADV SONI: All the NDPPs?

10 DR RAMAITE: Ja, ja, during Mr Pikoli's time.

ADV SONI: And during Mr Ngcuka's time?

DR RAMAITE: Oh no, I cannot remember.

ADV SONI: You were the supervisor of the PCLU until you were removed from that position by Adv Nxasana?

DR RAMAITE: Yes.

ADV SONI: According to your affidavit?

DR RAMAITE: Yes, ja, I have ...[intervenes]

ADV SONI: When was that?

DR RAMAITE: Soon after his appointment, now I ...[intervenes]

20 ADV SONI: That would have been around 2013?

DR RAMAITE: Ja, ja.

ADV SONI: Okay. Now you would have attended all of those meetings?

DR RAMAITE: Ja, as now I remember, I was actually moved to, he asked me to move to the NPS.

ADV SONI: Yes ...[intervenes]

DR RAMAITE: You know, because of performance problems that they had there.

ADV SONI: To supervise the DPPs?

DR RAMAITE: To supervise the DPPs, yes.

ADV SONI: That was in 2013?

DR RAMAITE: Yes.

ADV SONI: But I am saying from 2003 to 2013, a period for about some years, you, for some 10 years, you were the oversight person
10 in respect of PCLU?

DR RAMAITE: That is correct, ja.

ADV SONI: Now in paragraph 23 you say they conducted an initial audit?

DR RAMAITE: Yes.

ADV SONI: This is Mr, Adv Ackermann and Adv Macadam?

DR RAMAITE: Yes, that is correct.

ADV SONI: Were any further audits conducted?

DR RAMAITE: Well I mean I think that was in essence a formal audit to determine the volume of work that we had, but after they had
20 identified the 20, 21 or so cases, they did identify a further, but I think it was less than the previous cases that they had identified. I cannot remember the exact number.

ADV SONI: You see I am asking in this context, the PCLU is now established by the President in 2003, I think it is March or so, and then in October the then NDPP, Adv Ngcuka decides that TRC cases

would be priority crimes and they would be handled by the PCLU.

DR RAMAITE: Yes.

ADV SONI: All right. Now I am asking as I understand it, those matters were in the different regions initially?

DR RAMAITE: Ja well I would say that the majority of them were in the DPP's office in Pretoria because they came from the Goldstone Commission.

ADV SONI: Yes.

DR RAMAITE: But there were others in other DPP offices and I
10 remember particular in the Eastern Cape there were some.

ADV SONI: Okay. The question I am asking is, an initial audit is conducted, that is the one you refer to in paragraph 23.

DR RAMAITE: Yes.

ADV SONI: To your knowledge or to your recollection, were further audits conducted?

DR RAMAITE: No, not thereafter, except ...[intervenes]

ADV SONI: Throughout? Sorry.

DR RAMAITE: Sorry, except for the audit that was conducted during the Task Team's term or time.

20 ADV SONI: That is what I am asking, so this audit that you are talking about was during the period of the Task Team?

DR RAMAITE: No, the initial audit was before that.

ADV SONI: All right.

DR RAMAITE: Ja.

ADV SONI: And then there were further audits?

DR RAMAITE: Ja, there was, now there was the audit during the time of the Task Team and the purpose of that or the reason for that was to identify cases so that there would be agreement between the police in particular and the NPA as to the sort of number of investigative capacity that would be required.

ADV SONI: The post-TRC cases would fall into two categories, would I be correct? Well let me tell you what the two categories are and you can tell me whether I am correct or not.

DR RAMAITE: Ja.

10 ADV SONI: The one is those persons who had refused amnesty.

DR RAMAITE: Yes.

ADV SONI: And then the second would be those who were not, who did not apply for amnesty ...[intervenens]

DR RAMAITE: Who did not apply for amnesty, yes, yes.

ADV SONI: Who in fact treated the TRC process with contempt.

DR RAMAITE: Yes.

ADV SONI: All right. Was any mechanism created at these meetings, these monthly meetings to work out how many people would fall into the category of those who were not granted amnesty
20 and how many would fall into those who did not apply for amnesty but appeared to have been implicated in abuses of the past?

DR RAMAITE: Well I cannot, I cannot tell but it is... Because you know, I mean the cases were transferred to the office of the NDPP whilst I was still the DPP, so it is likely that you know, that process could have taken place before I went to the head office, but I do know

that at the time that the process was continuing even at the time that I was a Special Director in the office of the National Director, and Special Advisor for the National Director.

ADV SONI: Let us get back to paragraph 23.

DR RAMAITE: Yes.

ADV SONI: You say that Adv Ackermann and Adv Macadam conducted an audit. Were you there when that audit was ...[intervenes]

DR RAMAITE: Oh sorry, I think I might have missed it. No that, that
10 could have been May 2003.

ADV SONI: And that is the time ...[intervenes]

DR RAMAITE: And that would have been ...[intervenes]

ADV SONI: Of the PCLU ...[intervenes]

DR RAMAITE: After the PCLU had been established. Yes, all right, okay.

ADV SONI: So that is the audit I am talking about.

DR RAMAITE: Yes, yes.

ADV SONI: All right and the mechanism of the or the categorisation of cases that the PCLU or the TRC Unit of the PCLU would deal with,
20 you would have been there as well?

DR RAMAITE: Yes, yes.

ADV SONI: To work out how many?

DR RAMAITE: Yes.

ADV SONI: During your time was there a list of these are the cases of people who refused amnesty and these must be investigated, and

these are the people who did not apply for amnesty and those matters must be investigated?

DR RAMAITE: Ja, I cannot recall but you know, I do not remember seeing you know, a spread category of those who applied for amnesty and were not granted and those who did not. I do not recall. I think Adv Ackermann would be better placed to deal with that.

ADV SONI: You see, I ask this question Dr Ramaite for one reason, you were the person who oversees the work of the PCLU. You have got very senior people in the PCLU including Adv Ackermann and
10 Adv Macadam and Adv Pretorius. Am I right?

DR RAMAITE: Yes.

ADV SONI: All right. Now how would you say that this Unit is performing well if you do not know how many cases or how they established what cases they are going to be dealing with?

DR RAMAITE: No, I knew from the reports and before the reports were presented at the EXCO, we did, we discussed the content of the report and then went through the work that they were doing.

ADV SONI: No, that is the quality of the work. I am looking at the quantity of the work, the number of cases that they would be dealing
20 with.

DR RAMAITE: But as I state there, you know I mean initially there were, they went through these 400 or so dockets and then they narrowed it down to the 20, 21.

ADV SONI: So there was no list, I mean they did not add to those cases that they subsequently would have discovered or uncovered as

those, certainly those people who had not applied for amnesty?

DR RAMAITE: After the 21 cases there was as I say and I am no longer so sure about the number, but it would have been 16 or so, further cases that were identified. So in other words, I mean the process went like this, they first had a look at those cases where in fact we were not going to need, to require any investigations, in other words which have to be you know, I mean which were eventually closed, okay, because I mean either the suspects have died or there was insufficient evidence.

10 And then they then, the second part of the process was to identify those that required further investigations. And then the third process, the third part would be those that were ready for enrolment of a prosecution.

ADV SONI: Who compiled that list?

DR RAMAITE: That was the PCLU, Adv Ackermann and Macadam.

ADV SONI: Is there such a list?

DR RAMAITE: Ja, there should be, there should be.

ADV SONI: Did you ever see such a list?

DR RAMAITE: Ja, during my time, yes.

20 ADV SONI: And it would have been presented at the monthly meetings?

DR RAMAITE: Well look, I mean the reports at the monthly meetings would not be as detailed as to contain attachments like lists of cases.

ADV SONI: Does it not surprise you sir, that you would have these important cases which are all priority crimes, but you do not have a

list of cases that should be considered by the PCLU?

DR RAMAITE: Well I mean as I say, my recollection is there was such a list.

ADV SONI: If you cannot give us that, who can, that information?

DR RAMAITE: Well that should be you know, in the NPA. I mean I did not take anything, any documentation with me when I left, so I cannot, that would be NPA yes, I suppose.

ADV SONI: Now one of the issues that was discussed in the Task Team and that was raised with you I think by my learned friend for the
10 SAPS, Ms Rantho, was the meeting of the Task Team.

DR RAMAITE: Yes.

ADV SONI: Or the meetings of the Task Team.

DR RAMAITE: Yes.

ADV SONI: And I have already established with you that one of the purposes was that there would be investigators.

DR RAMAITE: Yes.

ADV SONI: That would be involved. I want to go back to your affidavit and ask you to look at paragraph 44.

DR RAMAITE: Yes. Sorry, paragraph?

20 ADV SONI: 44.

DR RAMAITE: 44, yes.

ADV SONI: Now you will see there and we do not need to read the whole thing, in that paragraph you mentioned the meetings of December 2006.

DR RAMAITE: Yes.

ADV SONI: I get it, that is the meeting of the 6 December that we have, that you already referred to or ...[intervenes]

DR RAMAITE: No, that will be the 4th.

ADV SONI: The 4 December.

DR RAMAITE: Yes.

ADV SONI: Yes. Now you do not mention any further meetings of the Task Team in your affidavit.

DR RAMAITE: Ja.

ADV SONI: I just want to take you to the last two meetings of the
10 Task Team.

DR RAMAITE: Yes.

ADV SONI: And just remember, keep in mind the issue I am raising, the context in which I am raising this. The purpose was to find investigators to assist the PCLU with its work so that prosecutions can take place.

DR RAMAITE: Yes.

ADV SONI: Now can I ask you to please look at PCJ10 which will be on page 1752 of that bundle?

DR RAMAITE: 1752.

20 ADV SONI: And it is the meeting of the 4 December 2006 and you know that the 2007 has been ...[intervenes]

DR RAMAITE: Ja.

ADV SONI: Changed to 2006. Now you will see there that in the third last paragraph there is and it is in handwriting, paragraph 4.5:

“Commissioner Jacobs informed members that he had

sent a letter to Commissioner De Beer and the list of all
investigators will be ready soon.”

DR RAMAITE: Yes.

ADV SONI: Did that happen?

DR RAMAITE: No, as far as I can recall.

ADV SONI: No, no, no, I am asking a different question. Did he say
this at the meeting?

DR RAMAITE: No, did he say? Sorry?

ADV SONI: Yes.

10 DR RAMAITE: Ja, he did.

ADV SONI: He did?

DR RAMAITE: Ja.

ADV SONI: Okay. Now that must have been music to your ears
because it means now that the TRC, I mean that the TRC process is
going to start with momentum ...[intervenes]

DR RAMAITE: Yes, certainly.

ADV SONI: Because the investigators are going to be provided?

DR RAMAITE: Yes, yes.

20 ADV SONI: All right, so you would have been waiting in anticipation
for that?

DR RAMAITE: Yes.

ADV SONI: Okay. Can I ask you then to turn to page, the next page
1753, PCJ11?

DR RAMAITE: Yes.

ADV SONI: Can I ask you to then look at the fourth paragraph from

the bottom where it says:

“Commissioner Jacobs informed the meeting that he has gone through the docket...”

Oh sorry, sorry, the second last paragraph.

DR RAMAITE: Yes.

ADV SONI: Which says:

10 “Commissioner Jacobs informed the meeting that he is waiting for a feedback from Provincial Commissioners on the appointment of investigators. Some had responded and provided him with their list of investigators. He also requested a list of SAPS docket in possession of the PCLU.”

Were you aware of this?

DR RAMAITE: Of what informed the meeting?

ADV SONI: Yes.

DR RAMAITE: Ja.

ADV SONI: Were you aware of it?

DR RAMAITE: Yes, that he informed the meeting about waiting for a feedback.

20 ADV SONI: Yes.

DR RAMAITE: Yes.

ADV SONI: But this, you will recall that you were not at the meeting of the 29th?

DR RAMAITE: I, but I remember it from, well I recall it from the report that I received from Adv Ackermann and I cannot, I do not

know who chaired the meeting but I definitely became aware of it.

ADV SONI: Okay, so Commissioner Jacobs gave a meeting and he presented these letters that he said had been sent. You were aware of that?

DR RAMAITE: Yes, although I was not at the meeting, ja. I became aware of it.

ADV SONI: Yes. Now as I understand it, you say now that these investigators were not made available?

DR RAMAITE: That is correct.

10 ADV SONI: The question I want to ask is what did you do about it?

DR RAMAITE: Well again, I mean we returned to the National Director and then we asked him to intervene, ja.

ADV SONI: This is in January 2007?

DR RAMAITE: Ja.

ADV SONI: Adv Pikoli leaves in September 2007?

DR RAMAITE: Yes.

ADV SONI: Nothing happens as I understand it then, between January 2007 and September 2007 in regard to the provision of ...[intervenes]

20 DR RAMAITE: Ja, nothing, nothing happened.

ADV SONI: And what did you do during that period?

DR RAMAITE: Well I mean again after, I cannot remember who actually acted after Mr Pikoli left, I am just trying to recall but ja.

ADV SONI: I think it was Adv Mpshe.

DR RAMAITE: Ja, ja, it was Adv Mpshe. Ja, I mean again we

requested him to try and make sure that we get, we get investigative capacity but then you know, I mean nothing happened.

ADV SONI: Nothing happened?

DR RAMAITE: Nothing happened, ja.

ADV SONI: You are the head of an institution or oversee an institution that had been mandated, in fact required to deal with TRC matters, a matter that was of immense interest to many victims of abusers of the past.

DR RAMAITE: Yes, yes.

10 ADV SONI: And nothing happens at, during that entire period and nothing is done about it?

DR RAMAITE: Ja and I mean that is unacceptable, wholly, wholly unacceptable you know, but that is what happened.

ADV SONI: You see the issue and I raised this with Adv Pikoli as well, was it not an institutional issue?

DR RAMAITE: Sorry, it?

ADV SONI: Was it not an institutional issue between the police on the one side and the prosecuting authority on the other?

DR RAMAITE: It was.

20 ADV SONI: Yes. Can I then ask you just in regard to the success rate of successful prosecutions in respect of TRC matters? I am just going to put this to you, we have already established that you were the oversight person in regard to the PCLU from 2003 to 2013 when you were moved by Adv [Indistinct]. I see you shake your head there.

DR RAMAITE: No, no, no, I am trying to listen.

ADV SONI: To listen to the question.

DR RAMAITE: Attentively, yes.

ADV SONI: Yes, I am asking is it correct that you were the oversight person for a period of 10 years in regard to ...[intervenes]

DR RAMAITE: The PCLU?

ADV SONI: The PCLU matters?

DR RAMAITE: Yes, yes.

ADV SONI: All right. Now Adv Ackermann made an affidavit in the Nkadimeng matter on which he gave evidence and Adv Pikoli gave
10 evidence. Chairperson, it is FA8 to the Nkadimeng II affidavit, papers, because this has been referred to on several occasions. I just want to say to you that in 2015, he lists four cases that had been prosecuted by the PCLU. The first case he lists is the case in 2003, the case which you would know about, of Eugene Terre'Blanche. The second case he says, it was in 2004, is the case of Blani.

DR RAMAITE: Yes.

ADV SONI: The third case he refers to again in 2004, is the Gideon Nieuwoudt case which were effectively, which is collegially written, which is referred to as the PEBCO Three case.

20 DR RAMAITE: Yes.

ADV SONI: And then the fourth case of course is the case of Minister Vlok, Minister, Commissioner Van Der Merwe and the three so-called foot soldiers involved in the Chikane attempted murder.

DR RAMAITE: Yes.

ADV SONI: Those were the four cases.

DR RAMAITE: Yes.

ADV SONI: Are there any cases that you were aware of that he has not referred to?

DR RAMAITE: No, there are not.

ADV SONI: Is that not a poor record by any standard?

DR RAMAITE: Well indeed, indeed it is. It is but I mean again those four cases that he mentions, they were the ones that were actually ready for prosecution because there had been you know, investigations.

10 ADV SONI: They though, were the only four cases?

DR RAMAITE: Excuse me?

ADV SONI: They though, were the only four cases during the entire period you were the oversight person in regard to PCLU ...[intervenes]

DR RAMAITE: Yes, yes.

ADV SONI: To the PCLU matters?

DR RAMAITE: Yes.

ADV SONI: And I say does that not reflect more than simply an institutional problem between the NPA and the SAPS?

20 DR RAMAITE: It does, yes.

ADV SONI: Now one of the reasons that Reverend Chikane gave, is that at this time during this entire period, was there was simply no appetite to prosecute these matters. I am not saying he says it is the only reason, just understand my question.

DR RAMAITE: Yes.

ADV SONI: Is that an impression you got as well?

DR RAMAITE: Well I mean I would not say that from the viewpoint of the NPA and in particular the PCLU, there was no appetite. There was, there was appetite but I mean again they were hamstrung by a lack of investigative capacity.

ADV SONI: Yes. With all your enthusiasm, sir?

DR RAMAITE: Yes.

ADV SONI: With all the enthusiasm you can muster?

DR RAMAITE: Ja, I mean there was certainly.

10 ADV SONI: Yes.

DR RAMAITE: My observation in particular was that they were actually willing.

ADV SONI: I have no questions, no further questions, Chairperson.

CHAIRPERSON: Thank you, Mr Soni. Commissioner Kgomo?

CROSS-EXAMINATION BY COMMISSIONER KGOMO:

Dr Ramaite, I want to deal with you briefly and it relates to a confined period. You say in your statement, I am referring to the statement of the 26 November 2025 in paragraph 25, we know that you say Mr Ngcuka resigned in July 2004. That would be correct?

20 DR RAMAITE: That is correct, Commissioner.

COMMISSIONER KGOMO: Yes. Now I want you to move to paragraph 31 of the same statement and we are looking at the fingerprints of attorney Wagenaar and the ramifications of his involvement and we are going to deal only with paragraphs 31 to 34. So I want you to read paragraph 31.

DR RAMAITE: Chair, it reads as follows:

“Adv Ackermann also informed me that soon after he had spoken with Wagenaar, he received a telephone call from an official in the Ministry of Justice and informed that a decision had been taken that the case involving Reverend Chikane, should be put on hold pending the development of guidelines to deal with the TRC cases. I told Adv Ackermann that I have no knowledge of the development of any such guidelines. As far as I was concerned, the Prosecution Policy and the guidelines already existed. The existing guidelines were developed in line with the United Nations guidelines on the role of prosecutors and applied and continued to apply in all cases involving the decision whether or not to prosecute and whether or not to continue or discontinue prosecution.”

COMMISSIONER KGOMO: Yes. Now in paragraph 32, you would see the ramifications now.

DR RAMAITE: Yes.

20 COMMISSIONER KGOMO: Of what Ackermann conveyed, I mean sorry, of what Wagenaar conveyed to Ackerman.

DR RAMAITE: Yes, yes.

COMMISSIONER KGOMO: And can you just read that for us?

DR RAMAITE: It reads as follows:

“I advised Adv Ackermann SC that it would be better to

wait and have a better understanding of what exactly what happening. Shortly after I have spoken with Adv Ackermann SC, I received a telephone call from the Minister of Justice, Ms Bridget Mabandla. She told me that there is a Task Team which was appointed by the Directors-General Forum to develop a mechanism to deal with TRC cases. I expressed to the Minister my concern that any process or mechanism which involves the Executive or the Justice and Security Cluster would amount to encroaching into the [indistinct] prosecutorial decision making and will be a violation of prosecutorial independence as enshrined in section 179 of the Constitution. The Minister nevertheless insisted that the prosecution of all TRC cases must be put on hold until the development and adoption of the guidelines.”

COMMISSIONER KGOMO: Yes. 33?

DR RAMAITE: 33:

“Subsequent to my telephone call with the Minister, I called Adv Ackermann and told him that I received an instruction from the Minister that the investigation and prosecution of all TRC cases must be put on hold, pending the development and adoption of guidelines. I told Adv Ackermann SC that my understanding was that an [indistinct] moratorium has been placed by Government on all TRC cases and that until it was

lifted, we have no choice but to wait.”

COMMISSIONER KGOMO: Yes. Now you acting on verbal instruction, is that all that you acted upon? Minister Mabandla before you conveyed this to Ackermann, had not given you anything in writing and you did not demand anything in writing?

DR RAMAITE: She did not give me anything in writing, but I did request to have and I recall this, I might have, I might not have put it, I requested her to provide me with that in writing but she then said she will but it never came.

10 COMMISSIONER KGOMO: But why did you act upon the verbal instruction, I mean with the very firm and specific knowledge that you express in these paragraphs that you have read? Say to her, ‘No, no, I am not doing anything until I receive something from you in writing?’

DR RAMAITE: Well Commissioner, I kept on waiting and I mean I tried to call her office and after that conversation, but the letter never came until I vacated my acting, my acting stint, position.

COMMISSIONER KGOMO: And when did that remain [indistinct] ...[intervenes]

DR RAMAITE: I think I might have forgot ...[intervenes]

20 COMMISSIONER KGOMO: When did that happen ...[intervenes]

DR RAMAITE: Six months or so, six months and it could have six, seven months, ja.

COMMISSIONER KGOMO: Yes, okay. Then read paragraph 34, we are concluding with that paragraph.

DR RAMAITE:

“After the call from the Minister of Justice and my discussion with Adv Ackermann, all TRC cases which should be handled by the PCLU were accordingly placed on hold pending the development and formulation of guidelines. My understanding was that the guidelines were in relation to cases arising from conflicts of the past. As I understood, they were to be incorporated as amendments to the existing Prosecution Policy.”

10 COMMISSIONER KGOMO: Yes. Now we learned and you can say whether this is correct, the moratorium was lifted in 2005. Would that be correct?

DR RAMAITE: Yes, that is after the publication and coming to operation of the amendments to the guidelines.

COMMISSIONER KGOMO: Now let us just look at why everyone speaks of moratorium, but let us just look at what the definition of moratorium is:

20 “A moratorium is a temporary official suspension or delay of a specific activity, law or legal obligation declared by a government business or a government body. It essentially presses the pause button to allow time for review, crisis management of financial recovery before normal operations resume.”

Would you argue against that definition?

DR RAMAITE: No, I would not, it is correct.

COMMISSIONER KGOMO: And to your knowledge, from the time that you had this engagement with Adv Ackermann about what attorney Wagenaar has conveyed to you until the upliftment of the moratorium, was there any prosecutions?

DR RAMAITE: No, there were no prosecutions.

COMMISSIONER KGOMO: There were no prosecutions as a result of the moratorium, otherwise it would not be a moratorium?

DR RAMAITE: Yes, that is correct.

COMMISSIONER KGOMO: Okay, thank you. Thank you,
10 Chairperson.

COMMISSIONER GABRIEL: And if I understand your evidence correctly Dr Ramaite, this also applied to investigations of matters which stopped during that period of the moratorium?

DR RAMAITE: Yes.

COMMISSIONER GABRIEL: Okay, thank you. Thank you.

CHAIRPERSON: Dr Ramaite, thank you once again for having come to give evidence before this Commission. You are now excused as a witness.

DR RAMAITE: Thank you Chairperson and Commissioners.

20 CHAIRPERSON: Yes, these proceedings are adjourned until tomorrow at 10:00.

INQUIRY ADJOURNS UNTIL 26 MAY 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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- *Where no information provided, names transcribed phonetically.*
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MzansiSA Business Solutions
Arbour Square
Cnr Melle & Juta Street
Ground Floor, Office 3
Braamfontein, 2001
TEL: 011 339 1289
E-mail: transcription@mzanzisa.com
E-mail: mzanzisa1@gmail.com