

**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 Mirriam Makeba & Helen Joseph Street,
Newtown, Johannesburg

BEFORE THE COMMISSION:

The Honourable Justice Sisi Khampepe (Judge RTD) – Chairperson

The Honourable Justice Frans Diale Kgomo (Judge President RTD)

Adv Andrea Gabriel (SC)

**NOTICE OF APPLICATION IN TERMS OF RULE 3 TO CROSS-EXAMINE DR
RAMAITE SC**

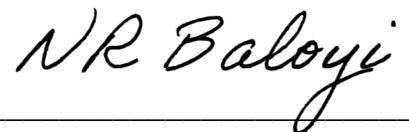
KINDLY TAKE NOTICE that the Minister of Justice and Constitutional Development hereby makes application to the above Honourable Commission in accordance with Regulation 8(3) of the Commission's Regulations read with the Rules of the Commission, for an order in the following terms:

1. That the Commission grant leave to the representatives of the Minister to cross-examine Dr Mashau Silas Ramaite SC.

2. That the Commission grant condonation for any non-compliance with the Rules of the Commission, insofar as the timing of the filing of this application is concerned;
3. Further and/or alternative relief.

TAKE NOTICE FURTHER that the accompanying affidavit of **NYIKO RONALD BALOYI** will be used in support of this application together with the annexure(s) thereto.

DATED AT PRETORIA ON THIS THE 30TH DAY OF APRIL 2026.



THE STATE ATTORNEY

(Attorneys for Minister of Justice & Constitutional Development)

SALU Building

316 Thabo Sehume Street

PRETORIA, 0002

Ref: 00188/25/Z83

Tel: 012 309 1653

Fax: 086 642 7536

Email: RonBaloyi@justice.gov.za

Enq: Mr. J. Mulaudzi

**TO: SECRETARY OF THE COMMISSION
JOHANNESBURG**

AND TO: WEBBER WENTZEL

(Attorneys for Calata Group)

90 Rivonia Road

SANDTON, 2196

Tel: 011 530 5000

Email: Asmita.thakor@webberwentzel.co.za

Nkosinathi.Thema@webberwentzel.co.za

Jos.Venter@webberwentzel.co.za

Lize-mari.Doubell@webberwentzel.co.za

REF: A Thakor/4005095

**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 Mirriam Makeba & Helen Joseph Street,
Newtown, Johannesburg

BEFORE THE COMMISSION:

The Honourable Justice Sisi Khampepe (Judge RTD) – Chairperson

The Honourable Justice Frans Diale Kgomo (Judge President RTD)

Adv. Andrea Gabriel (SC)

**STATEMENT IN SUPPORT OF AN APPLICATION TO CROSS-EXAMINE
DR MASHAU SILAS RAMAITE SC**

I, the undersigned,

NYIKO RONALD BALOYI

do hereby make the following statement, and under oath that:

NCN

NR

A. INTRODUCTION

1. I am an adult male attorney of the High Court of South Africa and a Senior Assistant State Attorney practicing as such at the **OFFICE OF STATE ATTORNEY**, situated at **SALU BUILDING, 316 THABO SEHUME STREET, PRETORIA**. I act on behalf of the Minister of Justice and Constitutional Development (**the Minister**) before this Commission.
2. The facts contained in this statement are within my personal knowledge, unless the context indicates otherwise, and are to the best of my knowledge and belief, true and correct. I am authorised to make this statement on behalf of the Minister.
3. Where the facts are not within my personal knowledge, they are based on information emanating from the Commission's proceedings and the advice of the Minister's legal representatives, which advice I accept.

B. PURPOSE OF THIS STATEMENT

4. This statement is made according to the Commission's regulatory framework, in support of an application for leave to cross-examine Dr Mashau Silas Ramaite SC (**Dr Ramaite**), in terms of Regulation 8(3) of *the Regulations of the Judicial Commission of Inquiry to inquire into allegations regarding efforts or attempts having been made to stop the investigation or prosecution of Truth and Reconciliation Commission cases* (**Commission's Regulations**) read with Rules 3.7 and 11.2 of the *Rules of the Judicial Commission of Inquiry to inquire into allegations regarding efforts or attempts having been made to stop the investigation or prosecution of truth and reconciliation commission cases* (**Commission's Rules**).



C. BASES OF THE APPLICATION

5. Dr Ramaite has submitted a statement before this Commission dated 26 November 2025 and subsequently testified before this Commission on 23 February 2026.

6. The following are some of the allegations and testimony of Dr Ramaite which implicate the Minister(s) of Justice and Constitutional Development and/or Department of Justice and Constitutional Development:

6.1 That former Minister Bridgett Mabandla (**Minister Mabandla**) insisted that the prosecution of all TRC-related cases must be put on hold until the development and adoption of guidelines;

6.2 That he understood the instruction from Minister Mabandla to be an effective moratorium placed by Government on all TRC cases;

6.3 That he regarded the imposition of a moratorium by the executive or a member of the executive on the prosecution of TRC cases on the basis of developing and adopting guidelines to deal specifically with these cases, as a form of political interference;

6.4 That the development and formulation of prosecution guidelines and a Committee consisting of Directors-General of the security cluster was inconsistent with section 179(5)(a) and (b) of the Constitution and section 22(1) of the National Prosecuting Authority Act, 1998, and unlawful; and

NUN

NR


- 6.5 That he regarded attempts to involve a body consisting of Directors-General to make recommendation on who to prosecute and who not to prosecute as an encroachment into prosecutorial independence.
7. Flowing therefrom, the Minister seeks to put questions to, solicit answers from, and probe Dr Ramaite on:
- 7.1 His roles and responsibilities for the handling of TRC cases whilst at the National Prosecuting Authority since 1998, including his role as Acting National Director of Public Prosecutions (**Acting NDPP**) from July 2004 to the end of January 2005, as supervisor of the Priority Crimes Litigation Unit, and as Chairperson of the Task Team reviewing TRC-related cases;
- 7.2 His understanding of the interplay between his role as Acting NDPP and that of the Minister in terms of applicable legislation;
- 7.3 His role vis-à-vis the Director-General's Forum and the Inter-departmental Task Team, and the basis of his allegations of political interference by the Directors-General and the executive or members of the executive in the prosecution of TRC cases;
- 7.4 His account of his interaction(s) with former Minister Mabandla, and her alleged instructions to him regarding the hold on the prosecution of TRC related cases pending the development of guidelines; and

NLN

NR

7.5 His account of his interactions with Mr Anton Ackermann regarding the prosecution of the TRC related cases.

D. CONDONATION

8. Rule 3.3.6.3 of the Commission's Rules provides that if the Commission's Evidence Leader intends to present a witness whose evidence implicates or may implicate another person, it must notify the implicated person in writing before the witness gives evidence that if he or she wishes to cross-examine the witness, he or she must within two weeks from the date of the notice, apply in writing to the Commission for leave to do so.
9. Rule 3.4 of the Commission Rules further provides that the application must be submitted in writing to the Secretary of the Commission within fourteen calendar days from the date of the notice referred to in Rule 3.3, and that the application must be accompanied by a statement from the implicated person responding to the witness' statement in so far as it implicates him or her.
10. The above rules deal with an application for leave to cross-examination a witness based on the witness's statement. There is no prescribed timeframe for bringing an application to cross-examine a witness after the witness has testified or given oral evidence.
11. However, should the Commission be of the view that this application does not strictly comply with any prescribed time-period, then the Minister seeks condonation for any such determined non-compliance. 



12. The delay in bringing this application was not overly undue, nor was it occasioned by any disregard for the Commission's Rules or the authority of the Commission.
13. Furthermore, this application will not prejudice Dr Ramaite, given that he was notified at the end of his evidence on 23 February 2026 that he may be recalled to be cross-examined if applications are brought to cross-examine him in due course, and no date has been set for his cross-examination.
14. It was necessary for the Minister's legal representatives to consider not only Dr Ramite's written statement, but also the full body of evidence placed before the Commission, including his oral testimony and that of other witnesses.
15. There is no prejudice to any party and granting condonation will enable a full and fair ventilation of the issues.
16. By contrast, refusing condonation would limit the ability of the Minister to respond to Dr Ramaite's evidence, and will be contrary to the mandate of this Commission.
17. In the circumstances, it is in the interests of justice that condonation be granted.

E. CONCLUSION


18. The questions sought to be posed to Dr Ramaite in cross-examination fall within the Commission's Terms of Reference.

NLN

NR

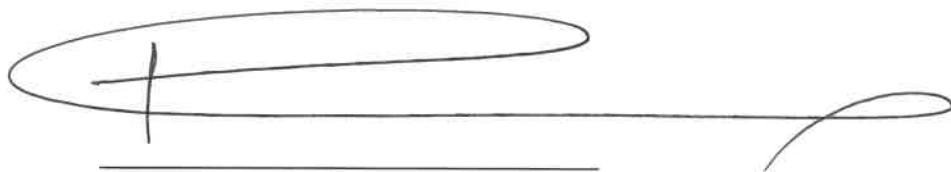
19. It is necessary and in the best interest of the work of the Commission that Dr Ramaite be cross-examined on the issues as set out herein.

20. Accordingly, it is submitted that a proper case has been made out for the Commission to grant leave to the representatives of the Minister to cross-examine Dr Ramaite.



DEPONENT

I hereby certify that the deponent has acknowledged that the deponent knows and understands the contents of this affidavit, which was signed and sworn before me at **PRETORIA** on the **30TH** day of **APRIL 2026**, the regulations contained in Government Notice No. R 1258 of 21 July 1972, as amended, and Government Notice No. R 1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

FULL NAMES: **NYIKO LUCKY NKUNA**

CAPACITY: PRACTISING ATTORNEY

BUSINESS ADDRESS: FRANSCIS BAARD STREET

AREA: PRETORIA, RSA

NYIKO LUCKY NKUNA
COMMISSIONER OF OATHS
PRACTISING ATTORNEY
FLOOR NO. 18, SALU BUILDING
316 THABO SEHUME STREET
PRETORIA



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

HELD AT:

Sci-Bono Discovery Centre, corner Mirriam Makeba & Helen Joseph Street,
Newtown, Johannesburg

APPLICATION FOR CROSS-EXAMINATION OF DR RAMAITE

I, the undersigned,

LUNGELO GUMEDE

1. do hereby declare under oath as follows:

1.1. I am an adult male attorney in the employ of the State Attorney Pretoria, stationed at Salu Building, 316 Thabo Sehume Street, Pretoria. I am the attorney of record for the South African Police Service ("SAPS") in this Commission.

1.2. Due to my acquaintance with the facts of this matter and the issues involved in the present application, I am authorised to depose to this affidavit on behalf of the SAPS.

1.3. The facts deposed herein are, save where the contrary appears from the context, within my personal knowledge and to the best of my belief both true and correct.

1.4. Where I make submissions of a legal nature, I do so in my capacity as

MW¹ [Signature]

an attorney and on advice of counsel on brief for the SAPS in this Commission, which advice I accept as being true and correct.

PURPOSE OF THIS AFFIDAVIT

2. This affidavit is filed in support of the SAPS's application for cross examination of Dr Mashau Silas Ramaite ("Dr Ramaite"). The application is made pursuant to Dr Ramaite's affidavit dated 26 November 2025 and his subsequent oral testimony tendered before this Commission on 23 February 2026.
3. The application is further brought in terms of Regulation 8(3) of the Regulations governing the Commission of Inquiry read with the Commission's rules on cross-examination.

BASIS FOR THIS APPLICATION

4. The evidence tendered by Dr Ramaite confirms the allegations and assertions made against the SAPS and/or its members in matters falling within the Commission's Terms of Reference.
5. In terms of its mandate, the Commission must, in relation to the period 2003, inquire into, make findings, report on, and make recommendations concerning the following allegations:
 - 5.1. whether, why, and to what extent and by whom, efforts or attempts were made to influence or pressure members of the South African Police Service or the National Prosecuting Authority to stop investigating or prosecuting TRC cases;
 - 5.2. whether any members of the South African Police Service or the

W 2 H

National Prosecuting Authority improperly colluded with such attempts to influence or pressure them; and

- 5.3. whether any action should be taken by any Organ of State, including possible further investigations to be conducted or prosecutions to be instituted, where appropriate, of persons who may have acted unlawfully by –
 - 5.3.1. attempting to influence or pressure members of the South African Police Service or the National Prosecuting Authority to stop investigating or prosecuting TRC cases; or
 - 5.3.2. members of the South African Police Service or the National Prosecuting Authority colluded with or succumbed to attempts to influence or pressure such members to stop investigating or prosecuting TRC cases; and
- 5.4. whether, in terms of the law and fairness, the payment of any amount in constitutional damages to any person is appropriate.

ASPECTS ARISING FROM DR RAMAITE'S EVIDENCE

6. The relevant aspects arising from Dr Ramaite's affidavit and oral testimony which require to be tested by the SAPS are the allegations to the effect that:
 - 6.1. In May 2003 the National Director of Public Prosecutions ("NDPP"), Mr Bulelani Ngcuka, made a determination that all the TRC-related cases in which amnesty had been denied or where no application for amnesty was made be regarded as '*priority crimes*' in terms of Proclamation No. R.25 of 24 March 2003. Some 400 or so investigation dockets were

W 3 K.C.

transferred to the Priority Crimes Litigation Unit (“the PCLU”). Adv Ackermann SC and Chris Macadam, who was assigned as a Deputy Director of Public Prosecutions (“DPP”) in the PCLU, conducted an initial audit of TRC-related cases and identified some 21 cases which required further investigation.¹

6.2. In October 2006 the NDPP, Adv Vusi Pikoli assigned Dr Ramaite to chair a Task Team that was set up to review the TRC-related cases and to further agree on the provision of investigative capacity. The task team met for the first time on 12 October 2006 and consisted of senior officers from SAPS, National Intelligence Agency (“NIA”) and the Department of Justice and Constitutional Development.²

6.3. At the second meeting held on 25 October 2006, Adv Ackermann SC presented an audit report regarding all TRC-related cases which were being handled by the PCLU. The need for investigative capacity to attend to these cases was also discussed. The SAPS representative, Mr Lekalakala, made a commitment that he would discuss the need for investigative capacity with the National Commissioner of Police, Mr Jackie Selebi (“National Commissioner”), and report back at the next meeting.³

6.4. The next meeting was held on 06 November 2006 wherein the *Chikane* matter was discussed for the first time at the said meeting. Mr Lekalakala informed the meeting that the National Commissioner believed that Rev

¹ Paragraph 23: page 239: Bundle 1 for hearings 23 – 27 February 2026

² Paragraph 40: page 243: Bundle 1 for hearings 23 – 27 February 2026

³ Paragraph 41: page 244: Bundle 1 for hearings 23 – 27 February 2026

Chikane was not interested in the prosecution of the persons involved. Adv Ackermann informed the meeting that Rev 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. Dr Ramaite reported the development and outcome of the meeting to Adv Pikoli.⁴

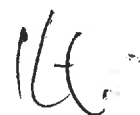
- 6.5. Most strikingly, at the meeting which took place in early December 2006, Commissioner Jacobs informed the meeting that the National Commissioner had told him to make it clear that the function of the Task Team was to make a final recommendation to a "*Committee of Directors-Generals*" which would in turn make a recommendation to the NDPP on the decision(s) to prosecute. Dr Ramaite viewed this as inconsistent with the prosecutorial independence.⁵
- 6.6. Dr Ramaite further viewed the development and formulation of the prosecution guidelines by a Committee consisting of Directors-General of the Security Cluster to be inconsistent with section 179(5)(a) and (b) of the Constitution as well as section 22(1) of the National Prosecuting Authority Act, 1998 and thus unlawful.⁶
- 6.7. Dr Ramaite concluded that the effective investigation and prosecution of the TRC cases were severely hampered by political interference.⁷

⁴ Paragraph 42: page 244: Bundle 1 for hearings 23 – 27 February 2026

⁵ Paragraph 44: page 245: Bundle 1 for hearings 23 – 27 February 2026

⁶ Paragraph 51: page 246: Bundle 1 for hearings 23 – 27 February 2026

⁷ Paragraph 53: page 247: Bundle 1 for hearings 23 – 27 February 2026



7. Further allegations that require examination are found in Dr Ramaite's oral testimony wherein he stated that:

7.1. He had no access to any official documents and thus his affidavit was drafted based largely on the documents that were contained in the affidavits of Adv Ackerman SC and Advocate Pikoli.⁸

7.2. The National Director took the decision that dockets be transferred from the DPP's office where they were dumped at the Office of the NDPP.⁹ These were the dockets that came from the Goldstone Commission.

7.3. His task was mainly supervisory and that he was not involved in the day to day operations such as decision making and the actual prosecutions.¹⁰ Adv Ackerman and Adv Macadam provided him with the monthly reports which were presented every month before the Executive Committee of the National Prosecuting Authority, which committee was chaired by the NDPP.¹¹

7.4. Adv Pikoli gave him the important task of chairing the task team that was set up to review the TRC-related cases and get an agreement with the Police for provision of investigative capacity.¹² The role of the Police in the task team was to provide investigative capacity.¹³

⁸ Transcript 23 February 2026: page 3 from lines 1 to 3

⁹ Transcript 23 February 2026: page 12 from lines 2 to 7

¹⁰ Transcript 23 February 2026: page 18 from lines 20 to 24

¹¹ Transcript 23 February 2026: page 19 from lines 13 to 16

¹² Transcript 23 February 2026: page 37 from lines 1 to 3

¹³ Transcript 23 February 2026: page 38 from lines 9 to 19

W 6
A t -

- 7.5. The reason why the SAPS was reluctant to provide the investigators became clear during the meeting of 6 November 2006 wherein the *Chikane* matter was raised and discussed. Adv Ackermann SC informed the meeting that Rev Chikane had left the matter in the hands of the NPA. The meeting unfortunately ended up without any resolution and with no commitment regarding the provision of investigative capacity. Dr Ramaite reported this development to Adv Pikoli.¹⁴
- 7.6. The real issue was SAPS's unwillingness to provide investigators for any cases and thus not confined to the Chikane matter only.¹⁵ Dr Ramaite interpreted the National Commissioner's unwillingness to provide investigative capacity in the *Chikane* matter as an indication that there was no will to provide investigative capacity in any other matters. This was made clear in the task team.¹⁶ Thereafter, the discussion in the meeting degenerated into only the *Chikane* matter.¹⁷
- 7.7. After General Jacobs raised the National Commissioner's view that the function of the task team was to make a final recommendation to a committee of the Director Generals, which would in turn make recommendations to the NDPP on whether or not to prosecute, he discussed this impasse with Adv Pikoli. They then agreed that Adv Pikoli

¹⁴ Transcript 23 February 2026: page 40 to 41 from lines 1 to 8

¹⁵ Transcript 23 February 2026: page 42 from lines 1 to 3

¹⁶ Transcript 23 February 2026: page 42 from lines 16 to 25

¹⁷ Transcript 23 February 2026: page 43 from lines 1 to 10



7



should directly approach the National Commissioner to resolve that issue.¹⁸

7.8. As the chair of the Task Team, he could not take matters any further as they were awaiting the feedback arising from Adv Pikoli and the National Commissioner's meeting.¹⁹ He does not know if the meeting between Adv Pikoli and the National Commissioner ever materialised.²⁰

7.9. From his knowledge as part of the NPA's Executive Committee, the impasse relating to the appointment of investigators by the SAPS was never really resolved.²¹

7.10. He confirmed that he was aware that after Adv Ackermann SC and Macadam approached the Head of Detective Services ("Commissioner de Beer") as early as 2003, both the DSO and the SAPS had declined to provide investigative capacity.²²

7.11. He was not aware if an instruction from the President ever came pursuant to Commissioner de Beer's communication to Adv Ackermann and Macadam, to the effect that the SAPS would only take on cases if the President directed them to do so in writing.²³

7.12. He confirmed that the underlying reason why Adv Pikoli had requested him to attend the task team meetings was due to the animosity between

¹⁸ Transcript 23 February 2026: page 45 from lines 1 to 8

¹⁹ Transcript 23 February 2026: page 47 from lines 6 to 18

²⁰ Transcript 23 February 2026: page 48 from lines 11 to 14

²¹ Transcript 23 February 2026: page 54 from lines 7 to 14

²² Transcript 23 February 2026: page 72 from lines 5 to 21

²³ Transcript 23 February 2026: page 73 from lines 1 to 9

the representatives of SAPS and others towards Adv Ackermann SC. He further stated that there were even objections to Adv Ackermann's presence at the meetings of the Task Team and thus his presence would help get things moving. ²⁴

8. In summation, Dr Ramaite makes the following allegations in relation to the SAPS and/or its members:

8.1. He views General Jacobs' role in conveying the view of the National Commissioner about the function of the Task Team in relation to the Forum of the DG's as political interference;

8.2. The SAPS's refusal to provide investigators throughout his involvement in the TRC cases as amounting to political interference and that the *Chikane* matter was a case in point.

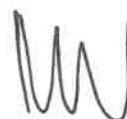
CROSS EXAMINATION FOCUS

9. Flowing from Dr Ramaite's evidence, the following areas of contention will be canvassed during his intended cross examination:

9.1. The various reasons as to why the PCLU was unable to pursue any TRC cases;

9.2. The minutes of the meetings of the ITT and its collapse;


²⁴ Transcript 23 February 2026: page 77 from lines 9 to 25



- 9.3. The *Chikane* matter and a lack of further cases being pursued by the PCLU;
- 9.4. Commissioner de Beer's letter; and
- 9.5. The steps taken by the ITT in respect of the appointment of investigators by the SAPS.

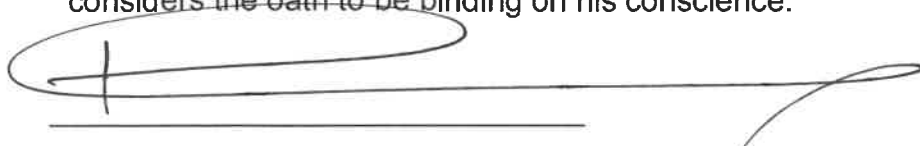
CONCLUSION

10. In the circumstances, it is humbly submitted that it will be in the interest of the SAPS that Dr Ramaite's evidence be tested through cross examination to assist the Commission to make informed findings.



DEPONENT

THUS SIGNED AND SWORN TO before me at Pretoria on this 4th day of **MAY 2026**. The deponent having acknowledged that he knows and understands the contents of this affidavit, has no objection to take the prescribed oath and considers the oath to be binding on his conscience.



COMMISSIONER OF OATHS

FULL NAMES:

CAPACITY:

ADDRESS:

NYIKO LUCKY NKUNA
 COMMISSIONER OF OATHS
 PRACTISING ATTORNEY
 FLOOR NO. 18, SALU BUILDING
 316 THABO SEHUME STREET
 PRETORIA

 10

**THE JUDICIAL COMMISSION OF ENQUIRY INTO ALLEGATIONS
REGARDING EFFORTS OR ATTEMPTS HAVING BEEN MADE TO
STOP THE INVESTIGATION OR PROSECUTION OF TRUTH AND
RECONCILIATION COMMISSION CASES**

**HELD AT: SCI-BONO DISCOVERY, CORNER MIRIAM MAKEBA & HELEN
JOSEPH STREET, NEWTOWN, JOHANNESBURG**

BEFORE:

The Honourable Justice Sisi Khampepe (Judge RTD) - Chairperson

The Honourable Justice Frans Diale Kgomo (Judge President RTD)

Adv Andrea Gabriel (SC)

**APPLICATION IN TERMS OF REGULATION 8(3) AND RULE 3.4 TO CROSS-
EXAMINE DR SILAS RAMAITE SC, WITH A REQUEST FOR CONDONATION**

I, the undersigned,

NYIKO RONALD BALOYI

do hereby make oath and state:

- 1 I am an adult male attorney of the High Court of South Africa and a Senior Assistant State Attorney practicing as such at the **OFFICE OF STATE ATTORNEY**, situated at **SALU BUILDING, 316 THABO SEHUME STREET, PRETORIA**. I act on behalf of the National Prosecuting Authority ("the NPA") before this Commission.



2 The facts deposed to herein fall within my personal knowledge and are, unless the context indicates otherwise, true and correct.

3 I am duly authorized to depose to this statement on behalf of the NPA. This application is made in terms of regulation 8(3) of the Commission's regulations, read with rules 3.3.6.3 and 3.4 of the Commission's rules.

A REASON FOR THE AFFIDAVIT

4 This is an application for leave for the NPA to cross examine.

5 The NPA seeks leave to cross-examine Dr Silas Ramaite SC on certain areas arising from his oral evidence before the Commission on 23 February 2026, as well as on matters that have subsequently emerged from the evidence of other witnesses, particularly from the South African Police Service ("SAPS") and the NPA itself.

6 The NPA further seeks condonation for the late filing of this application, as the necessary factual and institutional context to formulate the grounds for cross-examination was not available within the 14-day period prescribed by rule 11.2 but equally it is clear after the evidence of Adv Vusumzi Pikoli during cross examination and the recent evidence of Reverend Frank Chikane.



B CONDONATION

7 In terms of the Commission's rules, an application to cross-examine a witness must typically be made within 14 days of receiving the witness's statement in terms of rule 3.3.

8 Dr Ramaite SC did file an affidavit, which was disclosed to the parties. However, at the time of his oral testimony on 23 February 2026, the full necessity for cross-examination on behalf of the NPA was not yet apparent. His evidence, while concerning, stood largely as his own account.

9 It is only after the subsequent cross-examination of Advocate Vusi Pikoli, and the recent evidence of Reverend Chikane and Dr. Torie Pretorius, that the need for the NPA to cross-examine Dr Ramaite SC has crystallised. These witnesses have introduced factual contexts, contradictions, and institutional perspectives that were not before the Commission during Dr Ramaite SC's testimony.

10 Critically, the NPA cannot simply call another witness to deal with the allegations arising from Dr Ramaite SC's evidence. The allegations concern his personal actions, omissions, and decisions as Acting NDPP and Deputy NDPP. Only he can answer to what he did, why he did it, and whether his version is accurate. No other witness can be substituted for that purpose.

11 Dr. Ramaite's evidence, when read alongside the subsequent testimony of Adv Pikoli, Rev Chikane, and Dr Pretorius, reveals inconsistencies, omissions, and factual disputes that can only be resolved by putting those matters directly to him.



- 12 The institutional interests of the NPA were not fully explored during Dr Ramaite SC's initial testimony. It is only after a review of the full transcript and the emerging evidentiary record that the necessity for cross-examination on behalf of the NPA has become apparent.
- 13 It is respectfully submitted that it is in the interests of justice and the fact-finding mandate of this Commission to grant condonation. The issues raised by Dr Ramaite SC go to the heart of the NPA's constitutional independence, the conduct of its most senior leadership, and the credibility of its internal decision-making.
- 14 The issues raised by Dr Ramaite SC also go to the heart of the NPA's institutional memory, and the legality of its own policies. The Commission would be disadvantaged without the NPA's ability to test this evidence through cross-examination.

C GROUNDS FOR CROSS-EXAMINATION

- 15 Dr Ramaite SC has made serious institutional allegations: that the NPA's independence was systematically undermined, and that its own policies were constitutionally suspect. The NPA, as an institution, has a right and a duty to respond.
- 16 Dr. Ramaite SC's oral testimony paints a picture of an Acting NDPP who received what he himself characterised as an unconstitutional instruction from the Executive, yet failed to take any meaningful or documented step to resist it. While his personal recollection is relevant, his broader institutional omissions and legal characterisations require testing.



- 17 The NPA does not seek to limit cross-examination to specific areas but, in compliance with the Commission's rules, identifies the following key areas arising from the transcript and the National Prosecuting Authority Act, 1998 (NPA Act), upon which Dr. Ramaite SC must be cross-examined:
- 17.1 The NPA Act;
 - 17.2 His oath of office and legal duties to uphold the law;
 - 17.3 The alleged Minister's Instruction and Section 33(2)(b) of the NPA Act;
and
 - 17.4 Section 179(5) of the Constitution.
- 18 The interests of justice and the truth-finding objective of this Commission require that Dr. Ramaite SC be subjected to proper cross-examination by the institutional NPA. His testimony places the NPA's constitutional independence and institutional conduct squarely in issue. The Commission would be disadvantaged without the NPA's ability to test the completeness, accuracy, and legal correctness of his evidence.
- 19 The Commission's mandate is to uncover the truth regarding efforts to stop TRC-related investigations and prosecutions. It cannot do so without a full and tested record. The evidence of recent SAPS and NPA witnesses has contradicted Dr Ramaite SC's narrative in several implied respects, making cross-examination essential to resolve these factual disputes.

20 Granting this application will allow the Commission to hear directly from Dr Ramaite SC on:

20.1 The legal correctness of his interpretation of the NPA Act.

20.2 Whether the institutional failures he describes were a result of political conspiracy or, alternatively, a reflection of the inherent complexities of a young democracy grappling with transitional justice.

21 It would be a grave injustice to the NPA and to the legacy of the TRC process for Dr Ramaite SC's untested claims to form the basis of the Commission's final report.

D THE INTERESTS OF JUSTICE

22 The NPA accepts that the early post-apartheid period was marked by significant institutional challenges. Staffing shortages, the retention of personnel from the previous era, and the difficulty of prosecuting TRC-related cases in a transitioning society are well-documented realities. Former NDPP Mr. Bulelani Ngcuka himself testified to the tensions inherent in working on TRC cases within an institution still carrying the weight of its past. Reverend Chikane's recent evidence similarly underscored these complexities.

23 Dr Ramaite SC occupied the highest echelons of the NPA, including as Acting National Director of Public Prosecutions and Deputy National Director of Public Prosecutions. His evidence carries significant weight.

24 On his own version, he received an instruction from the Minister of Justice & Constitutional Development to halt all TRC-related prosecutions. On his own version, he failed to record that instruction, failed to resist it, failed to seek legal advice, and failed to report it to any oversight authority. On his own version, he instructed his subordinate to comply with the instruction while expressing only diplomatic concern. Nothing about this has any context.

25 The Commission's truth-finding mandate cannot be fulfilled without a full and tested record. Dr Ramaite SC's evidence, if left unchallenged, may form the basis of findings that affect the institutional reputation of the NPA. Fairness demands that his account be subjected to cross-examination.

26 It is accordingly in the interests of justice that the NPA be granted leave to cross-examine Dr Ramaite SC.

E PRAYER


27 **WHEREFORE**, the NPA prays that the Commission may be pleased to:

27.1 Grant condonation for the late filing of this application.

27.2 Grant the NPA leave to cross-examine Dr Ramaite SC on the areas identified above and any other relevant matters that may arise from his testimony.



27.3 That the Commission grant such further and/or alternative relief as it may deem fit.



DEPONENT

I certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to before me at **PRETORIA** on this the **21ST** day of **MAY 2026**, the regulations contained in Government Notice R1258 of 21 July 1972, as amended, having been complied with.



COMMISSIONER OF OATHS

FULL NAMES:

NYIKO LUCKY NKUNA

CAPACITY:

**COMMISSIONER OF OATHS
PRACTISING ATTORNEY
FLOOR NO. 18, SALU BUILDING
316 THABO SEHUME STREET
PRETORIA**

BUSINESS ADDRESS:

AREA:

