

BEFORE THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO
ALLEGATIONS REGARDING EFFORTS OR ATTEMPTS HAVING BEEN MADE TO
STOP INVESTIGATION OR PROSECUTION OF TRUTH AND RECONCILIATION
COMMISSION CASES.

AFFIDAVIT

I, the undersigned

JÜRGEN KÖGL

Do hereby state under oath that:

1. I am an adult businessman residing in Johannesburg, South Africa.
2. The facts deposed to in this affidavit are within my personal knowledge and are to the best of my belief true and correct.
3. On or about 29 May 2025 the President of the Republic of South Africa, Mr Matamela Cyril Ramaphosa issued the Proclamation Notice 264 of 2025 which established a Commission of Inquiry into allegations regarding efforts or attempts having been made to stop investigation or prosecution of Truth and Reconciliation Commission ("TRC") Cases ("the Commission").
4. The Terms of Reference of the Commission require that the said Commission must inquire, formulate findings, report and make recommendations amongst other things but with specific regard to:

"1.1.....whether, why and to what extend and by whom, efforts were made to influence or pressure members of the South African Police Services or the National Prosecuting Authority to stop investigating or prosecuting TRC cases."...

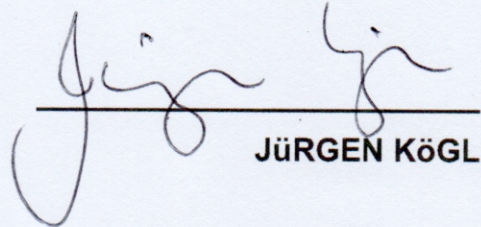
And

"1.2whether any members of the South African Police Service or the National Prosecuting Authority improperly colluded with such attempts to influence or pressure them".



5. I confirm that I have no knowledge of any collusion, influence or pressure on members of the South African Police Service or the National Prosecuting Authority to stop investigating or prosecuting TRC cases. I further confirm that I have never interfered nor was I involved in attempting to prevent or halt any investigation or prosecution in respect of the TRC cases.
 6. I confirm that I acted in the capacity of facilitator between the various stakeholders from 1998 until approximately March 2003, at which time the process was concluded.
 7. In my role as facilitator, my functions were limited to arranging and providing forums for meetings and offering logistical and practical support during the stakeholders' deliberations, involving principals and related parties.
 8. In my capacity as facilitator, I did not contribute to or influence the substance of the deliberations between the parties involved, who at all times retained ownership and responsibility for the content of their respective submissions.
 9. The aforesaid support was rendered voluntarily, in my private capacity and utilising my own material resources.
 10. The deliberations were guided by the provenance provided by the Indemnity Act 35 of 1990 and the Promotion of the National Unity and Reconciliation Act of 1995.
 11. As facilitator at the time, I neither authored, generated, nor assumed ownership of the content arising from the stakeholders' deliberations. Consequently, I have no knowledge of any efforts or attempts made to halt or interfere with the investigation or prosecution of any TRC matters.
 12. The aforesaid is the extent of my knowledge and involvement with regards to the Terms of Reference of the Commission.
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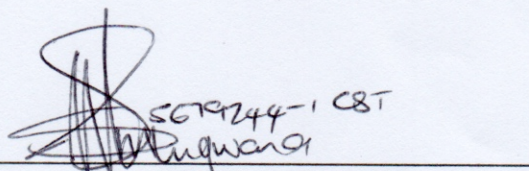
13. In the circumstances, I respectfully reiterate that I am not in a position to assist the Commission in uncovering or advancing the substantive aspects of its mandate, as I possess no direct knowledge of, nor involvement in, the content of the deliberations in question. I trust that the above clarifies my role and position in this matter.


JÜRGEN KÖGL

SIGNED AND SWORN before me at Rosebank on the 23 day of February 2026, the deponent having acknowledged that he knows and understands the content of this Affidavit, the regulations contained in Government Notice R1258 of 21 July 1972, as amended, having been complied with, the deponent having stated that:

- He knows and understands the content of the declaration;
- He has no objection to taking the prescribed oath; and
- He considers the prescribed oath as binding on her conscience
- The deponent thereafter having uttered the following words: *"I swear that the content of this declaration is true, so help me God."*




567244-1 CST
Mlungwana

COMMISSIONER OF OATHS

FULL NAME (IN PRINT): Mlungwana S.
BUSINESS ADDRESS: 15 Sturdee Aven
DESIGNATION: Constable
AREA ROSEBANK

NOTICE IN TERMS OF RULE 3.3 OF THE RULES OF THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS REGARDING EFFORTS OR ATTEMPTS HAVING BEEN MADE TO STOP THE INVESTIGATION OR PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES.

TO: JÜRGEN KÖGL.

EMAIL: ajkog1@me.com

INTRODUCTION AND ESTABLISHMENT OF THE COMMISSION

1. On 29 May 2025, the President of the Republic of South Africa issued Proclamation Notice No. 264 of 2025, establishing the Judicial Commission of Inquiry into Allegations Regarding Efforts or Attempts Having Been Made to Stop the Investigation or Prosecution of Truth and Reconciliation Commission Cases (“the Commission”).
2. The Commission was appointed in terms of section 84(2)(f) of the Constitution, 1996. The Honourable Madam Justice S. Khampepe serves as Chairperson, with the Honourable Mr Justice F. D. Kgomo and Adv A. Gabriel SC as members.
3. In terms of its mandate, the Commission is required to inquire into, make findings, report on, and make recommendations concerning allegations that, since 2003, efforts or attempts were made to influence, pressure, or otherwise improperly

prevent the South African Police Service and/or the National Prosecuting Authority from investigating or prosecuting TRC cases. The Terms of Reference further require the Commission to determine whether officials within these institutions colluded in such efforts, and whether further action—including investigations, prosecutions, or the payment of constitutional damages—is warranted.

4. Among the parties identified as having a substantial interest in these proceedings is Mr Imtiaz Ahmed Cajee.

NOTICE IN TERMS OF RULE 3.3

5. This notice is issued in terms of Rule 3.3 of the Rules of the Commission, read with the Regulations made under Government Notice R.278 of 2025.
6. The Commission's Evidence Leaders intend to present evidence of one or more of the applicants in the case of **Lukhanyo Bruce Matthews and others v Government of the Republic of South Africa and Others** Case no 2025-005245 ("the Calata case").
7. Amongst the allegations made concerning you and related to the Terms of Reference of the Commission (ToR) are,

Deliberations on a further immunity

376. During July 1998, former SADF Generals called for a blanket amnesty for all sides. See the SAPA press release dated 14 July 1998 annexed hereto marked FA54.

377. In March 1999, the TRC denied the amnesty application of 37 ANC leaders, which included then Deputy President Mbeki.

377.1. The application was denied since it did not disclose any individual offences. See the SAPA press release dated 4 March 1999 annexed hereto marked FA55.

377.2. Shortly thereafter, Mbeki informed Parliament that government was considering further amnesty proposals that had been put forward by SADF generals. See the article titled 'Generals, ANC members talk about amnesty' dated 1 January 2002, annexed hereto marked FA56.

377.3. Mbeki also sought to adjust the TRC legislation to allow for the grant of amnesty for collective responsibility, without the need for individual disclosure. An ANC spokesperson suggested that the SADF generals had promised to "come clean" but only if they were guaranteed amnesty. See the SAPA press release titled "Mbeki wants changes to TRC rules on amnesty" dated 22 May 1999 annexed hereto marked FA57.

378. Bubenzer in his book in a chapter titled "Bargaining Over the TRC's Legacy" detailed secret consultations between the ANC government and representatives of the SADF and the security police from 1998 until early 2004. The main aim appeared to be to reach agreement on a legislative solution on how to avoid prosecutions in the wake of the TRC. A copy of the relevant extracts from Bubenzer's book are annexed hereto marked FA58.

379. According to an interview conducted by Bubenzer with former police commissioner and head of the Foundation for Equality Before the Law (FEL), Johann van der Merwe, in Pretoria on 5 May 2006, former President F.W. de Klerk assumed a central role in the consultations. According to Bubenzer:

379.1. De Klerk often consulted with President Mbeki directly or with other highranking members of the government.

379.2. The FEL's aim was to find a solution to avoid the prosecution of former members of the SAP who had not received amnesty.

379.3. Since a general amnesty was not politically or constitutionally feasible, the FEL proposed an indemnity procedure based on admission of the crime committed, but without the need to make full disclosure.

379.4. The talks continued until 2004, without an agreement being reached.

380. However, the approach proposed by FEL in relation to the 'admission of crimes but no full disclosure' was adopted by the Pardons Reference Group established by President Mbeki under the Special Dispensation for Political Pardons in 2007.

381. According to an interview conducted by Bubenzer with former SADF General Jan Geldenhuys (Geldenhuys) in Pretoria on 10 May 2006, consultations between government and a group of high-ranking former generals of the SADF commenced during 1998.

381.1. Former Chief of the SADF, General Constand Viljoen was approached by Jacob Zuma, then Deputy President of the ANC with the aim of discussing questions of criminal accountability arising from the past.

Viljoen referred Zuma to Geldenhuys and the Contact Bureau (known in Afrikaans as the Kontak Buro).

381.2. As with the police negotiations, these talks were aimed at finding a mutual arrangement to avoid post TRC trials through a new indemnity mechanism. The government was represented by Jacob Zuma, who became Deputy President of South Africa in June 1999 (Zuma).

381.3. The talks were mediated and facilitated by Johannesburg businessman Jürgen Kögl, who was closely connected to leading ANC members.

Apart from Zuma, other high-ranking members of the ANC, such as Penuell Maduna (then Justice Minister), Mathews Phosa, Sidney Mufamadi and Charles Nqakula also

participated from time to time. On various occasions Thabo Mbeki was also present, initially in his capacity as Deputy President, and later as President.

381.4. The SADF was represented by Geldenhuys and other generals. Both sides had legal advisers present. The talks continued until early 2003, with a few follow-up meetings held in 2004.

381.5. Bubenzer explored the motivation of the government in reaching out to the SADF generals in two interviews conducted with Jürgen Kögl on 12 May 2006 and 14 June 2006. Apparently, the government was, for amongst other reasons, interested in persuading the generals to come clean on its past third force operations in KwaZulu Natal and in particular to disclose the sites of arms caches, which could be used in future political violence.

382. On 21 December 2019, investigative journalist and author, Michael Schmidt, conducted an interview in Hartbeespoort with Major-General Dirk Marais (Marais), former Deputy Chief of the Army and the Convenor of the SADF

Contact Bureau. Schmidt's confirmatory affidavit is annexed hereto marked FA59. Schmidt writes in his book 'Death Flight' that, according to Marais, the government was seeking a quid pro quo. Copies of the relevant extracts from 'Death Flight' are annexed hereto marked FA60. Marais claimed that Mbeki indicated in their discussions that:

"They don't want us to be charged – and they don't want them to be charged"

383. Marais said in the interview that on his side at the talks were former Defence Minister General Magnus Malan, former Chiefs of the Defence Force Generals

Constand Viljoen and Jannie Geldenhuys, and former Chief of the Army General Kat Liebenberg – although sometimes they brought in other generals such as former Surgeon-General Niël Knobel, or one of the former Chiefs of the Air Force, as required.

384. Marais told Schmidt that on the ANC/Government side, Mbeki's team usually consisted of the "security cluster", which initially included Minister of Defence Joe Modise, Minister of Safety and Security Sydney Mufamadi and Minister of Justice Dullah Omar. According to Schmidt, when Mbeki became President, Zuma's "security cluster" team would most likely have included Minister of Defence Mosiuoa Lekota, Minister of Justice Penuell Maduna (replaced by Brigitte Mabandla in Mbeki's second Cabinet), Minister of Intelligence Joe Nhlanhla (replaced by Ronnie Kasrils), and Minister of Safety and Security Steve Tshwete (replaced by Charles Nqakula).

385. On 5 May 2020, former Minister of Intelligence Kasrils emailed Schmidt regarding the ANC-SADF talks advising that he had 'no knowledge of virtually all the meetings and developments arising from such talks.' Schmidt no longer has a copy of this email.

386. Schmidt notes in his book, that during the interview, Marais showed him an unsigned handwritten letter he prepared for the signature of the former Chiefs of the SADF in early 2004. Marais permitted Schmidt to take photographs of the letter. The letter was addressed to Deputy President Zuma, and it recalled the initiation of the series of secret, high-level talks between the government and former SADF Generals, a copy of which is annexed hereto marked FA61.

The letter stated inter alia:

"A process of communicating between the ANC initially and the government lately with the former chiefs of the SA Defence Force was initiated by the Deputy President of South Africa Mr T. Mbeki when he approached General C.L. Viljoen in 1997 (sic). General Viljoen after consultation with the former Chiefs of the Defence Force within the structure of the SADF Contact Bureau conveyed our preparedness to

communicate with Mr Mbeki in his capacity as Deputy President and President of the NEC of the ANC.

A convenor, Mr J. Kögl, apparently empowered by Mr Mbeki, arranged for a meeting at his house in Johannesburg. That meeting was in the form of discussions followed by a dinner hosted by Mr Kögl. It was attended by Mr Mbeki and various of his ministers as well as the Premier of Mpumalanga Mr M. Phosa, [leader of an ANC lobby arguing that its members be protected from prosecution], and by us the former Chiefs of the SADF.

There was enthusiastic agreement that the commenced communication should be continued and that more meetings should follow. We, the former Chiefs of the SADF, being aware of the Deputy President's tight work schedule, suggested that he appoint one of his ministers to represent the ANC in future deliberations. Mr Mbeki, however expressed the opinion that the process of communication, which was mutually agreed to, was so important to him that he preferred to remain the prime representative of the ANC in future deliberations.

Many deliberations followed and mutual agreements were reached. When Mr Mbeki could not attend, he authorised somebody, usually a minister, and later on when he became president in 1999, you [Deputy President Jacob Zuma] represented him.

In execution of mutual decisions, much effort was put in by the Contact Bureau and some of your ministers to prepare papers and submissions for acceptance by the Deputy President and later on the President.

In similar fashion, we the former Chiefs of the SADF as members of the forum were flown to Cape Town for discussions with Ministers Maduna and Nqakula and thereafter with you on 17 February 2003."

387. Former Premier of Mpumalanga, Mr Mathews Phosa, in a telephonic call to Schmidt on 2 June 2020, denied the claim of Marais that he had been involved in an ANC lobby pursuing protection from prosecution.

388. Bubenzer writes that Geldenhuys and Kögl advised him that by the end of 2002, the consulting parties had agreed on a detailed proposal for the enactment of a legal mechanism which amounted to a new amnesty. It envisaged an amendment to the Criminal Procedure Act to allow for a new

kind of special plea based on the TRC's amnesty criteria, followed by an inquiry by the presiding judge.

389. By late 2002 the proposal and draft legislation had been finalised by the Justice Department and was ready to be presented to Parliament for enactment. However, it first had to be approved by President Mbeki, who ultimately rejected it in early 2003. Nonetheless, as has been set out above, the essential ideas remerged in the subsequent amendments to the Prosecution Policy.

390. At the ANC's 51st national conference in December 2002 in Stellenbosch, a discussion of guidelines for a broad national amnesty, possibly in the form of presidential pardons, was scheduled. According to the head of the ANC presidency, Smuts Ngonyama, the ANC supported the idea of introducing a new amnesty law. He added that his party was generally against running trials in the style of the Nuremberg trials, since this would occur at the cost of nation building. I attach hereto a copy of a news article marked FA62.

391. Prior to Mbeki's rejection of the amnesty legislation in early 2003, the SADF generals appeared to be on the brink of a breakthrough. Marais advised Schmidt in the aforesaid interview that after 7 years of negotiations, the generals and the Cabinet's security cluster had agreed on a legal framework for a post-TRC amnesty process. According to Marais the government arranged for "a law writer in Cape Town" to come up with the new legislation.

392. On 17 February 2003, a delegation of SADF generals led by Geldenhuys met with Justice Minister Penuell Maduna and Police Minister Charles Nqakula in

Cape Town. The law drafter (a state official in the Department of Justice) was called in to read out the proposed legislation. Marais indicated to Schmidt:

“... and when he finished, we said ‘But that’s got nothing to do with us’ ... because they [said] they will grant amnesty to everyone who will make a full statement of his [crimes committed] so General Geldenhuys said ‘No, we don’t need that. All our people who wanted to make statements and ask for forgiveness already went to the TRC. Our other people ... don’t have to do that, so this means nothing to us The whole thing collapsed there This whole conversation collapsed...” (At page 146 of Death Flight).

393. According to Schmidt, the differences between the sides were now irreconcilable: the generals wanted a post TRC law granting a new blanket amnesty with no disclosure required – but the government appeared only willing to offer an amnesty based on full disclosure to be decided on a caseby-case basis.

394. The talks between the SADF Generals and the government came to a close during 2004, without resolution, as was evident from Marais’ 2004 letter to Deputy President Zuma referred to above:

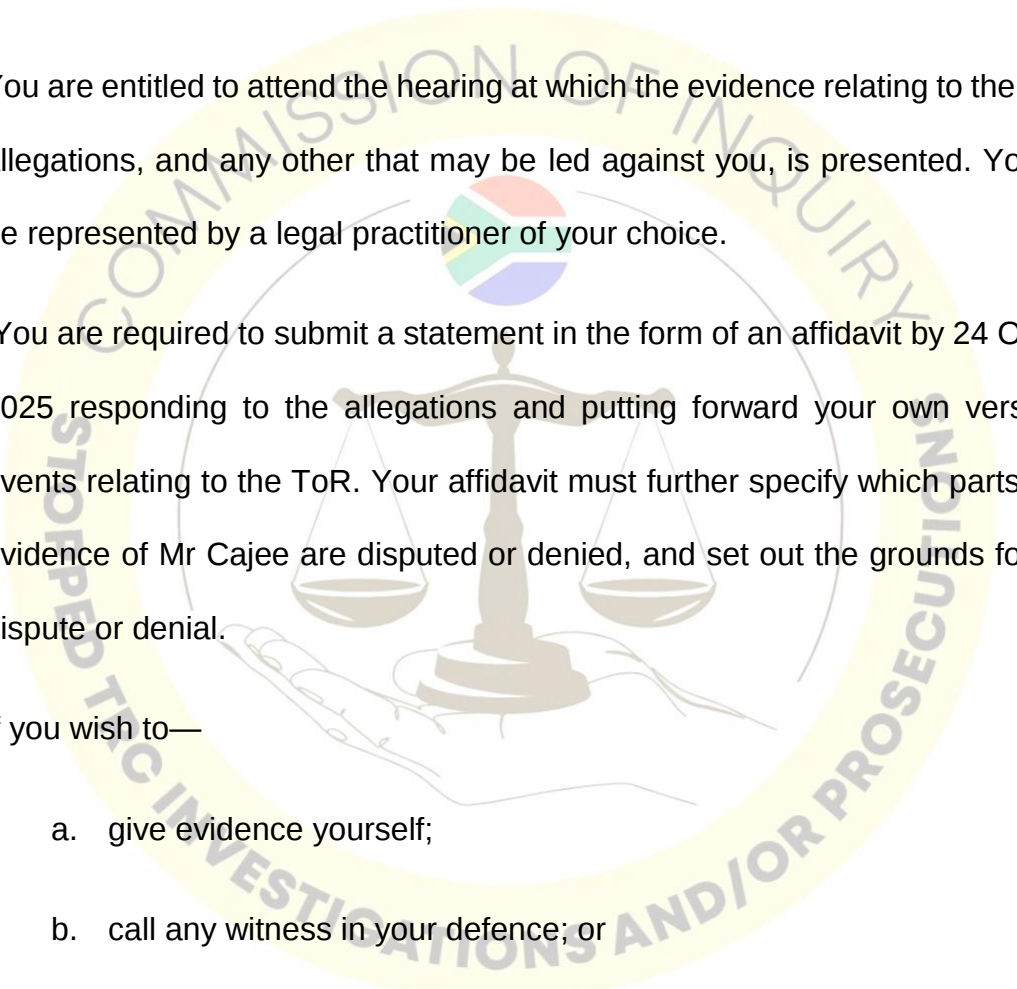
“In spite of such submissions and apparent acceptances, little notable implementation was effected by the ANC or government. ...

Agreement on outstanding matters was again confirmed, yet more than a year later, no sign of implementation has become apparent, neither was there any effort on your behalf to inform us of any progress which could lead to eventual implementation.

In view of the above, you are requested to inform us of the desirability from your point of view to keep the door open for further co-operation.”

395. Deputy President Zuma did not respond to the letter.

YOUR RIGHTS AND OBLIGATIONS

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8. You are entitled to attend the hearing at which the evidence relating to the above allegations, and any other that may be led against you, is presented. You may be represented by a legal practitioner of your choice.
 9. You are required to submit a statement in the form of an affidavit by 24 October 2025 responding to the allegations and putting forward your own version of events relating to the ToR. Your affidavit must further specify which parts of the evidence of Mr Cajee are disputed or denied, and set out the grounds for such dispute or denial.
 10. If you wish to—
 - a. give evidence yourself;
 - b. call any witness in your defence; or
 - c. cross-examine the witness whose evidence implicates you,you must apply in writing to the Commission for leave to do so within fourteen (14) calendar days of this notice, accompanied by your affidavit.

11. You may also apply for leave to make written and/or oral submissions regarding the findings or conclusions that the Chairperson should draw from the evidence relating to you.

COMMUNICATION WITH THE COMMISSION

12. All correspondence, applications, and affidavits must be directed to: The Secretary of the Commission at secretary@trc-inquiry.co.za

DATED at **Sci-Bono Discovery Centre, Newtown** Johannesburg on this 21st day of October 2025.

For and on behalf of the Evidence Leaders to the Judicial Commission of Inquiry into Allegations Regarding Efforts or Attempts Having Been Made to Stop the Investigation or Prosecution of TRC Cases.