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Directorate for Priority Crime Investigation (DPCI) and Anti-Corruption Task Team (ACTT) progress report on investigations in the Limpopo Province Intervention issued in terms of section 100 (1) (b) of the RSA Constitution.

Parliament Committee: Select Committee on Finance

Date: 22 August 2014

Time: 09:00

Venue: V227, Old Assembly building Parliament Cape Town.

- Hon. Chairperson of Select Committee on Finance
- Hon. Members of Select Committee on Finance
- Colleagues
- Ladies and Gentlemen

INTRODUCTION

This report serves to inform members of the Select Committee on Finance on the progress achieved by the Anti-Corruption Task Team ("ACTT") in the Limpopo Intervention and the challenges relating to criminal investigations and disciplinary proceedings.

PRIORITY AREAS

The following provincial departments were identified by National Treasury as priority areas for the ACTT investigations in January 2012:

- Department of Education
- Department of Transport & Road Agency of Limpopo
- Department of Health & Health & Social Development
- Department of Public Works
- Provincial Treasury

During the execution of the investigation in the Limpopo Province, the ACTT also identified the Limpopo Department of Co-operative Governance, Human Settlements and Traditional Affairs ("**COGHSTA**") as another risk area in respect of developing low-cost housing for consideration.

PROGRESS REPORT

These are the achievements and challenges of the Anti-Corruption Task Team since the last presentation of 15 October 2013 to the Select Committee on Finance until 15 August 2014.

CRIMINAL CASES

1. LIMPOPO SECTION 100 CRIMINAL CASES: DEPARTMENT OF ROADS & TRANS.

- | | |
|--------------------------------------|----|
| • Total No. of cases | 14 |
| • Concluded & Judgment issued | 4 |
| • On trial in court | 5 |
| • Discharged & Judgment under review | 1 |
| • Still under investigation | 4 |

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NO.	CASE/ENQUIRY NO.	COURT	ACCUSED	STATUS AS AT 15 AUGUST 2014
1	Polokwane CAS 1393/07/2011 (On-Point Leg)	Yes	5	Remanded to 2014-09-30 for trial in the High Court
2	Polokwane CAS 1393/07/2011 (Ocean site Leg)	Yes	4	Matter finalized in court not guilty and discharged: Judgment taken on review
3	Polokwane CAS 57/05/2012 (Mankele Bridge) Actual Loss:	Yes	3	On trial and Remanded to 01 to 05/09 /2014
4	Polokwane CAS 1086/08/2011 (Potholes) Actual Loss: R63 M	Yes	2	Remanded for trial to 2014/09/18
5	Polokwane CAS 353/04/2013 (Potholes)	Yes	1	Finalised and found guilty and recovery of R60 000
6	Polokwane CAS 356/04/2013 (Potholes)	Yes	1	Finalised and found guilty and recovery of R40 000
7	Polokwane CAS 349/04/2013 (Potholes)	Yes	1	Heard in court and remanded to 2014/09/03
8	Polokwane CAS 355/04/2013 (Potholes)	Yes	2	Finalised and found guilty and recovery of R250 000
9	Polokwane CAS 351/04/2013 (Potholes)	Yes	1	Heard in court and remanded to 2014/09/03
10	Westenburg CAS 41/10/2012 (GAAL)	Yes	5	Finalised and found guilty and recovery of R199 000
11	SEOU Enq 2/08/2012 (Selby Construction) Actual Loss: R6.3 M			It has been put on hold for purpose of criminal proceedings to be observed
12	Polokwane CAS 3/02/2013 (Liviero) Actual Loss: R3.7 M			Investigation is 80% complete
13	Polokwane CAS 406/01/2013 (Edwin Construction) Actual Loss:R186 M			Investigation is 70% complete
14	Polokwane CAS 587/02/2013 (Nyari) Actual Loss: R1.3 M			Investigation is 40% complete

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2. LIMPOPO SECTION 100 CRIMINAL CASES: DEPT. OF HEALTH

- Total No. of cases 14
- On trial in court 2
- Closed & refer for DC proceedings 8
- Still under investigation 4

NO.	CASE/ENQUIRY NO.	COURT	AGGUSED	STATUS AS AT 15 AUGUST 14
1	Polokwane CAS 583/06/2012 (Mgababa Trading) Actual Loss: R3.4 M			Closed, Nolle Prosequi
2	Seshego CAS 592/06/2012 (Pharmaceutical Depot) Actual Loss:		1	Provisionally Withdrawn, awaiting forensic report.
3	Polokwane CAS 582/06/2012 (Tsepo Consulting) Actual Loss: R8.8 M	Yes	3	Remanded to 2014/11/14 for trial
4	Polokwane CAS 227/05/2012 (Trispin Solution) Actual Loss:R 7.5 M	Yes	3	Remanded to 2014/11/14 for trial
5	Polokwane CAS 580/06/2012 (Buhle Waste) Actual Loss:R 36 M			Closed
6	SEOU Enq 1/12/2012 (PMU: Sakhiwo) Actual Loss: R1 B			Closed - No crime, Referred to National Treasury
7	Polokwane CAS 1085/08/2011pot (Pharmaceutical Depot)			Closed - No crime detected
8	Polokwane CAS 1085/08/2011 (Drawtex Leg) Actual Loss: R44 M			Investigation is 50% complete and to be concluded November 2014
9	SEOU Enq 9/07/2012 (Telemedecine) Actual Loss: R 740 000			Closed - No crime detected
10	Polokwane CAS 581/06/2012 (Intaka) Actual Loss: R2.8 M			Closed - No crime detected
11	Polokwane CAS 584/06/2012 (Zwakala) Actual Loss: R 740 000			Closed - No crime detected
12	SEOU Enq 3/03/2013 (Folang Medical) Actual Loss: R42 M			Investigation is 40 %Complete and to completed by November 2014

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NO.	CASE/ENQUIRY NO.	COURT	ACCUSED	STATUS AS AT 15 AUGUST 14
13	SEOU Enq 2/12/2012 (Kgaugelo Wa Manako) Actual Loss: R290 000			Closed - No crime detected
14	Polokwane CAS 407/01/2013(Mmashela Building) Amount: Unknown			Investigation is 75 %Complete

3. LIMPOPO SECTION 100 CRIMINAL CASES: DEPARTMENT OF EDUCATION

- Total No. of cases 7
- Under Review by NPA 2
- Closed & refer for DC proceedings 2
- Still under investigation 3

NO.	CASE/ENQUIRY NO.	COURT	ACCUSED	STATUS AS AT 15 AUGUST 14
1	Polokwane CAS 249/06/2012 (Fast Track) Actual Loss: R95 M			Investigation 80 %Complete
2	Polokwane CAS 891/04/2012 (Aurecon JV) Actual Loss: R95 M			Investigation 80 %Complete
3	Polokwane CAS 893/04/2012 (Mathoti Construction) Actual Loss: R70 M			NPA finalising charge sheet
4	Polokwane CAS 914/11/2009 (Bila Enterprise) Actual Loss: R60 M			Withdrawn
5	Polokwane CAS 88/05/2012 (HeyMath) Actual Loss: R12.5 M			NPA finalising charge sheet
6	Polokwane CAS 892/04/2012 (Edu Solutions) Actual Loss: R301 M			still under Investigation new prosecutor appointed
7	Polokwane CAS 139/05/2012 (Theft of Laptops) Actual Loss: R14 M			Closed

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4. LIMPOPO SECTION 100 CRIMINAL CASES: DEPARTMENT OF PUBLIC WORKS

- Total No. of cases 4
- Under Review by NPA 1
- Closed & refer for DC proceedings 2
- Forensic Report of NT under Review 1

NO.	CASE/ENQUIRY NO.	COURT	ACCUSED	STATUS AS AT 15 AUGUST 14
1	Polokwane CAS 619/05/2012 (Mr. Mphahlele) Actual Loss: R70 M	Yes	3	Provisionally withdrawn awaiting forensic report for additional evidence to be presented
2	Polokwane CAS 250/05/2012 (Nhluvuko: Asset Register) Actual Loss: R43 M			Still under review by NPA for possible charges
3	Polokwane CAS 618/05/2012 (Rental of Buildings) Actual Loss: R13 M			Closed, Nolle Prosequi
4	Polokwane CAS 629/06/2012			Withdrawn

ADDITIONAL NEW CRIMINAL CASES SINCE THE LAST SCOF PRESENTATION.

NO.	CASE/ENQUIRY NO.	COURT	ACCUSED	STATUS AS AT 15 AUGUST 14
1	Polokwane CAS 76/08/2014 (Department of Education feeding scheme) Actual Loss: R23 M			Under Investigation 40% complete
2	Polokwane CAS 141/12/2013 (Data Master Various Departments) Actual Loss: R9 M	yes	2	Remanded to 12/09/2014
3	Polokwane ENQ 04/2/2013(COGHSTA) Actual Loss: R16 M			Under Investigation 40% complete
4	Polokwane CAS 916/10/2012 (COGHSTA) Actual Loss: R72 M			With prosecutor for review

CRIMINAL CASES: CHALLENGES

- Challenges in accessing funding for the ACTT projects. National Treasury to be engaged for assistance to resolve the problem.
- Delays in the procurement processes for engagement of expert witnesses for criminal cases.
- Non-cooperation by certain witnesses
- Certain witnesses being suspects in other matters causes delay in finalization of other cases
- Non availability of prosecutors on certain cases (limited capacity at NPA)
- Non availability of original documents on certain cases
- The Polokwane court in the Limpopo Province was burnt down, which resulted in limited courts for cases to be heard.

LIMPOPO BAS IRREGULARITIES

National Treasury further established in the audit of Limpopo Provincial Treasury that, out of 10 Limpopo PMG accounts, 6 accounts were used to process both credit transfers and other electronic bank transfers (EBT) directly on FNB on-line system, without authorisation or disbursements on Basic Accounting System (BAS) the following were the affected departments:

1. Office of the Premier
2. Department of education
3. Department of Public Works
4. Department of Roads and Transport
5. Department of Safety and Sports

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6. Department of Agriculture
- The investigation found that the Departments processed journals to rectify the irregular on-line credit transfers and payments in the BAS to an amount of **R23 million**.
 - However, the payments to the value of **R43 million** could not be traced to any journals processed, follow-up is still in progress to resolve the transactions.
 - In the Department of Roads & Transport two duplicate payments were identified to the total value of **R2,5 million**. The follow-up on resolving the discrepancy is in progress.
 - All the identified discrepancies will be reviewed for criminal investigation once the National Treasury report is finalized.
 - National Treasury resolved that all electronic transfer payments in all the departments should be centralised within the provincial treasury.
 - The National Treasury also issued an Instruction Note for prohibition of payments via internet effective from 1st July 2014 in all State Departments.

LIMPOPO SECTION 100: DISCIPLINARY CASES (AS AT 14 AUGUST 2014)

- When the intervention started, 22 forensic investigation reports were issued for DPSA to facilitate disciplinary hearings thereof.
- It was reported that there were 47 cases of irregularities identified from the forensic reports issued by the National Treasury against state officials and 302 cases of conflict of interest established by the SIU.
- When the DPSA: office of Standards and Compliance commenced with management of disciplinary cases, only 99 cases were recorded for disciplinary processes from the departments of Education, Health, Public Works, Treasury and COGHSTA. Due to the fact other cases for conflict of interest were resolved and withdrawn.
- Later on, additional cases from Department of Roads and Transport (8), Roads Agency Limpopo(RAL) (1), Gateway Airports Authority Limited (GAAL)(10) and HOD of Public Works were added to the 99 cases and resulted to a total number of DC cases being 108 as analysed below:

TOTAL DISCIPLINARY CASES:

DEPARTMENT	No of cases
HEALTH	26
PROVINCIAL TREASURY	16
PUBLIC WORKS	14
EDUCATION	21
ROADS AND TRANSPORT	8
Roads Agency Limpopo	1
Gateway Airports Authority Limited	10
COHGSTA	12
TOTAL NUMBER OF CASES	108

Included in the list of the DC cases are three Heads of Departments (*Public Works, Education and COHGSTA*) that have been suspended and the Disciplinary proceedings are in progress.

ANALYSIS OF DISCIPLINARY CASES

DEPARTMENT	TOTAL	FINALISED	OUTSTANDING	RESIGNATIONS	WITHDRAWN
Health	26				
RWOPS	14	14	0		
High Priority	12	2	8	2	
Provincial Treasury	16				
RWOPS	16	15	1		
Public works	14				
RWOPS	3	3	0		
High Priority	11	4	7		

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DEPARTMENT	TOTAL	FINALISED	OUTSTANDING	RESIGNATIONS	WITHDRAWN
Education	21				
RWOPS	7	4	1		2
High Priority	14	0	13	1	
Roads & Transport	8				
High Priority	8	0	6	2	
Roads Agency Limpopo	1				
High Priority	1	0	1		
Gateway Airports Authority Limited	10				
High Priority	10	2	6	1	1
COGHSTA	12				
High Priority	12	8	1		3

CHALLENGES ON DISCIPLINARY CASES

The following key challenges contributed to the slow finalisation of cases:

- Continuous postponement of cases
- Failure of state witnesses to attend hearings
- Resignation of officials before conclusion of DC processes

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STRATEGIES TO DEAL WITH CHALLENGES

- The accounting officer in different departments were held responsible to take forward the DC proceedings, as the custodians of discipline in the affected departments in terms of section 7(b) of the Public Service Act, 1994 as amended.
- Release of state employees who are Chairpersons and initiators of disciplinary cases by their respective heads of departments in order to speed up the finalisation of cases.
- Consideration was made to suspend senior officials and any other officials alleged to be sabotaging the intervention in the departments.

THANK YOU

Lt. Gen Dramat

Head: DPCI & Chairperson- ACTT