**UNREVISED HANSARD**

**NATIONAL ASSEMBLY**

# TUESDAY, 17 NOVEMBER 2020****Watch the video here**:**<https://www.youtube.com/watch?v=Jo562jDVsX8>

***PROCEEDINGS OF THE NATIONAL ASSEMBLY***

The House met at 14:00.

The House Chairperson Ms M G Boroto took the Chair and requested members to observe a moment of silence for prayer or meditation.

# HEALTH PROTOCOL

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, just as a reminder of our health protocol, let us check that the distance between our seats it is the way it should, and let us make sure that we put on our masks at all times.

# CONSIDERATION OF REPORT OF STANDING COMMITTEE ON FINANCE ON RATES AND MONETARY AMOUNTS AND AMENDMENT OF REVENUE LAWS BILL

**CONSIDERATION OF REPORT OF STANDING COMMITTEE ON FINANCE ON TAXATION LAWS AMENDMENT BILL**

**CONSIDERATION OF REPORT OF STANDING COMMITTEE ON FINANCE ON TAX ADMINISTRATION LAWS AMENDMENT BILL**

There was no debate.

The CHIEF WHIP OF THE MAJORITY PARTY: House Chair, I respectively move that the three money reports be adopted by this House. Thank you very much.

# FIRST READING DEBATE – RATES AND MONETARY AMOUNTS AND AMENDMENT OF REVENUE LAWS BILL

**FIRST READING DEBATE – TAXATION LAWS AMENDMENT BILL**

**SECOND READING DEBATE – TAX ADMINISTRATION LAWS AMENDMENT BILL**

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you very much. I will now defer to the speakers list and call on the chairperson of finance to give us the report. Hon Maswanganyi? Is hon Maswanganyi on the platform?

Hon Maswanganyi?

The CHIEF WHIP OF THE MAJORITY PARTY: Chair, he is trying to connect but he is getting disconnected. I do not know how to deal with it now.

The HOUSE CHAIRPERSON (Ms M G Boroto): We will have to give a short period to allow that. Can ICT please allow Mr Maswanganyi to come in? Help him to come through for us.

Mr M J MASWANGANYI: Thank you Chairperson, I am now connected.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you very much, and thank you ICT for assisting. You may proceed, chairperson.

Mr M J MASWANGANYI: House Chairperson, hon members and colleagues, I hereby present the report of the Standing Committee on Finance on Tax Laws Amendment Bill B27 2020; Tax Administration Laws Amendment Bill B28 2020; Rates and Monetary Amounts and Amendment Revenue Laws Bill B26 2020.

The Tax Administration Laws Amendment Bill, Rates and Monetary Amounts and Amendment of Revenue Laws Bill and the Tax Laws Amendment Bill were tabled by the Minister of Finance, hon Mboweni, together with the Medium-Term Budget Policy Statement. Before tabled to Parliament, National Treasury and SA Revenue

Service, Sars, hosted workshops with stakeholders. The committee conducted public hearings on 07 October 2020 and also considered oral submissions from the public.

The Tax Administration and Laws Amendment Bill, is a section 75 Bill in terms of the Constitution, dealing with tax administration issues. The objective of the Bill is to amend the Estate Duty Act 1955 to make taxual corrections; amend Income Tax Act 1962 to delete obsolete wording; amend Customs and Excise Act 1964 so as to make technical corrections; amend the Value-added Tax Act 1991 so as to substitute the requirement to submit a return with obligation to obtain complete and retain the form prescribed by the commissioner; amend Skills Development Levies Act of 1999 to provide that the commissioner may refuse to authorise a refund if a return is outstanding; amendment the Unemployment Insurance Contributions Act of 2002 so as to provide that the commissioner may refuse to authorise a refund if a return is outstanding; and amend the Tax Administration Act of 2011.

Rates and Monetary Amounts and Amendment of Revenue Laws Bill is a section 77 Bill dealing with national taxes, levies, duties and surcharges. The key issue raised during public hearings was on the increase of excise duties on tobacco. Illicit tobacco trade

increased during the lockdown with severe impact on the legal tobacco industry and revenue collection.

The committee calls upon the law enforcement agencies to clamp down on illicit tobacco trade. The Minister of Finance also addressed a letter to the committee to request a technical correction to clauses of this Bill in line with section 14 of the Money Bills Amendment Procedure and Related Matters Act of 2009. The committee agrees with the technical amendment proposed by the Minister.

Tax Laws Amendment Bill, B27 of 2020, is a section 77 Bill in terms of the Constitution, dealing with national taxes, levies, duties and surcharges. The committee agrees with the technical amendments correcting the date of the coming into operation of clause 17 provision. The committee has adopted the report in this regard with the amendment.

There are challenges in regard to the collection of revenue. In terms of the economic outlook, we present this report against the background of rising unemployment, rising inequality and increasing poverty rate. The COVID-19 pandemic is leading to a situation where dreams of our liberation could be eviscerated.

The pandemic has deepened the depression and will result in three years of declining gross domestic product, GDP. According to the United Nations Development Programme, UNDP, it can take five years to reach 2019 levels of the GDP and the collateral damage could be with us for the next decade.

We are witnessing declining tax revenue; collection from 2019-20 financial year was quite very low. In 2019-20 the budget review had estimated that gross tax revenue that will be collected would be R1 358 billion. This target was not met as Sars collected

R3,2 billion less.

When it comes to 2020-21 financial year it was projected in February that Sars will collect R1 425 billion. With the COVID-19 pandemic, this estimate was adjusted to R1 121 billion. This was a deviation of R312,8 billion. In the MTBPS estimate was adjusted further to R1 112 billion. That is R8,7 billion less that was projected in the Special Adjustment Budget of June 2020.

The main reason for the downward revision in trajectory revenue in the 2020 budget is the COVID-19 pandemic and that resulted in a sharply recline of the tax revenue. The SA Revenue Service reported that VAT collected was 6,7% lower than the same period in 2019-20.

Other specific and key challenges in regard to the collection of revenue are as a result of a personal income tax which has gone down due to retrenchments and cuts on wages; the weaker impact outlook which has reduced VAT and customs expectations; a sharp reduction in consumption had lowered VAT collection; a sharp reduction in company tax due to business closures and low productivity; and downwards adjustments in specific excise duties associated with a longer than expected tobacco ban. These are some of the challenges that have led to the decline in the tax collection of revenue.

To a certain extent, the stimulus package announced by the President mitigated against the worst case scenario. The tax relief measures provided temporary assistance to businesses and households during lockdown. This intervention offered a combination of cash flow relief through tax deferrals and direct support through increased incentives to retain lower income employees and reductions in payroll taxes.

In conclusion, Sars and National Treasury should respond to these challenges outlined above by vigorously implementing a sustainable revenue enhancement strategy. The SA Revenue Service has to continue to come up with innovative ways to improve its operations and services to meet current and future revenue needs.

Hon Chairperson, I move for the adoption of the report. Thank you.

Mr D T GEORGE: Chairperson, taxpayers have a social contract with governments, they pay their tax and government distributes it in the form of services delivered to the people. When government collects tax from hard-working citizens and fails to deliver service that fundamentally erodes the social contract. The process of distribution is notoriously difficult and often referred to as leaky bucket; when money collected to deliver service to the people is getting used for that purpose.

Our public financial system is riddled with corruption and last year the President mentioned in that Summit in London that the amount money syphoned off the coffers of the state through corrupt means runs way beyond R500 billion and that some have suggested that it could be R1 trillion.

Under these circumstances there is little wonder why honest individuals and companies feel unfairly treated when they are subjected to penalties for late submissions and payments while others are literally stealing the money they pay without any consequence.

Sars should concentrate on catching the real tax evading criminals. The taxation laws are complicated and have been consistently evolving over the past 70years and failing rapidly since 1994. Although there has been much discussion on simplifying the law, little progress has been made and it is increasingly difficult for individuals and small business owners in particular to file their taxes without the assistance of paid professionals. The auto assessment generated by Sars has created some confusion amongst taxpayers who are unaware that this assessment is sometimes incorrect and can be disputed.

The Minister‘s recent Medium Term Budget Policy Statement, MTPBS, has highlighted the very serious public financial crisis that our our country faces. Despite the reality of a significant reduction and expected revenue resulting from lower economic activity there is nothing in the Taxation Laws Amendment Act, that seeks to provide any incentives for entrepreneurial activities.

Section 12 of the Income-tax Act was designed for that purpose but failed to initiate the type of entrepreneurial activity that Treasury sought to promote. Rather than shutdown this incentive scheme, government should consider other creative ways to provide relief in the sector of our economy especially now as the economic impact of the covid-19 pandemic starts to bite really hard.

There is clearly no sense of urgency from government in responding to what is becoming a full blown depression. Instead of taking steps to ease the personal financial difficulties faced by hard working South Africans, government has made life more difficult in particular the changes to the rules on financial emmigration will cause hardship to those who through various personal circumstances are moving abroad. Previously, emigrants were able to withdraw their retirement annuity and the balance of preservation funds where they had already made by withdrawal on conclusion of the process.

Under this Bill, a South African who has completed the financial emigration process will need to wait for 3years before they would be able to withdraw these funds. Government claims that this is to avoid abuse by individuals who claim to have financially emigrated but haven’t and thus access their pension funds. Government is working on the wrong problem. Individuals who have chosen to emigrate desperately need the money to settle abroad especially given the dismal performance of the rand exchange rate. This is the direct result of government of government mismanagement of our economy and incoherent economic policy.

The actual cause of the so-called abuses that individuals are desperate to access at least, a portion of the retirement assets

in the current economic crisis. I have proposed a Private Members’ Bills to permits pension funds to offer loans to member’s especial self-employed members of retirement annuities to alleviate this difficulty.

Government desperately wants to hold on ton captive pension funds because it is somehow believes that trustees of pension funds will invest in infrastructure projects that it believes will magically generate jobs its government can claim credit for creating.

Failing this, it will force them into investing into prescribed assets to the benefit of government and its cronies.

Instead of trying to figure out how it can access the R4 trillion rand that belongs to pension funds members, government should ask what can be done to enable hard-working South Africans to leverage their own money for their own personal financial benefit.

Retirement industry fund industry also needs to offer a creative solution. Doing nothing is not an option. That is the problem that the government should be working on. It should be considering how to give power to the people rather than taking it away.

Government somehow believes that the state-owned enterprises will miraculously become viable and if a bail-out is given a different name and then it is not a bail out. If government denies access to

funds that belong to a member for 3years even though that money belongs to the member; what is that? Other than a prescribed asset that must remain invested, although it is not in a member’s best interest. Call it what you like, locked in pension money is a prescribed asset.

Government is also making life difficult for salary employees who currently have access to bursary deduction by the employer’s payroll although this resulted in a tax benefit to the employee by making the payment from the tax free income, the DA believes that tax relief on education is beneficial for the future growth of our economy and that [Inaudible] tax relief received should be expanded rather than eliminated.

We welcome the commitment from government to combat the elicit tobacco industry given the impact this has on tax revenue. And do not oppose the increase in the taxation on tobacco products.

Government must however remember that it has caused the spike in the illicit tobacco trade. Its nonsensical ban on the sale of tobacco products during the initial lockdown period provided and even more fertile ground for the illicit tobacco trade to flourish, no doubt to the politically connected cronies.

We also welcome the slight reduction in transfer duty amendments to primary and secondary rebates and tax-free savings account and new limits. These tricks will make no difference to the fiscal framework where indicators are all pointing in a wrong direction. Debts service costs are the fastest growing item of spending.

Since 2008, the real cost of the public sector wage Bill has risen by 51%. Our economic growth will contract by at least 7,8% this year. An output is only expected to return to pre-pandemic levels in 2024 and 11, 1 million people are unemployed.

Although these are extremely difficult times, taxation laws can be ineffective instruments in encouraging and acceleration in economic growth. They reflect the economic policy of a government and deliver the incentives for investors, small business and entrepreneurs to thrive.

There is no evidence in the laws on the table before us today that government has even the vaguest idea of how to stimulate economic growth. Essentially, we have a simple choice of state ambition this is giving power to the people.

We need to see incentive measures that will facilitate growth in our economy and lead to a credible part of debt reduction over time. We need to see support for small businesses and our

entrepreneurs that will take the focus off endless bailouts to state-owned enterprise and on to the real drivers of economic growth. Until then, this social contract will continue to erode. We will not support the Bills. Thank you Chairperson.

Ms O M C MAOTWE: House Chair, the Rates and Monetary Amounts and Amendment of Revenue Laws Bill, Taxation Laws Amendment Bill and Tax Administration Laws Amendment Bill are Bills tabled by the Minister of Finance as part of the Medium Term Budget Policy Statement. These Bills are amended regularly because they are adjust the rates of taxes that workers and companies must pay to the Sars. These Bills also make administrative amendments to various piece of tax legislation such as Estate Duty Act, Income Tax Act, Customs and Excise Act, Value-Added Tax, Skills Development Levies Act, Tax Administration Act and other tax related matters.

While the key proposal of the amendment Bills was the removal of a requirement to prove intent from certain statutory tax offences the immediate and disturbing fact is the inability of either the Minister, the National Treasury or Sars to competently address the continuing and widening revenue shortfalls.

Since the appointment of the Minister of Finance, he has not put any practical and believable steps to meet the revenue targets which he has set himself. In 2019, the revenue was lower than estimated by R15,4 billion. In 2020, February the revenue was lowered by R63 billion than the estimated revenue at a time of the 2019 budgets. This was before the covid-19 pandemic, so no one must come and mislead us by saying it is due to the impact of covid-19.

The current Medium Term Budget Policy Statement just revealed that the Gross Tax Revenue is expected to be 17,9% lower than collection in previous year and the tax to GDP is declining substantially. There are practical proposals which we have made in the past that can assist to boost the Gross Tax Revenue and prevent the 17,9% lower than estimated revenue this year. And you can do this without increasing taxes paid by workers, fuel levy and other forms of taxes.

There is enough evidence that South Africa and Africa losses bilions in illicit financial flaws and almost all sectors from manufacturing financial services, mining, agricultural services, construction and transport are all involved in some level of illicit financial flaws through base erosion, profit shifting and

more pervasive forms of corruption, money laundering and racketeering.

This affects foreign exchange revenues, affects asset prices, lower taxes revenue and ultimately reduce the money available for building schools, building hospitals, clinics, water infrastructure, sanitation, eradication of pit toilets and building of decent toilets for the learners,

We maintain as the EFF that we need a full judicial commission of enquiry to receive evidence on illicit financial flaws dating as far back as 1994. It is the only way we can begin to deal with illicit financial flaws aggressively that we must target largely national co-operation.

We must urgently find a way to tax Ecommerce businesses. This should form a substantial part of the revenue stream for the country. We must tax uber, Amazon, Google, Zoom, Microsoft, Apple and all other clouds based transaction. We must tax the rich including taxing tracts of land lie fallow. We must increase Corporate Income Tax instead of the Personal income tax. We must get proposals on how we can incorporate the informal sector including businesses based in rural areas to start paying tax to

broaden the tax base. It does not require tax education and improved administration capacity and integrity.

We must also consider taxing churches given that pastors seemingly

* there is more money than what pastors know what do to with. We must get a functional cross urgency task force that will include National Treasury, Special Investigating Unit, SIU, and Financial Intelligence Sector, South African Police Service, SAPS, Sars, Central Bank and the National Prosecuting Authority, NPA. Since the Minister’s announcement in his previous speeches that there is a cross urgency team, we haven’t received any tangible report to suggest that this is actually a functional team.

Chairperson, overall, we must agree as a matter of principle that we cannot continue to increase workers taxis because it is no longer practical. Food prices of has increased, school fees have gone up, and housing and cost of running a business has gone up. Workers have had enough. The EFF rejects this report. I thank you Chair.

Inks E M BUTHELEZI: Thank you very much, hon House Chairperson, fiscally, 2020 has been a difficult year for our country. Before the COVID-19 pandemic, we were struggling economically and COVID-

19 has made things worse for us. The Sars reported a devastatingly

low revenue collection over this period because many South African companies and individuals were unable to generate the expected income.

The imports decreased. We saw a significant decline in VAT. Due to such sudden loss of income for over two million South Africans, our tax base has notable decrease. As the period for tax filing just closed, it is likely that we will continue to see this downward trend. The reasons are why the amendments we are debating today important.

The Rates and Monetary Amounts and Amendment of Revenue Laws Bill extends relief to property markets which were hit hard by the pandemic. Other than COVID-19 related matters, the Bill seeks to increase carbon tax for greenhouse emissions. This is a critical contribution to our fight against global warming and climate change.

The IFP believes that a firm stance with severe punitive measures must be taken against companies that continue to ignore legislations regarding greenhouse and emissions. The Taxation Laws Amendment Bill recognises the need to secure legislative holes that allow dishonest entities and persons that evade their tax obligations. The Tax Administration Laws Amendment Bill addresses

the need to appropriately respond to tax related offenses such as noncompliance, evasion and hindering the work of a Sars official. While we must approach such conduct with the seriousness it deserves, caution must be exercised.

Hon House Chairperson, we can’t continue to heed stories about billions of rands which leaves our borders unaccounted for. The IFP urges the practice of fairness and reasonableness in response to tax related offenses. We encourage the strengthening of our tax systems especially in such uncertain times.

Our taxes funds important social and economic projects, which affects the day-to-day lives of millions of our people.

Lastly, this government must focus its attention on rooting out the rot, which is corruption in all spheres of our administration. It is nice to play with other people’s money but it is not nice when that money dries up and is stolen. Let’s spend the taxpayer’s money in a responsible and sustainable manner in which we can see the reward for which it was intended to deliver. As a country, we must get this balance right to continue keeping the lights on for our people and for us to continue to have food on the table. The IFP supports the Bill. Thank you.

Mr W W WESSELS: House Chair, these tax laws are technical in nature and largely aimed at increasing government’s revenue. No law will improve government’s revenue stream. Without economic growth and a conducive environment for the private sector to operate, invest and create employment, the tax revenue of this country will get less and less whilst the burden on government to provide social relief and services will become more and more.

The introduction in this legislation of a three-year rule for those who wish to withdraw their pension upon emigration will result in hardship. It is not something that a government can do with legislation to force South Africans to not emigrate. It is very sad that there is no reason for the introduction of this rule. The National Treasury cannot give a real explanation and reason for this introduction other than keeping money in South Africa; preventing people from emigrating.

House Chairperson, must aim at preventing people from emigrating by rather creating an attractive country where people do not want to leave, where there is economic growth, where corruption is something of the past and it is not a daily pandemic and daily occurrence.

House Chairperson, increasing excise duties and taxes is not the solution. We must be careful that the actual objective of these duties will not achieve its objective but will have unintended consequences of further deteriorating economic growth.

*Afrikaans:*

Die regering moet belasting verdien; hy moenie net belasting in nie. Dit is die klimaat waarin ons tans is. Die regering maak wetgewing, maak dit strenger, verhoog belasting en wil die wat belasting betaal net verder en verder aanslaan en vervolg, indien hulle oortree, maar wat van die waarde van daardie belastinggeld. Is daar waarde? Daar is nie, want geld word gemors, geld word wanbestee op alle vlakke van regering, korrupsie vind plaas en daar is verkeerde prioriteite.

*English*:

No Act, no legislation will solve that. There must be a mind shift, a new commitment to better governance.

*Afrikaans*:

Die EFF dink dat geld uit die hemel val, dat maatskappye sakke vol geld het en dat hulle net belas en belas moet word. Wie dink die EFF betaal die werkers se salarisse? As belasting van maatskappye

verhoog, dan kan hulle nie meer salarisse bekostig nie en dit het ’n negatiewe impak.

Die privaatsektor moet gekoester word en nie die vyand gemaak word nie, want dit is op die oomblik die probleem tussen die regering, die regerende party, die ANC, en hulle maatjies, die EFF, vir wie die privaatsektor en die wat eintlik verantwoordelik is om hierdie ekonomie te red, die heeltyd, die vyand is. Dit is hulle wat gekoester moet word en nie die heeltyd vyandig hanteer moet word nie.

Moenie net na wetgewing kyk nie, maar kyk na hoe die geld bestee word en of belastinggeld op die einde van die dag verdien word. Ek dank u.

Mr S N SWART: Thank you, House Chair, the ACDP fully appreciates the very precarious state of public finances that we are enduring at the time with revenue projections down by R312 billion.

However, it is important to note that certain of these projections were already done prior to COVID-19 and it’s just been aggravated to this extent with COVID-19. That we’ve said it before was largely due to state corruption and looting that took place.

Now, the ACDP is on record to say that the SA Revenue Service, Sars, has certain powers to recover those billions of rand. We would urge Sars to make use of the powers that they have to pursue those persons that owe billions of rand, those billions of rand that are sitting across the world. We would also, ... having looked at some of these amendments, share the concerns that other members have expressed about the changes in the three-year rule.

The changes to the financial migration laws - these are problematic. These funds are needed for those that choose to settle over broad and they belong to the member. We see no reason why those members should not have access to those pension funds.

One of the most controversial aspects that was raised during the issues was the section 234 of the Tax Administration Act. Now bear in mind we’ve just said, as the ACDP, that there are billions of rand that can be collected. Now what we are seeing, myself expressing my view as a lawyer, is a very deeply concerning aspect and that is removing the requirement of criminal intent for certain offences. Yes, we do see that the more serious offences still will require men’s rear. However, those offences which are the noncompliance offences will be purely negligence and I believe that is problematic.

Yes, the National Treasury did set out the arguments. They quoted various court cases in this regard, but what is of concern to me, is that the offence has a penal provision of two years or a fine. Two years’ imprisonment and that existed before this amendment was added, which removes the criminal intent provision. Yes, whilst the judicial officers will have the discretion to impose fines that is deeply problematic. But now if you act negligently or you negligently fail to submit a tax form that you can then behold criminally negligent.

Remember the National Treasury in its submission to support this quote from the Constitutional Court saying that sufficient leeway ought to be afforded the legislature to determine the appropriate level of culpability. That is our job and I believe that we’ve erred in removing specific men’s rear requirement for these criminal offences in term of this Taxation requirement. I thank you.

Mr A M SHAIK EMAM: Thank you very much, Chair. The SA Revenue Service, Sars, is a critical institution more than ever before. The Minister told us in his Medium-Term Budget Policy Statement speech that we are today fiscally at the moment not too dissimilar to 1994 when we had to deal with the devastation of the visit upon our Public Finance by the apartheid regime. However, in 1994

government debt was 46% of gross domestic product, GDP. The debt was reduced to 26% by 2009, but now government debt is sitting at 81,8% of the GDP. It becomes very clear that the larger the debt is related to the country’s economic activity, the harder it will be paying it off.

Hon Chair, the NFP welcomes the transfer duty at a proposal to increase the monetary value for transfer duty on the property. In fact, this will be a powerful relief in the profit in a property market. The change is progressively affecting other property values, providing similar relief as well.

The NFP welcomes the excise duty to increase in tobacco and alcohol, particularly because this will reduce consumption of tobacco and alcohol. It will reduce the burden on the health sector, improve the productivity in the labour sector and also reduce accidents and things where 26% of them are alcohol related.

Some of the matters that I think, we need to deal with is the illicit financial flows, multinational showing losses in South Africa - profits, offshore - these are some tax avoidance. What I think, Sars needs to do which is not happening in the country, is not to increase taxes but get more people to pay taxes. And, one way is to link the Sars with the local authorities at municipal

level who issue licenses for business and employ people together with the Labour Department. So, people can become more compliant and more people could be paying taxes. Many of these people are not even registered. They have businesses they’re making profits. They have people employed by them and also claiming that R350 TERS grant that we’ve provided.

So, the other issue is the issue of under invoicing, particularly goods coming from China, where the invoices are of very low rate and to try avoid paying the correct taxes. Financial institutions that are being set up in South Africa, particularly where monies are sent abroad to family and friends and things like that. It is something that is being abused to a very large extent. I think, Sars needs to deal with that because these people that are in the country, particularly foreign nationals are renewing their businesses, earning an income, sending money out of the country, but they are not tax compliant. The thing is that we should be levelling the playing field and making like locals who are paying taxes that foreigners must also equally pay taxes.

The R1500 fine that was given for illicit tobacco was certainly not a deterrent during the COVID-19 period because people were making 50 000 to 100 000 profit per day on the illicit sale of cigarette but paying R1500 fine. Further, the Minister of Justice

has said this expands from your criminal record ... [Interjections.]. So, it was not a deterrent whatsoever ... [Time expired.]

Mr W M MADISHA: Thank you, hon Chairperson, for South Africa to achieve the required strong rebound in economic growth for the tax to GDP, many critical areas must be addressed. Whether government wants to accept it or not. It is a fact that South Africa has a lot of money, but the money which the country has is used improperly due to the absence of proper plans or extreme levels of corruption that are there within ruling elites. These two reasons are the main factors that led to South Africa not seeing any economic recovery, since 12 years ago. That is in 2008 and shall actualised the expected debt increase to more than 5,54 trillion of GDP in the next financial year. Unless proper planning is done, debt shall grow and the country will never recover in this century.

The in-year revenue collection shall never succeed unless quality jobs are created and workers receive a living wage. Only jobs and the living wages can avail tax contributions can remove South Africa from being a welfare state. Some of us may be aware of the status of such a state is not sustainable. Secondly, we need to reduce the state-owned enterprises, SOE’s. The majority of SOE’s,

are useless as they share mandates and all responsible despite their useless status. They are given billions which should be used for job creation and general economic growth. I must emphasise that the empirical evidence that proves their lack of importance is unquestionable. The intended extra financing for many municipalities in the country is at the moment unnecessary, given the incapacity by many government structures and municipalities to execute or deliver what their basic mandates are. Local governments are given money, but don’t implement what they are supposed to, because they do not know the basics of Integrated Development Planning, IDP. Local government and municipalities must be taken through IDP requirements for them to both know and understand the usage of taxes. We can’t, as the people of South Africa, pay more. Therefore, Cope does not support this bill.

Thank you very much.

The HOUSE CHAIRPERSON (Ms M G Boroto): Al Jama-ah?

Mr M G E HENDRICKS: Hon Speaker, we are not participating ... [Inaudible.] Thanks very much.

The HOUSE CHAIRPERSON (Ms M G Boroto): [Inaudible.] Oh, he said that. [Interjections.] Okay. Thank you, hon Hendricks. I couldn’t

hear clearly what you were saying. Thank you. We now proceed. I now call the hon Morolong of the ANC.

Rre I K MOROLONG: A kego dumedise Modulasetulo wa Ntlo e tlotlegileng. *(Translation of Setswana sentence follows.)*

[Mr I K MOROLONG: Let me greet you, Chairperson of this honourable House.]

Three weeks ago we spoke from this very platform and bade farewell to an outstanding public servant, a dignified man, a gentleman of great repute, a decorated administrator, Mr Kimi Makwetu. Surely we were unaware that death would strike where it hurts most and rob this nation of a noble man who served this government and its people with honour, passion and rectitude. We convey our heartfelt condolences to his family, friends and colleagues. We wish them strength during this difficult period.

Hon members, the president of the people of South Africa turns 68 today. We wish the commander in chief of all armed forces, the president of the ANC, President Matamela Cyril Ramaphosa, renewed strength and good health on the occasion of his special day.

One of the defining features of any state is its tax regime. For a developmental state, the regulation of a progressive taxation system in which there is in-built human solidarity, with the wealth supporting and cross-subsidising the poor, is morally justifiable and underpins the ANC ethos towards taxation. It also denotes a redistributive system in which a country can gradually – over a period of time – move to far higher levels of an egalitarian socioeconomic system.

Neoliberal states use a regressive tax policy in which they seek to protect the wealthy, lessen their tax responsibilities and provide tax relief to companies so that they can accumulate capital at higher rates. Under such systems it is the poor who generally carry the greatest burden.

It needs to be said that in this House there are those parties which, because of their class or intentions, favour a regressive taxation system. For the ANC, generating higher levels of revenue to address rising inequality and deepening poverty is a matter of policy.

The manifesto of the ANC speaks to a microeconomic framework designed to support the commitments we made in the manifesto. This microeconomic framework is underpinned by revenue proposals, and

hence today we will be passing three additional amending Bills in order for the state to generate additional revenue.

Besides human solidarity and cross-subsidisation, a progressive taxation system seeks to ensure fairness in the application of the system and, again today, the contradictions that have been raised in the application of various parts of our tax system are being corrected by the ANC government to ensure greater fairness.

Having said this – and I listened to the submissions in our public hearings – the ANC is distinct from those who run from changes to the taxation system in order to continue on a path of greater capital accumulation and who think that their only responsibility to the state is to pay tax. This is a reflection of lower levels of consciousness.

It must be our collective responsibility to build on the progressive taxation system, informed by the need to fund the Economic Reconstruction and Recovery Plan to ensure that the vulnerable in our society are lifted up, that our people have decent houses, that they have running water, that they have decent sewer systems, that they are able to access public transport and that they have food to support their families.

So where does the philosophy or intention of our taxation system come from? This is best described by the commission established by the ANC-led government to review the taxation system, following a period of evaluation by the governing party in that government was not extracting the true value of what should be accrued to it from the taxation system. This was further informed by the increasing need to generate revenue in order to fund programmes that address the historical legacy of unemployment, poverty and inequality.

The terms of reference for the Davis Tax Committee were to look into the role of the tax system in the promotion of inclusive economic growth, employment creation and development, and fiscal sustainability. The committee was tasked to take into account global economic considerations and, in particular, the long-term objectives of the National Development Plan, the NDP.

For the ANC, there are issues that we have long been seized with and that require updated presentations to be made to the committee. The state has been drained on an annual basis at a level and to an extent that is completely unacceptable and we have to be seen to be more decisive against perpetrators. Here we refer to base erosion and illegal forms of profit-shifting.

While we are conscious of the fact that section 6 of the Income Tax Act has been repealed and section 10 reviewed – for which the ANC government needs to be credited – concerns over the erosion of the tax base of the Republic remain in the grotesque illicit financial flows out of the Republic.

The United Nations Economic Development in Africa Report 2020 states that South Africa received over R1 billion in stolen assets. What this means is that we are losing billions of rand per annum through illicit flows. This is the money that could finance our national revenue fund.

In the fifth term of Parliament, it was this very committee that spearheaded the financial sector transformation path to deal with the transformation of the financial sector, a sector that is primarily responsible for illicit financial flows.

In addition, the committee was targeting corruption and theft of state revenue. Whilst we acknowledge progress recorded by the various units set up in the state institutions, more resources must be put into this area. Whilst we are deeply concerned that debt levels are increasing and that it is this very revenue that we are losing to the state that equally puts up in a weakened position, Parliament must do its oversight and ensure that the

criminality that exists in the financial sector is punished. This is a sector that has been the greatest benefactor of our democracy.

Whilst we have amended legislation in this regard, illicit financial flows continue. We must remind the National Economic Development and Labour Council, Nedlac, that they have not set up what we have asked for for years: a financial sector summit ...

... a financial sector summit, after Parliament ... [Inaudible.] The ANC’s 54th national conference explicitly expressed itself in this regard. Nedlac cannot be found wanting on the transformation of the financial sector, which is meant to address class, race and gender contradictions in capital accumulation post 1994 ... [Inaudible.] ... address the source of illicit flows out of the country.

We say this mindful of the fact that we are losing in this financial year alone R320 billion in tax revenue owing to COVID-

19. The ANC supports the three amending Bills. I thank you.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you, hon Morolong.

*IsiNdebele*:

Oh, niyawahla kodwana benithusela ubab’uLanga. Bab’uLanga, ngapha abantu abangapha, ngibo abanelungelo lokuwahla nanyana ukubeth’izandla. Bangakuthuseli bathi ungazibethi, uzibethe. Iye. Njenganje siragela phambili.

*English*:

The hon Deputy Minister.

The DEPUTY MINISTER OF FINANCE: Hon House Chair, hon members, please accept Minister Mboweni’s apology who has joined the President at the Brazil, Russia, India, China and South Africa, Brics, summit. Economic growth set the necessary conditions for the ability of the state to generate revenue as we have said on numerous occasions in this House that the pre-COVID-19 period experienced low economic growth. COVID-19 has simply worsened our economic growth problems. And this has negatively impacted on our tax revenue.

It’s worth noting that in the last six years, government introduced substantial tax increases to arrest the decline in the physical position. These large tax increases which included higher income tax, higher wealth tax, and higher taxes on consumption did not fix our finances and it is possible that the tax increases might have depressed economic activity.

In February this year, we broke this six-year trend by not increasing taxes. We all agree that the country requires higher economic growth to create employment, generate additional tax revenue, and fund social and economic expenditure. Unlimited tax increases dampen economic activity. This here was not the time to increase taxes, otherwise that would put the economy even under more pressure. Instead, we have provided R2 billion in personal income tax relief to assist households in this difficult economic environment. This was offset by the expected additional revenue from the carbon tax and a higher plastic bag levy. The personal income tax bracket and rebates were increased by 5,5% where expected inflation was 4,4% providing real tax relief.

Since the impact of COVID-19, inflation is expected to come down further for those who have been lucky enough to retain their incomes. If you did not get an increase in income this year, then at least your tax bill will be lower. Even in these difficult times, government has tried to encourage savings by increasing the annual limit for tax-free savings accounts to R36 000. Members of the Standing Committee on Finance would have noticed that the number of submissions from the tobacco industry is on the increase in the excess duties on tobacco.

In line with other adjustments, the increase in excess duties on tobacco in February was set at the level of expected inflation. Government needs to consider the harm done by cigarettes which creates a number other costs on our society. We recognise the impact on the industry form the COVID-19 related restrictions on tobacco sales, which is why tax deferrals measures for the industry were introduced in the previous tax Bills.

However, the call to stop all exercise increases on tobacco products and reduce the real amount of taxation for these products does not adequately consider the wider health and economic impacts of these products. The apparent scale of illicit tobacco is a real scourge in this story. We welcome the stance of the standing committee and the select committee on Finance that more needs to be done to combat illicit tobacco. We cannot let illegality from manufacturers and distributors of illicit tobacco to continue.

I follow up with the SA Revenue Service, Sars, commissioner to ascertain what progress is being made in this regard and other issues that our colleagues have raised. The standing committee would have also noted that there were a number of changes to the initial draft legislation which shows that the consultation process is valuable and it hopefully leads to a more effective tax regime. For example, changes were proposed in our attempt to

modernise the tax system for contract mining, yet after much discussion, those amendments have been withdrawn and would be considered from a more holistic perspective for possible future proposals.

There are a number of anti-avoidance measures in this Bill and although some of the measures have been tweaked, almost all of those proposals have been retained. The anti-avoidance measures are aimed at reducing the games that businesses and individuals play to reduce how much tax they pay. We must and we should do so

– we must combat complicated financing structures that are used solely to avoid tax which undermines the fairness in the tax system. This is especially worrying when many families are struggling in this crisis.

In conclusion, the COVID-19 pandemic has overshadowed many things this year, and we will be counting the cost of its impact for many years to come, starting ... [Interjections.] ... R512 billion this year. Despite this, we must push forward with the changes needed to recover strongly and improve the long-term prospects for economic growth in this country. The tax system is an imported equation in this regard. I would like to thank both the House Chair, the hon Joe Maswanganyi and other members of the Standing

Committee on Finance for their consideration of these Bills. Thank you very much, hon House Chair and hon members.

Debate concluded.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, that concludes the debate. Are there any objections to the Rates and Monetary Amounts and Amendment of Revenue Laws Bill being read a first time?

Question put: That the Rates and Monetary Amounts and Amendment of Revenue Laws Bill be read a first time.

Division demanded.

The House divided.

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, we have already established the quorum with the National Assembly Table, and we now go to the voting. Party Whips will be given an opportunity to confirm the number of their members present and indicate if they vote for or against. Any member who wishes to abstain or vote against the party vote may do so by informing the Chair.

A quorum being present in terms of Rule 98(1), voting commenced.

Ms E N NTLANGWINI: Chair?

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes, hon Ntlangwini?

Ms E N NTLANGWINI: Chair, I still have not received my figures from IT. If they could please send the EFF’s attendance on the virtual system. We still haven’t received it.

The HOUSE CHAIRPERSON (Ms M G Boroto): Okay, I may assist you from our Table here if they can assist me, but I think IT is also listening. Are you able to assist from the Table? Can you just check how many they are? I hope ICT will ... Okay, Ms Ntlangwini, they are looking into that. I think you will be assisted.

AYES – 184: (ANC – 171; IFP – 11; NFP – 1; Al’ Jama-ah - 1).

NOES – 108: (DA - 60; EFF – 33; FF Plus – 10; ACDP - 4; Cope - 1).

Question agreed to.

Rates and Monetary Amounts and Amendment of Revenue Laws Bill accordingly read a first time.

The HOUSE CHAIRPERSON (Ms M G Boroto): We now move to the other Bill ...

Question put: That the Taxation Laws Amendment Bill be read a first time.

The CHIEF WHIP OF THE OPPOSITION: House Chairperson, may I clear something with you?

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes.

The CHIEF WHIP OF THE OPPOSITION: I am perfectly open to the fact that I am incorrect. I was of the opinion that with the passing of this particular money Bill, the House required a majority of 201 voting yes, but the House didn’t get 201 voting yes. We had over

201 votes casts, yes; but there weren’t over 201 in favour. Could I have an explanation as to where I misunderstood – at what particular juncture – because I am of the opinion that it doesn’t pass?

The HOUSE CHAIRPERSON (Ms M G Boroto): Okay. On this particular one I actually enquired beforehand. Two hundred and one must be the majority of voters, whether negative or positive, and then the

majority takes it. It is not the other one - what do you call it?

* the two-thirds majority thing. Thank you very much.

Taxation Laws Amendment Bill accordingly read a first time (Democratic Alliance, Freedom Front Plus and African Christian Democratic Party dissenting).

Question put: That the Tax Administration Laws Amendment Bill be read a second time.

Mr S N SWART: ... and the objection of the ACDP. Chair, I appreciate your ruling on the majority, but I just want to make sure that it is in accordance with the Rules, and I am sure you have checked that. Are you satisfied? Thank you.

The HOUSE CHAIRPERSON (Ms M G Boroto): Thank you very much. I’m being advised, and I really asked that question – even prior to this taking place. That is the advice that I got. If there is anything, you can continue to check on it, but I want to trust my Table staff in that they have given me the correct information.

Tax Administration Laws Amendment Bill accordingly read a second time (Democratic Alliance, Freedom Front Plus and African Christian Democratic Party dissenting).

The HOUSE CHAIRPERSON (Ms M G Boroto): This Bill will be sent to the National Council of Provinces for concurrence.

Before I invite the Deputy Speaker ... [Applause.] Thank you. [Interjections.]

An HON MEMBER: Malibongwe! Malibongwe!

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members on the virtual platform, you do not have the right to do that! Come to the House and do that.

*IsiNdebele:*

Egameni likaSomlomo weNdlu yesiBethamthetho seNarha, ngifisela umhlonitjhwa uMengameli ilanga elihle lokubelethwa. Sithi akhulele phezulu begodu abone eminye iminyaka eminengi. Aragele phambili ngokusebenzela inarha yeSewula afrika kunye nenarhakazi ye-Afrika. UZimu amtjhudubaze.

The DEPUTY SPEAKER: Happy! [Applause.] Happy birthday to the President. Thank you, hon House Chairperson.

The Secretary will read the Seventh Order.

# RATES AND MONETARY AMOUNTS AND AMENDMENT OF REVENUE LAWS BILL

(Second Reading debate)

There was no debate.

Bill read a second time.

# TAXATION LAWS AMENDMENT BILL

(Second Reading debate)

There was no debate.

Bill read a second time.

The DEPUTY SPEAKER: The Bill will be sent to the National Council of Provinces for concurrence.

The Secretary will read the Ninth Order.

# CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES ON NOTICE DETERMINING REMUNERATION OF DEPUTY

**PUBLIC PROTECTOR IN TERMS OF SECTION 2(A) OF PUBLIC PROTECTOR ACT, 1994**

Mr G MAGWANISHE: Thank very much, Deputy Speaker and hon members, I rise to present the report ...

The DEPUTY SPEAKER: Hon Magwanishe, can you shift your screen a little bit? We can’t see your mouth. We also want read your mouth. It is important. That’s better. Thank you very much.

Mr G MAGWANISHE: ... of the Portfolio Committee on Justice and Correctional services on the notice determining the remuneration of the Deputy Public Protector in terms of section 2(A) of the Public Protector Act, Act 23 of 1994, dated, 28 October 2020.

On 18 August 2020, the President requested the National Assembly to consider the notice determining the remuneration payable to the Deputy Public Protector. Section 2(A) of Public Protector Act read with section 3 of the Determination of Remuneration of Office Bearers of the Independent Constitutional Institutions Laws Amendment Act of 2014 provides that the Deputy Public Protector is entitled to a salary, allowances and benefits as determined by the President from time to time by notice in the gazette after taking

into account the recommendations of the independent commission and approved by the National Assembly.

Section 2(A) and 5(c) of the Public Protector Act of 1994, requires the National Assembly to resolve by either approving the notice in whole or in part or to disapprove the determination before it is published.

The independent commission gazetted its recommendation on 18 February 2020 after consulting the institutions concerned and the relevant Ministers. The President has thus accepted the independent commission’s recommendation because of the following reasons: firstly, the gap between the salary of the Public Protector, which is R2,3 million and the Deputy Public Protector, which is R1,5 million is considerable and unique. No other Chapter

9 institution with such a significant gap between the head and their deputy.

Secondly, the current salary of the Deputy Public Protector sees her earning significantly less than the executive management of the institution over which she shares oversight, thus undermining her authority to fulfil her responsibilities.

Lastly, the salary earned by her predecessor was considerably higher than the salary she has been offered and this difference was only communicated to her after she had accepted the position and started with her work.

The President therefore proposes that the Deputy Public Protector’s remuneration be set at R1,8 million per annum. The President has also indicated that he has consulted the Minister of Finance and the Minister of Justice and Correctional Services and both were in agreement with the determination. Neither the President’s letter nor the accompanying notice mentioned an effective date. However, the committee is of the view that the determination should take effect from the date on which the Deputy Public Protector, Advocate Kholeka Gcaleka took up office; namely, 01 February 2020.

Having considered the matter referred to it, the committee recommends that the National Assembly resolve to approve the notice determining the remuneration of the Deputy Public Protector in terms of section 2(A) of the Public Protector Act.

The committee further recommends that the effective date of the determination be the date on which Advocate Kholeka Gcaleka took up the Office of Deputy Public Protector; namely, 01 February

2020. I recommend that the report be adopted. Thank you, Deputy Speaker.

*Declarations:*

Adv G BREYTENBACH: Thank you, Deputy Speaker, in a letter to the Speaker, dated 18 August 2020, the President requested the National Assembly to consider the notice determining the salary, benefits and allowances payable to the Deputy Public Protector in terms of section 2(A) of the Public Protector Act.

The Determination of Remuneration of Office Bearers on the Independent Constitutional Institutions Laws Amendment Act, which came into operation on 1 April 2019 creates the necessary framework to determine the salaries of office bearers of Chapter 9 institutions. Amongst others, the Act amends the Public Protector Act to provide a process for determining the salary of the Public Protector and the Deputy Public Protector.

The independent commission gazetted in the government gazette number 43019 on 13 February 2020. Having consulted with the institutions concerned and relevant Ministers to better understand the remuneration of office bearers in various independent constitutional institutions as well as related concerns and challenges.

The commission, amongst others, recommended that the salary of the Deputy Public Protector be adjusted from R1,446 million to

R1,504 million.

In his letter dated 18 August 2020, the President proposed that the Deputy Public Protector’s remuneration be set at

R1,814 million per annum and sets out the reasons for not accepting the recommendations of the independent commission. Firstly, he mentioned the gap between the salary of the Public Protector and her deputy is considerable and unique; secondly, the Deputy Public Protector Kholeka earning significantly less than the executive management of the institution over which she shares oversight, which undermines her authority; and lastly, refers to the salary of her predecessor.

The current Deputy Public Protector applied for the job and was appointed pursuant to her extensive public interview process apparently without determining the scale at which she was to be appointed. The Deputy Public Protector now says that she asked Advocate Malunga, the previous incumbent, how much he earned and just assumed that that would be her salary and that now she was therefore unhappy with the salary she was earning.

It must be borne in mind that the salary that Advocate Malunga was earning was at the end of the two-term tenure and not the salary that he earned at the outset of employment in that office.

South Africa is in a fiscal crisis, hon members, and the public wage need to be carefully managed and trimmed where possible.

Thousands of South Africans have lost their jobs and there is simply no justification in our view for the increased starting salary of the Deputy Public Protector at this point.

Any responsible applicant would have found out all the relevant details of the position including the remuneration before applying for and eventually accepting the position. Complaining after the fact is not acceptable. Accommodating those complains is even less so in the current circumstances. I cannot simply afford to be held into ransom in this fashion.

The argument that the authority of the Deputy Public Protector is undermined by the fact that she earns less than some of her juniors is laughable in the face of the current litigation being conducted in the Supreme Court of Appeal by the National Prosecuting Authority, NPA, and the Department of Justice and Correctional Services against their own deputy-directors of public prosecutions, who were found recently by the High Court to have

been severely prejudiced by the no compensation of their occupation specific dispensation and who all earn less than the senior state advocate who they supervise and leading court daily, and which the state seeks a cost order against its own employees. It is for these reasons that the DA does not support the report. I thank you.

Ms Y N YAKO: Deputy Speaker, the Office of the Public Protector is one of the most important curbs for holding our democracy intact, and for giving citizens recourse against abuse and maladministration by those elected. It affords citizens the right to challenge government’s excesses as it rightfully did when President Zuma thought he could use public funds for private benefit and as it rightfully investigated the use for private wealth to puppet presidents when it showed that the current President owed his position to the whites who pumped billions into his campaign ... [Interjections.]

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker, on a point of order.

The DEPUTY SPEAKER: Yes, hon member.

The CHIEF WHIP OF THE OPPOSITION: Deputy Speaker, I rise on a point of order, there is a Rule in the House that no party symbols may be shown during a sitting of the House. The hon member from the EFF currently on the podium is wearing an EFF beret in her photo and I would ask that that photo be removed, please.

The DEPUTY SPEAKER: Hon members, you understand the Rules. Let’s comply, please.

Ms Y N YAKO: Can information technology, IT, then just remove my picture from everything because I can’t remove it from where I am?

The DEPUTY SPEAKER: Okay. Go ahead, hon member.

Ms Y N YAKO: Is it possible?

The DEPUTY SPEAKER: Yeah, they will indicate if they will be able to do that.

Ms Y N YAKO: I am sure they can.

The CHIEF WHIP OF THE MAJORITY PARTY: Hon Deputy Speaker, she must

...

The DEPUTY SPEAKER: Yes, hon member.

The CHIEF WHIP OF THE MAJORITY PARTY: ... she must just switch off the video.

Ms Y N YAKO: The video is off ma’am but the picture is there. So, what must I do now?

The CHIEF WHIP OF THE MAJORITY PARTY: Switch on your own video.

Ms Y N YAKO: I cannot switch on my video as I am not dressed properly for the sitting ... [Interjections.]

The CHIEF WHIP OF THE MAJORITY PARTY: Are you wearing pyjamas? [Laughter.]

The DEPUTY SPEAKER: Order, hon Chief Whip.

Ms Y N YAKO: But she knows that IT can that picture if they want.

The DEPUTY SPEAKER: Go ahead, hon member.

*IsiXhosa*:

ILUNGU ELIHLONIPHEKILEYO: Uyazazi ukuba uphangele.

Ms Y N YAKO: Thank you. No ...

*IsiXhosa:*

... ndiyazazi mama ukuba ndiphangele ...

*English:*

... but at the same time, I need to respect my party. [Interjections.] Can we carry on?

The DEPUTY SPEAKER: Hon member, talk to me.

Ms Y N YAKO. Thank you.

The DEPUTY SPEAKER: Hon members, stop engaging the member. We have made a ruling on this matter. It will not be allowed next time.

There is absolutely no room for compromise. [Interjections.]

Ms Y N YAKO: Thank you.

An HON MEMBER: On a point of order. Deputy Speaker, I am worried that this will set precedence. The member is not supposed to ...

The DEPUTY SPEAKER: Hon members, you can’t contest a ruling I have made. If you have an objection, you know what to do. You write to

the Speaker and complain about the ruling I have made. You can’t contest a ruling.

The CHIEF WHIP OF THE MAJORITY PARTY: What is the ruling, Deputy Speaker?

The DEPUTY SPEAKER: You know; you should know the Rules.

An HON MEMBER: Thank you very much, Deputy Speaker, you have made the ruling ...

The DEPUTY SPEAKER: The ruling is that the hon member will proceed and that the dress code is inappropriate. Hon Chief Whip, you can do what you are doing.

The CHIEF WHIP OF THE MAJORITY PARTY: I am asking because we can’t hear you.

An HON MEMBER: Then throw her out of the House because you don’t

...

The DEPUTY SPEAKER: Hon members, please don’t tell me what to do. You allow the member to proceed to speak. You have no business to

be interfering with the proceedings in the manner in which you are doing.

An HON MEMBER: That mistake is not acceptable.

Ms Y N YAKO: Thank you, Deputy Speaker, may I carry on?

The DEPUTY SPEAKER: You are being contemptuous, if I may suggest to you. You know the Rules. [Interjections.] The Rules say that you cannot contest the rulings of the presiding officer. Why do you think you can do it and get away with it? On what authority do you base that decision? No, you shouldn’t do that.

The CHIEF WHIP OF THE MAJORITY PARTY: But we did not hear what your ruling is. Deputy Speaker, we request that you repeat the ruling.

The DEPUTY SPEAKER: I repeated it twice, hon Chief Whip.

The CHIEF WHIP OF THE MAJORITY PARTY: Can you repeat it for the third time?

The DEPUTY SPEAKER: I am still saying that she must proceed. We have ruled on the matter that such symbols are inappropriate on

the members and that they shouldn’t be allowed. So, I am not going to be engaged in whether it is doable now or not. She’s going to go ahead now. Please go ahead, hon member.

The CHIEF WHIP OF THE MAJORITY PARTY: That is out of order, Deputy Speaker.

The DEPUTY SPEAKER: Go ahead, hon member.

Ms Y N YAKO: Thank you very much, Deputy Speaker, because of the important role that this office plays, the leaders of that institution ought to be remunerated fairly and their security needs to be guaranteed.

We agree with the logic used by Mr Ramaphosa in deciding to increase the Deputy Public Protector’s salary to R1,8 million per annum. The salary she was offered before was, as the report knows, even lower than that of the people who are supposed to be subordinates to her.

What’s even more shocking is that her salary was lower than the salary earned by the previous Deputy Public Protector Kevin Malunga. A women doing work of equal value was offered a salary

far less than her male predecessor. This should be shocking all of us into shame.

We welcome this report and offer our full support to the Deputy Public Protector. We further urge her to resist all temptation that will surely come for her to distance herself from her boss, Advocate Busisiwe Mkhwebane.

The strength of the Office of the Public Protector lies in the unity of the leadership and the recognition by the leadership that there is only one enemy they have to fight and that enemy are those who keep misusing their authority to serve themselves rather than the public.

The Office of the Public Protector needs all the resources and all the support society can master to ensure that they remain insulated from the dominant political influences and do their job without fear or favour. Therefore, the EFF supports this report.

Thank you very much, Deputy Speaker. [Applause.]

*Declarations continued.*

Prof C T MSIMANG: Hon Deputy Speaker and hon members, the IFP agrees with the Portfolio Committee on Justice and Correctional Service’s recommendation that the National Assembly resolve to

approve the notice determining the remuneration of the Deputy Public Protector in terms of section 2(a) of the Public Protector Act.

Furthermore, the IFP agrees with the portfolio committee’s recommendation that the effective date of determination reflect the date on which Adv Gcaleka took up the Office of Deputy Public Protector. The IFP has taken consideration of reasons provided by the President for his determination concerning the remuneration payable to the Deputy Public Protector and that the President has consulted both the Minister of Finance and Justice and Correctional Services on the matter. Thank you, hon Deputy Speaker.

The DEPUTY SPEAKER: The FF Plus.

Dr C P MULDER: Hon Deputy Speaker the FF Plus is not going to make a declaration. Thank you.

The DEPUTY SPEAKER: Alright.

The ACDP.

Mr S N SWART: Hon Deputy Speaker, this is a very interesting determination. Up to now most of the determinations where the Independent Commission made recommendations have not been followed by the President due to fiscal constraints. In fact, there has been a lowering and salary freeze to those who have been earning R1,5 million. However, in this case the President has elected to increase the determination and not follow the Independent Commission’s recommendation.

So, I appreciate the concerns that have been expressed on the issue of consistency and on the issue of the fiscal constraints facing the nation.

However, when one considers the reasons that have been given. They are compelling. The President – and may we also congratulate him on his birthday today, his 68th birthday. He indicates the gap between the salaries between the Public Protector and her Deputy is considerable and is unique and that no other Chapter 9 institution has such a significant gap between the head of an institution and their deputy. Now this is R800 000 gap.

Secondly, the President indicates that the current salary of the Deputy Public Protector sees her earning significantly less than the executive management of the institution over which she shares

oversight. Thus undermining her authority to fulfil her responsibilities. The argument is made that this is happening in other institutions such as the National Prosecuting Authority, NPA, but that is intolerable at the NPA also needs to be addressed there, I would say.

Last year the salary earned by her predecessor Adv Kevin Malunga, was considerably higher than the salary she is being offered and this difference was only communicated to her after she accepted the position and started her work.

We from the ACDP’s perspective clearly believe that women doing the work of equal value should be paid equal salaries. The present situation without this presidential determination is intolerable and should be rectified by this salary determination.

The question arises why the commission made this erroneous determination in the first place and this was discussed during the portfolio committee.

The President has indicated that he has discussed and consulted with the Ministers of Finance, Justice and Correctional Services as well as the matter being dealt with by the portfolio committee and given these reasons was balancing against what has been said

with the fiscus constraints. The ACDP believe that we should support this report. I thank you.

Mr A M SHAIK EMAM: Hon Deputy Speaker, the NFP notes the report of the Portfolio Committee on Justice and Correctional Services on notice determining the remuneration of the Deputy Public Protector in terms of section 2(a) of the Public Protector Act, Act 23 of 1994. In his letter dated 18 August 2020, the President proposed that the Deputy Public Protector’s remuneration be set at

R1,814 65 per annum. The President explained his reasons which were sound and reasonable. However, the conundrum we are sitting with is a Wage Bill of R629,2 billion mounting up exponentially despite the efforts made to cut freeze and reduce the Wage Bill.

Hon Deputy Speaker, Ms Gcaleka was previously paid R300 000 per year less than her predecessor and I am not sure that this is the reason because she is a female and her predecessor was a male earning more. If that is the case it is totally unacceptable although there is no evidence in that direction.

The NFP acknowledges and welcomes the proposal and the remuneration of the Deputy Public Protector for reasons outlined above. Most importantly that the Deputy Public Protector cannot be

earning far less than the executives that she oversees. The NFP notes, considers and supports this. Thank you very much.

Mr W M MADISHA: Hon Deputy Speaker, Cope supports the proposal put before this House. Our support is based on the expected work the Deputy Public Protector must execute for the people of South Africa. As Cope we checked her qualifications, experience she has acquired, work done by the portfolio committee and the reality that the difference between the salaries between the Public Protector and her Deputy is too much.

The Public Protector’s Office and I emphasize, Office consist of two people – just like the Presidency – you talk about two people and therefore the salaries cannot just be like it is in the Office of the Public Protector.

As a country, we are faced with serious historical problems *inter alia* problems of corruption, killings of South Africans and other worst kind of problems. Though as a sequel to corruption of fair, theft and killings, we have commissions, including the Zondo Commission, we still have to have the Public Protector and the Deputy doing all the work. Therefore, we do agree with the proposal. Thank you.

Mr M G E HENDRICKS: Hon Deputy Speaker, we need to enhance the status of the Deputy Public Protector, because it is very important for us to have the speedy resolution service available. Like in the early days we had labour problems that were very, very expensive that is why the Commission for Conciliation, Mediation and Arbitration, CCMA, was created. Here we know that the Public Protector and the support like the Deputy and so on, plays a very important role to provide people with a service that does not require legal expenses and deny them the right to put issues.

As Al Jama-ah, we would like to congratulate the portfolio committee for supporting the recommendations made and in the end for recommending this proposal be accepted. We support the proposal, hon Deputy Speaker.

Ms J M MOFOKENG: Hon Deputy Speaker, the ANC rise in support of the report of the Portfolio Committee on Justice and Correctional Services on the notice of the remuneration of the Deputy Public Protector in terms of section 2(a) of the Public Protector Act. In October this year the country celebrated 25 years of the establishment of the Office of the Public Protector.

Once again we convey our appreciation to this critical institution which was established to support our relatively young democracy.

The existence of the Office of the Public Protector reaffirms the call of 1955 which was made in Kliptown that the people shall govern.

Over the past 25 years, the Office of the Public Protector has been instrumental in transferring power to the people and in encouraging people to speak out against maladministration with the surety that their complains will be taken seriously. It has been instrumental in promoting a transparent and accountable government that is answerable to the people.

In the 2019-20 performance report, the office reported that it managed to achieve 79% of their targets improving from 72% from the previous year. This has been steady climb when judging by the performance in 2017-18 which stood at 50%.

In his letter to the Speaker dated 18 August 2020, the President requested the National Assembly to consider the notice determining the salary, benefit and allowances payable to the Deputy Public Protector in terms of section 2(a) of the Public Protector Act.

The Independent Commission gazetted in its recommendations of February 2020 among others recommending the salary of the Deputy Public Protector be adjusted from R1,446 368 to R1,504 233 per annum. In his letter the President rejected the commission’s

proposal and proposed that the Deputy Public Protector’s remuneration be set at R1,814 65 which is at the same level as the incumbent’s predecessor.

The President considered a number of factors which includes the considerable and unique gap between the salary of the Public Protector and that of the Deputy Public Protector. No other Chapter 9 institution has such a significant gap between the head of an institution and their deputy. However, the current salary of the Deputy Public Protector sees her earning significantly less than the executive management of the institution over which she shares oversight. That the salary of her predecessor was considerably high than the salary she was offered.

The President further indicated that he had consulted the Ministers of Finance and Justice and Correctional Services, and both were in agreement with the determination.

Hon Deputy Speaker, the doctrine of legitimate expectation entails that a reasonable expectation based on a well-established practice or an express promise by an administrator acting lawfully gives rise to legal protection when the practice or promise is clear.

When the salary of the Deputy Public Protector was not included in the advertisement, an expectation that a candidate interested in the position of the Deputy Public Protector will earn the same salary or similar salary with their predecessor is legitimate, reasonable and justifiable.

In addition, rejecting the proposal made by the President in this regard will send a dangerous message to the society. That message would be a contradiction to what we stand for the total emancipation of women. To this end I wish to quote Felicity Jones who said:

I want to be paid fairly for the work that I’m doing. That’s what every single woman around the world wants. We want to be paid on parity with the man in a similar position.

In conclusion the Independent Commission should consider looking at the issue of remuneration and benefits of the various Chapter 9 institutions, uniformity and ultimately fairness. The ANC supports this report. I thank you. [Applause.]

Report adopted and Notice determining remuneration of Deputy Public Protector in terms of section 2(a) of Public Protector Act, Act 23 of 1994 accordingly approved.

# UNPARLIAMENTARY LANGAUAGE

(Ruling)

The DEPUTY SPEAKER: Hon members, before I proceed to the 10th Order, there are two outstanding rulings that would like to make. The third one will be made by hon Boroto, before we close proceedings today. On Tuesday...August... during the debate on *Black Lives Matter, Reinforcing the Commitment of All South Africans to Confront and Defeat Individual and Institutional Racism in Our Society and Everywhere Else It Exists*. Hon C T Mulder rose on a point of order in response to the following remarks, allegedly made by hon P N Abraham.

Hon Mulder of the FF Plus your time to dish out racist tendencies using Christianity is over.

Dr Mulder then rose on a point of order and said and I quote:

I didn’t participate in the debate, first of all and secondly the hon member, she refers to me and my racist tendencies. I think that is unparliamentarily and she should withdraw.

Thank you.

I then proceeded to ask the hon Abraham if she had uttered the alleged remarks, to which she replied “no, Deputy Speaker”, these are her words. I undertook to study Hansard and return to the House with a ruling on the matter. Having listened to the Hansard audio recording, I would like to confirm that indeed Ms Abraham made those utterances.

Accordingly, the rule is as follows: Rule 84 and the Rules governing offensive under parliamentary language are broadly framed in order to allow hon members to enjoy their constitutional right to freedom of a speech. However, well established practice also dictates that any statement or remark which impairs the dignity of the person to whom it is directed or affronts that person’s honour, such statements cannot enjoy the privilege of the freedom of speech accorded in the usual course of parliamentary proceedings.

The debate on *Black Lives Matter*... and the commitment to eradicate racism was an important debate for members to participate in the fight against racism. In view of our history, it is incumbent on members to actively take the lead to rid our society of its racist barricades. I will also emphasize that when members participate in such debates in the House - members have a unique opportunity to actively inculcate and promote the values of

tolerance, diversity, inclusivity and they should be setting standards in that regard. Members should also be sensitive to the messages they convey in their exchanges, it is always unparliamentarily and out of order to accuse another member of racist tendencies.

It was wrong and unparliamentarily for hon Abraham to accuse hon Mulder of racist tendencies. I therefore have to ask the hon Abraham to withdraw her remarks. Hon Abraham, please rise or if you are on the platform indicate your presence and do as I request. Is the hon member present?

The HOUSE CHAIRPERSON (Ms M G Boroto): Deputy Speaker...is... one...

The DEPUTY SPEAKER: Yes, hon Boroto.

The HOUSE CHAIRPERSON (Ms M G Boroto): ... which hon Abraham, PN?

The DEPUTY SPEAKER: Yes.

The HOUSE CHAIRPERSON (Ms M G Boroto): Ok.

The DEPUTY SPEAKER: Is she here? If she is not here...hon Boroto.

The HOUSE CHAIRPERSON (Ms M G Boroto): Yes, Deputy Speaker. Unfortunately, I don’t think she has logged in according to the table staff.

The DEPUTY SPEAKER: Hon Boroto, in her absence I will proceed to complete the ruling, because in addition to the ruling, I have just made. It is also fair that, having given an opportunity whether indeed she uttered the words. Ms Abraham went on record again and denied the allegation, thereby in effect deliberately misleading the Chairperson in other words, the presiding officer and the House. In this regard, I must point out that section 17 of Powers, Privileges and Immunities of Parliaments and Provincial Legislatures Act, states that a member is guilty of contempt if he or she wilfully furnishes a House or committees with information or makes a statement before it, which is false or misleading. In light of this, I have no option but to refer the matter to the Speaker, to consider whether Ms Abraham’s conduct requires further action in terms of the Act as indicated.

When the member is back in the House, at any time we will discuss this with the rest of the presiding officers, so that the hon member does as is expected of her, to withdraw and the rest will proceed as I have ruled.

# UNPARLIAMENTARY LANGAUAGE

(Ruling)

The DEPUTY SPEAKER: The second ruling that I would like to make, is that on 08 July, during the *Consideration of the Revised Fiscal Framework*, the Minister in the Presidency, hon Jackson Mthembu, rose on a point of order contempt, that Mr N F Shivambu of the EFF had referred to the President of the Republic as the puppet President, who is a puppet of the white monopoly establishment.

Mr Mthembu contempt that this constituted unparliamatary language and had to be withdrawn.

At the time I undertook to follow up and came back to the House with a ruling. From the recorded sound clip provide by Hansard, Mr Shivambu can be clearly heard saying it. Hon members, Rule 84 clearly states that:

No member may use offensive, abusive, insulting, disrespectful, unbecoming, unparliamatary words or language nor offensive, unbecoming or threating gesture.

Further, there have been numerous rulings over the years that, members may not be impute improper motives to other members or

cast personal reflection on their integrity or dignity. This has since been clearly codified in Rule 85.

Mr Shivambu’ remarks suggest that the President is beholding to someone or something behind the scenes that controls him as President. Implies that he is acting in ways other than the dictates of his oath of office. This casts personal reflections upon the integrity and dignity of the President. It is also apparent from the manner in which the remarks were made that they were not only intended to imply some improper unethical conduct on the part of the President but were aimed at insulting and offending the President as a person.

Our freedom of speech as members is unfettered, subject only to the Constitution and the very Rules of the National Assembly, to which were all taken the oath to abide by. Mr Shivambu remarks are clearly in breach of these rules. The conventions of the past rulings of this Parliament must be...those remarks must be withdrawn. Hon Shivambu, we require you to withdraw those remarks. Is hon Shivambu present? Hon Shivambu.

Ms E N NTLANGWINI: Speaker, hon Shivambu is not in the House.

The DEPUTY SPEAKER: Ok, this ruling stands and hon Shivambu will be expected to withdraw when he is back in the House. Thank you, hon members, we will now proceed to the 10th Order. The secretary will read the last order of the day.

# CONSIDERATION OF REQUEST FOR APPROVAL BY PARLIAMENT OF AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE EUROPEAN ATOMIC ENERGY COMMUNITY (EURATOM) FOR CO-OPERATION IN THE PEACEFUL USES OF NUCLEAR ENERGY IN TERMS OF SECTION 231(2) OF CONSTITUTION, 1996 (REPORT OF PORTFOLIO COMMITTEE ON MINERAL RESOURCES AND ENERGY)

Mr S LUZIPO: Deputy Speaker, hon members, the Euratom agreement was signed between the government of the Republic of South Africa and the European Atomic Energy Community for Co-operation in the Peaceful Uses of Nuclear Energy, which was supposed to have commenced in 2013. This is an important agreement and part of our bilateral and multinational responsibilities as a country, with a nuclear capacity for peaceful uses, amongst those specifically being energy production and nuclear medicine. This agreement is a co-operative agreement between South Africa and the European Atomic Energy Community.

The agreement is premised on a nuclear nonproliferation and all the rules and regulations of the International Atomic Energy Agency, of which both South Africa and the Europeans are important members. The agreement allows the joined research between Euratom and South Africa to enhance scientific co-operation, which allows the countries to remain at the helm of a development in the nuclear industry. It allows for research organisation in the nuclear sector to participate in each other’s research programmes, both in South Africa and within the European Union, which will be mutually beneficial for both parties.

This is an agreement that has not removed the independence of research organisations in South Africa or in the European Union. It encompasses co-operation in the nuclear sphere in relation to nuclear medicine, and also as an application to agriculture. It commits both parties to the agreement to ensure nuclear safety and proper risk management, given the radio-active nature of the technology, which requires by definition such a high standard of safety, as is the case in South Africa and the European Union.

It is based on peaceful uses of the nuclear energy and correctly does not allow for any research or material produce to be utilised by either party for the development of or research on weapons. The use of nuclear energy for peaceful ... [Inaudible.] ... reflects

the policy of our government. The agreement regulates the movement of nuclear material and technology between EU members of the Euratom and South Africa.

It ensures that transfer of nuclear material and technology occurs in a safe and regulated manner for the peaceful use of nuclear energy.

Exchange of information and intellectual property is safeguarded for both parties to the agreement in accordance with the international norms, standards and law. The agreement does not seek to create any competitive advantage for either party, as it is a co-operative agreement. Therefore, no commercial advantage or disadvantage will accrue to any party, which is a signature to the agreement.

The agreement recognises the laws of the Republic of South Africa and that of the European Union, as governed by their laws.

International legislation, regulation and international treaty agreements guide the contract of parties to the agreement. Member states of the Eurpean Union, through this agreement, are also allowed to enter into individual agreements with South Africa and therefore this agreement does not restrict the countries’ development in the nuclear field and any other country.

The agreement has a technology management plan that does not infringe on the right of any party to the agreement, as the transfer of technology for nuclear energy is governed by international ... [Inaudible.] ... to which South Africa strongly adheres.

The portfolio committee therefore, having considered the agreement between the Republic of South Africa and the European Atomic Energy Community, Euratom, for Co-operation in the Peaceful Uses of Nuclear Energy and their accompanying explanatory memorandum recommends that the House approves the agreement in terms of section 231(2) of the Constitution of the Republic. We recommend for the adoption of the agreement. Thank you.

*Declarations of vote:*

Mr K J MILEHAM: Deputy Speaker, when we hear the word nuclear, it triggers images of mushroom clouds.

The CHIEF WHIP OF THE MAJORITY PARTY: Deputy Speaker, on a point of order: On the previous ruling that you have just made, the member on the podium is having a DA logo on the mask.

The DEPUTY SPEAKER: Hon members, you know that you are not supposed to put on masks or rather you are not supposed to have a

logo. It is out of order. Hon member, you will remove that logo and you will find an appropriate mask without the logo. You know the Rules.

Mr K J MILEHAM: Deputy Speaker, I apologise profusely. I thought you had set a precedent with your previous Ruling that, in this session, we could wear regalia. I will take it off. It is fine.

The DEPUTY SPEAKER: There is no precedent set. The member was online, using technology and if the thing could not be done, it could not be done. You are manual and can operate and you removed it. It is correct that you have removed it, but the first thing that you must do as soon as you leave that platform, is to find a mask. And that is a Rule and an expectation as well. This is deliberate defiance of the Rule. Two wrongs don’t make a right.

Mr K J MILEHAM: Deputy Speaker, it is off. When we hear the word nuclear, it triggers images of mushroom clouds, nuclear plant failures like Chernobyl and Fukushema and strange mutations.

However, what is not mentioned in this many discussions are the many tangible and safe benefits that we experience on a daily basis from a scientific development of nuclear technology. We have X-rays, MRIs and CT scans at the hospital or at the dentist without thinking about it. We use radiation treatment for cancer.

Every time we use a microwave oven, we are harnessing the power of the atom to radiate and cook our food.

Since the dawn of the nuclear age in the mid-1940s, nuclear technology has powered the development of many facets of medicine, industry and indeed our very understanding of the universe.

Nuclear power plants provide electricity in more than 30 countries, thanks to, in part to the nuclear Nonproliferation Treaty, which set a framework for increasing access to peaceful use of nuclear technology.

In South Africa, we have long been at the forefront of the adoption of nuclear technology and scientific research. We are considered world leaders in the production of radio-active isotopes, in some instances, providing up to a third of the world’s supply. It is a little known fact that it was a South African-born physicist, Alan MacLeod Cormack, whose research in X- ray technology led him to developing the theoretical underpinnings of CT scanning and ultimately winning the 1979 Nobel Prize in Physiology and Medicine for his pioneering work in this field.

Yet, South Africans generally exhibit particularly low levels of knowledge of nuclear energy and technology. A human sciences research council’s study in 2012 found that only a very few claim

to be knowledgeable or somewhat knowledgeable, with greater numbers reporting that they were not very or not at all knowledgeable about nuclear energy. Almost a third of all respondents were unable to express an opinion, instead opting to express a “do not know” response.

So, clearly, there is an important need to educate South Africans on the risks, but also the benefits and implications of nuclear technology across a range of fields, not just electricity generation.

Nuclear safety is a global issue and this was tragically demonstrated by the Chernobyl accident, which bought home to everyone that an accident anywhere is an accident everywhere. This is where associations with organisations such as Euratom come in. The European Atomic Energy Community, Euratom, is a European organisation established under the Treaty of Rome in 1957, to co- ordinate the research programmes of EU member states for the peaceful use of nuclear technology. The EU has its own joined research centre in the nuclear field and this centre has become an institution of prime importance for nuclear research in Europe.

Their research activities cover the following areas: energy from nuclear fusion with the aim of developing a technology exploiting

nuclear fusion as a safe sustainable an environmentally friendly energy source; nuclear fission radiation protection to promote the safe use of nuclear fission to produce energy and other applications and industries and medicine; nuclear safeguards and standards, including appropriate emergency preparedness and response; and the management of radioactive waste and spent fuel, as well as the safe and responsible decommissioning of nuclear facilities.

The programme is implemented through contract of association between Euratom and member states or associated counties or research organisations. It is this that we seek to approve today. This agreement will permit multilevel interaction between South African entities, government departments, nuclear practitioners and experts with their counterparts in EU countries who may have specific expertise that can contribute to the development of South Africa’s nuclear industry.

This agreement has been delayed for far too long. The DA supports the adoption of this report. Thank you.

Mr M N NXUMALO: Deputy Speaker, please allow me to not switch on my camera. From the outset, let me state, that the IFP supports the agreement between the Republic of South Africa and the

European Atomic Energy Community, Euratom, for the co-operation in the peaceful uses of nuclear energy, including the accompanying explanatory memorandum, which has been tabled in terms of section 231(2) of the Constitution and the recommendation that the House approve the agreement.

Nuclear energy will continue to play a pivotal role in South Africa’s energy mix for the foreseeable future. It is therefore not only necessary but also an opportunity for the responsible and safe use of the nuclear energy that such agreements are entered into with our international partners.

International practices and co-operation for mutual benefit, which includes nuclear research and development, nuclear safeguard and the transfer of nuclear equipment and the materials is essential if we are to utilise the energy source for the maximum benefit of the people of our country.

While this country’s energy mix is still largely dominated by coal, this will gradually reduce with the nuclear energy increasing. It therefore of paramount importance that we ensure that our usage of nuclear energy complies with the highest safety standards and international best practices. Thank you

Dr W J BOSHOFF: Deputy Speaker, Parliament today needs to ratify the agreement between South Africa and the European Atomic Energy Community for the co-operation in the peaceful uses of nuclear energy.

*Afrikaans*:

Om ’n party tot hierdie ooreenkoms te wees is ’n erkenning vir Suid-Afrika se noemenswaardige kundigheid en tegniese vermoeë op die gebied van kernenergie.

Van die vorige bedeling, het die ANC-regering ’n sterk ontwikkelde kernenergienywerheid geërf. Na bewering het daardie regering ook ses kernbomme op verkillende stadia ... [Onhoorbaar.] ... gehad, maar dis afgetakel en nooit gebruik nie.

Vandag het vriend en vyand ... [Onhoorbasar.] ... Oud-president Zuma, het niemand anders in die ANC sulke speelgoed gehad nie, maar die vreedsame gebruike wat oor was bly indrukwekkend.

Die ... [Onhoorbaar.] ... kragsentrale het ’n wesenlike rol gespeel in die ... [Onhoorbaar.} ... van Suid-Afrika. Deur daardie isotope vir mediese gebruike en chemise produkte vir nywerheidstoepassing ... [Onhoorbaar.] ... vervaardig word, is steeds van die bestes op die aardbol.

Dit is selfs belangrik dat as ... [Onhoorbaar.] ... dit verdien goeie geld. Kernafval ... [Onhoorbaar.] ... die neweprodukte moet nog ook verantwoordelik op die grens ... [Onhoorbaar.] ...

Namakwaland en Boesmansland in die Noord-Kaap.

Die vernietiging van maladministrasie is kragtiger as die van ’n atoombom, al gaan dit stadiger. Die Nuclear Energy Corporation of South Africa, Necsa, wat vir hierdie werk verantwoordelik is, ly ernstig onder maladministrasie.

In Desember 2018 is die voorsitter en die grootste deel van die Necsa-raad, sowel as die hoofuitvoerende beampte deur die destydse Minister van die Energie, Jeff Radebe, afgedank. Intussen sukkel Necsa om sy lesensiegeld te betaal en ... [Onhoorbaar.] een van sy eie ... [Onhoorbaar.] ... op noodgedwonge krediet aan Necsa ... [Onhoorbaar.]

As gevolg van Covid-19 verklaar die huidege raadsvoorsitter dat die verwagte wins na ’n verlies van R331 miljoen gedaal het.

Die grendelstaat is nog ’n atoombom wat die ANC gebou het. Teen Julie 2018 stuur ... [Onhoorbaar.] ... ’n vriendelike dog effens ongeduldige briefie aan Mnr Radebe om hom te herinner dat die ... [Onhoorbaar.] ... sy deel gedoen het en net op die RSA wag om die

ooreenkoms te bekragtig en hier gee 28 maande later ... [Onhoorbaar.] ... die Parlement.

Dalk is dit hoekom mense ... [Onhoorbaar.] ... kan so goed as moontlik wees, maar die ... [Onhorbaar.] ... eeue lank gevaarlik en hoe weet jy ... [Onhoorbaar.] ... benadeel die land? Daarom is dit goed om internasionale medewerke en selfs toesig te betrek.

Die VF Plus ondersteun daarom die bekragtiging van hierdie ooreenkoms. Dankie.

Mr W M THRING: Deputy Speaker, it is the view of the ACDP that when considering the agreement between the Republic of South Africa and the European Atomic Energy Community for co-operation in the peaceful uses of the nuclear energy, the operative words be peace for uses. Clearly, our energy mix, nuclear energy, currently plays an important role in meeting the energy needs of South Africa. Understandably, there are many who have grave concerns about the use of nuclear energy given its history and political abuse by certain countries. One only has to think of the deactivation and pain inflicted on those in Hiroshima and Nagasaki during the Second World War, the Chernobyl disaster in the Ukraine in 1986 and the threats by countries like Iran and North Korea to use their nuclear capability for political gain.

Our new democracy has inherited the two reactors in Koeberg Nuclear Power Station positioning South Africa as the only country in Africa with the commercial nuclear power plant. It is imperative that we utilise the inherited Koeberg Nuclear Power Station with diligence and care.

The main purpose of the co-operation and the agreement as presented to the committee is to expand and deepen the mutual beneficial economic, scientific and technical co-operation. This may include research and development in the field of nuclear, use of nuclear materials and materials and technologies such as the applications in health and agriculture, the transfer of nuclear materials and equipments, nuclear safeguards, nuclear safety and radio active waste and spent fuel management, decommissioning and radiation protection including emergency preparedness and response.

The ACDP understands there are certainly some countries that have a more advanced institutional knowledge as well as skills sets with regard to research and development capabilities and South Africa has in terms of nuclear advancement and safe disposal of nuclear waste. In supporting this agreement the ACDP encourages that we take advantage of the co-operative agreement and that the safety of South Africans are prioritised and that our country, and

indeed Africa as whole, does not become the dumping ground of European or first world nuclear energy waste. I thank you.

Mr A M SHAIK EMAM: Deputy Speaker, the NFP notes the consideration of request for approval of agreement between the government of the Republic of South Africa and the European Atomic Energy Community. Let me start off by saying that agreements of this nature should be, and must be, concluded with all countries throughout the globe. It should not be with selected countries because that means some of the countries have an urge over other countries. The ideal example I wanted to give in response to what I have just said is what my colleagues has exactly said about what is happening in Iran, United Sates, Syria and Iraq. They all have nuclear weapons. Did they find anything? Absolutely nothing! It is because certain super powers particularly in these world one control and have power over the smaller countries. That is the problem, and particularly for the resources. We must be mindful of that.

The agreement was signed in 2013 and was subsequently approved by Cabinet. The main purpose of the co-operation is to further expand and deepen the mutual beneficial economic, scientific and technical co-operation which includes, amongst others, research and development in the field of nuclear transform, nuclear materials and equipments, nuclear safe guards and the use of

nuclear materials and technologies such as applications and in the health and agriculture.

The NFP welcomes this agreement. If either party or member state of the committee violates any of the material conditions of the agreement, the other party may on given written notice to that effect, suspend or terminate co-operation under the agreement. So, I think there are checks and balances to that effect. Termination of the agreement shall not affect the implementation of any arrangement and of contract made during the period of its validity, but still not completed by the date of its termination unless otherwise agreed upon by the party. The NFP welcomes the recommendations of the portfolio committee and supports it. Thank you very much.

Mr M G E HENDRICKS: Hon Deputy Speaker, I’m sure you will be the first person that will agree with me that an agreement between one African country and the European Union cannot be stronger than an agreement between all the African countries and the European Union. But that is just an opinion that you will feel that way. It is very important that going forward we do not forget other countries in Africa. This would have been an ideal opportunity to reach an agreement between the countries in Africa and the European Union so that the advancement of technology would be of

benefit to all African countries. We must also be minable to the fact that there are other countries outside the European Union that South Africa can learn a lot from to get the benefit that the official opposition so clearly spelt out to the House. Here I am thinking of Pakistan, India and Korea. These are Asian countries. But if we want to leave our countries, Asia, Europe and African, there is also Iran. They are technological; they have safety precautions built in when there are disasters. Why can’t Africa also benefit from it? So while with the preferred continental agreement, the European Union, it would have been an easier thing to get African countries to agree to it where the other issues are very complicated. We feel that the agreement with the European Union is the step in the right direction, but South Africa must widen its horizons, Hon Deputy Speaker. Thank you very much.

Ms T P MSANE: Chairperson, the reality in the world today is that a few powerful nations think it is okay for them only to possess nuclear capacity. Today, the United States of America can wilfully threaten to destroy sovereign nations such as North Korea and Iran if these countries refuse to dance to the tune set in Washington. In Europe, France and the United Kingdom are recognised nuclear arm states and the apartheid state of Israel also possesses nuclear arm. None of these states are being in researched. No stringent controls are imposed on them to ensure peaceful use of

these dangerous weapons. Only few states have voluntarily stopped their nuclear arms programmes and that include us. Whether this was a right decision or not only history will judge. We however believe that third world was not ready to have a state led by black people presiding over nuclear arms. It is the only plausible reason South Africa was coerced into stopping its nuclear arms programme.

While South Africa and the rest of the African continent have taken a step back from the nuclear arms programmes, the rest of the world continues taking our African minerals in order to enrich their nuclear arms programmes. We know for a fact that the uranium used to make atomic bombs dropped over Hiroshima was taken from Congo while actual people doing the mining in Congo were left destitute.

Chairperson, we are of the view therefore that our approach to use nuclear energy, whether peaceful or not, must be guided by our long-term objectives as Africans. We must adopt a Pan-African approach to our conceptualisation of nuclear energy in the 21st century. And we must do so in a manner that will empower African people, grow our economies and protect African sovereignty.

This agreement with the European Atomic Energy Community is a little out of place. Whatever agreements we make concerning the use of our nuclear capabilities must be driven by continental aspirations. Therefore, we request this request. Thank you, Chair.

Mr M G MAHLAULE: Hon Deputy Speaker, South Africa has a developed nuclear energy industry and this form of energy is playing an important role in the energy mix of our country. The country equally plays an important role in the international nuclear forums for peaceful uses of nuclear energy such as the International Atomic Energy Agency. South Africa is internationally known for the development of nuclear medicine which is critical in the health sector. This agreement reflects that South Africa has a responsible international role to play in the peaceful usage of nuclear energy. The ANC-led government supports the peaceful usage of nuclear technology and nuclear energy. The signing of the Euratom Treaty is part and parcel of our international obligations to co-operate with other global partners in the nuclear sector for peaceful uses of nuclear energy. These multilateral forums allow the country to continue keeping abreast of international best practice through exchanges of cutting edge information and developments in the nuclear industry. It at the same time ensures that the domestic nuclear

industry follows best international forms and practice and stays abreast of latest international developments.

This is a bilateral agreement which regulates the relationship between European Union member countries and South Africa to conduct research, transfer of nuclear material and technology in accordance with international norms and standards of nonproliferation and ensuring the use of nuclear energy for peaceful means only.

This agreement does not negate any other international obligations which both South Africa and Euratom subscribed to, such as the International Atomic Agency. On the contrary, this agreement upholds international agreements norms and standards for both parties who are signatories to it. The agreement does not include or interfere with commercial aspects of nuclear energy for peaceful means as it is a co-operation agreement which seeks to regulate the nuclear sector according to international norms and standard. It does not seek to make any market intervention. Its focus is more advancing research in the nuclear sector. This is important for South African as it ensures that the country is guided by the latest international research in all spheres of the nuclear industry. Research in nuclear medicine is a key area of growth of this sector in the country. Regulating technology and

materials and the exchange thereof is crucial as part of the agreement and these are based on international norms and standards, and for South Africa it is important that our nuclear industry functions and operate within global norms and standards.

The agreement regulates the transfer of nuclear material, technologies and applications. This is critical as this is regulated globally and has to follow strict international standards for its successful operation. Key to this agreement in terms of the peaceful usage of nuclear technology is nuclear medicine and the application of nuclear technology in agriculture. The country already produces nuclear medicine and this industrial activity is a growth industrial sector for local market and for export market and therefore it is critical that we are in touch with the latest research and operate on best international practice for the success of the nuclear medicine industry.

A critical component of the agreement is nuclear safety and ensuring that global safety standards are maintain in local nuclear facilities. Radio active waste management and spent fuel management is a critical part of the agreement where information exchanges and new developments are important to the operation of the nuclear sector. Emergency preparedness and emergency responses at nuclear facilities forms part of the agreement, and here again

it is imperative that local facilities have the best international practice for emergency preparedness and emergency responses.

The legal framework for the agreement is based on South African law and the law of the European Union. Furthermore, this is coupled with international agreements and conventions of the International Atomic Energy Agency. South Africa is an important member of the International Atomic Energy Agency and follows all the international conventions.

The Portfolio Committee on Mineral Resources and Energy has approved the signing of the Euratom agreement. This is another agreement that is, for the first time in this committee, we have to approve together with the DA. The ANC supports the Minister of Mineral Resources and Energy in signing the Euratom agreement and urges the National Assembly to approve the agreement. I thank you very much.

Agreement between the governments of the Republic of South Africa and the European Atomic Energy Community, Euratom, for Co- operation in the Peaceful Uses of Nuclear Energy accordingly approved (Economic Freedom Fighters and Al’Jama-ah dissenting).

# CONSIDERATION OF REPORT OF PORTFOLIO COMMITTEE ON TOURISM ON THIRD AND FOURTH QUARTER PERFORMANCE OF DEPARTMENT OF TOURISM FOR 2019/20 FINANCIAL YEAR

*Setswana*:

Mr S O R MAHUMAPELO: Motlatsammusakgotla, ke a go leboga mme ke dumedisa le seboka sotlhe sa Ntlo eno.

The essence of our report is based, among others, on the existence of single-mindedness in both the legislature and the executive branches of tourism responsibility. To this effect we are single- minded in the long-term strategic goal of contributing to the achievement of a prosperous South Africa through tourism.

We are conscious of the protracted nature of a necessary struggle between the embedded in economic comfort and the embedded in perpetual economic discomforts and suffocation.

Conscious of this intergenerations, should not only applaud our effort but embrace such effort, build on it and strengthen.

Part of the basic human effort the tourism sector is trying to pursue in contribution towards the necessary reduction and

ultimate elimination of poverty, inequality and unemployment is expressed in the following:

First, the employment of agents of necessary transition from bureaucratism to revocratism, the majority of whom are women, which the committee is satisfied with.

Second, achievement of 82% of the set agreed targets in the Annual Performance Plan, APP.

Third, necessary shifting of the economic pendula towards the economies of the villages, the townships and the small *dorpies* [towns].

Fourth, introduction of R200 million of the Tourism Relief Fund; mindful of the reality that financial resources are inherently characterised by scarcity.

Fifth, improvement in the audit outcomes from qualified to unqualified.

Sixth, South African tourism unqualified with material findings according to the Auditor-General, AG.

Seventh, commitment and practical action to deal with the AG’s audit matters as raised.

Eighth, concomitantly a commitment to continue with the intensification of the consequence management against those whose actions result either in wasteful, fruitless, irregular expenditure.

Ninth, vigilant response to the Covid-19 pandemic is appreciated by the committee.

Tenth, continuation of the work in implementation with the Culture, Art, Tourism, Hospitality and Sport Sector Education and training Authority, CATH SETA, and all other bodies relevant in this regard.

Eleventh, the institutionalisation of work with other 18 relevant departments linked to tourism.

Twelfth, more collaboration with the private sector in deepening tourism economic growth.

Thirteenth, more collaboration with Department of International Relations and Co-operation, DIRCO, and other departments on

matters that relate to tourism in as far as the international sphere is concerned.

Fourteenth, the intensification and deepening of tourism transformation in the context of building a nonracial, nonsexist and a prosperous society.

Deputy Speaker, we thank you for understanding that no human effort is effortless. Ke a leboga [Thank you].

There was no debate

The CHIEF WHIP OF THE MAJORITY moved: That the Report be adopted.

*Declarations of vote*:

Mr H S GUMBI: Hon Deputy Speaker, in comparison to many other departments, the Department of Tourism performs better.

Objectively, it’s not collapsing in controversy and scandal in any major financial mismanagement and in the hollowing of its own capacity. The question is, however: Are we measuring its performance correctly?

It is after all not a service delivery heavy department and ultimately its performance is largely dependent on the success of other departments and municipalities.

So, to get to the point, the performance of the Tourism Department should be measured by the Minister’s ability to do two things: one, is to support tourism businesses to grow and create jobs by making entrepreneurs’ lives easier; and secondly, is to influence other government departments that they need in order for tourism to be able to grow and to do their job better in driving up tourism numbers.

This is the crux of [Inaudible.] measuring the performance of this department. And so, how does the Minister do on both those fronts? In supporting businesses the department has still not effectively made a move towards free grading services for places of accommodation. Although this is being constantly pushed and initiated by the DA, this is supported by all political parties in the portfolio committee and was again emphasised this morning in the portfolio committee.

So, why do the Minister continue to delay this? Why has she not entered the plan to move towards free grading? When does she commit to making grading compulsory but free of charge so that we

can empower many businesses out there that are wanting to get into the services based for accommodation and employ more people in the sector?

In a Weber mail with the Tourism Business Council of South Africa, there was mention of the establishment of the public-private sector steering committee towards a recovery of the sector; of the sector’s post Covid-19 plan. This would be good news to have a champion for all those businesses that have been decimated in this period. But what are terms of reference of this committee? What has this committee actually ultimately achieved? What business costs or regulations have they removed so that those struggling businesses have a path to profitability? I’m worried that the results are less favourable.

The second area is how the Minister influences other government departments to improve tourism in South Africa. For some time the DA in the committee has spoken about making it more affordable for tourists to fly to South Africa by doing everything possible to reduce the cost of travelling to the country. This was backed up at a recent portfolio committee with the Board of Airline Representatives of South Africa. But what has been the Minister’s influence on this front? Seemingly nothing as costs continue to sky rocket.

Nothing, however, screams and lack of influence when it matters; like the collapse of tourism in the Howick Fields area in KwaZulu- Natal. What once a beautiful local attraction with many tourist buses near the Nelson Mandela capture side in the KwaZulu-Natal has collapsed due to the failure of government on multiple fronts. The police have failed to keep the area safe and secure, the municipality fails to keep the area clean and even simply collect garbage, the street lights aren’t replaced, and the area continues to have a collapse in water and electricity supply. And even after the portfolio committee visited the area demanding answers from government; it took nearly a year to get a report just to find out what was going on and how it was going to be improved. This is a clear indication of the collapse of the ANC government and the lack of influence, not only of the portfolio committee but of the Minister of Tourism, to effect any real and meaningful change in the area through SA Police Service, SAPS, or the municipality in a way in which improves the ability of the Department of Tourism to get its own outcomes.

Whilst it is easy to self-congratulate the performance of the department on a largely meaningless criteria, which has not fundamentally changed the lives of many people who are hopelessly languishing in unemployment, our job is to hold the government to account and to be the alternative, to actually help businesses to

succeed and to get tourism numbers on the rise. And on that front, the Minister of Tourism is lacking. Thank you very much.

Ms E N NTLANGWINI: Deputy Speaker, we won’t be doing a declaration on this Order because according to the Order Paper that we have received the last Order was the mineral resources one. So, if by any chance this was swept in we didn’t see it and we would like to raise our objection on it because we didn’t see it; so, we won’t be making a declaration on it and we would like to express our disappointment in this regard. Thank you.

The CHIEF WHIP OF THE OPPOSITION: On a point of order, Deputy Speaker. I rise on a point of order to say that all Chief Whips of all parties were informed this afternoon, just past 1 o’clock, that there had been an error made on the Order Paper. The Order Paper was then withdrawn and the correct Order Paper was redistributed. It was done so to all Chief Whips and it was also done so on the actual programme of Parliament and all Chief Whips who are on the Chip Whips Forum group were also informed accordingly and therefore, everyone knew that there had been an error and that the error had been immediately rectified.

Ms E N NTLANGWINI: Deputy Speaker, on a point of order to the class prefect. We won’t be held liable on such errors; it needs to

be sent on time. If she wants to tick the box because she’s the class prefect, not here, let’s meet in Brackenfell.

The DEPUTY SPEAKER: Hon member, you’re out or order! This tendency to name and call people names is irresponsible and out of order; you don’t that.

*Declarations of vote cont*:

Mr K P SITHOLE: Hon Deputy Speaker, fiscal transparency and accountability are the fundamentals of good and clean government. This simply cannot be overstated. They are the rudiments of a well-functioning democratic state. Turning a blind eye to irregular expenditure, nepotism, corruption and maladministration in departments’ programmes during the novel corona virus pandemic is bad for departments. It has serious consequences on the livelihood of people working in the tourism sector. The committee’s message is that of satisfaction with the level of transparency with which the department conducted its third and fourth quarter performance report. Yet, the department captured in the report that at the end of the financial year, the department had 496 employees against the headcount of 471 that resulted in a

vacancy of 25 without much detail as to how this happened. It is a huge issue as it allows for the possibility of ghost employees.

Irregular expenditure makes the bulk of government’s maladministration. The department has reported differently as to how many people were employed against the physical headcount. This is a concerning fact of the possibility of ghost employees who are either people benefitting from not doing work or – as indicated in the past – maladministration of public funds. This brings me to the question of the department’s hiring processes. The IFP calls on the Minister to answer for the department why there is the looting of public funds and why no attempts have been made to ensure that the department does exceed its targets. Furthermore, the department reported that it used 99,7% of its allocated budget and achieved only 76% of its targets. What is the impact of Covid-

19 factors on the non-achievement of quarter three and quarter four targets? It is unacceptable to hide behind Covid-19 for the lack of achievement as the issues have been prevalent in the previous engagements. This is a shame and reflects badly on the department’s ability to be transparent. Take responsibility and be accountable. However, the IFP does support and accept the report. Thank you very much, Deputy Speaker.

Mr M G E HENDRICKS: Deputy Speaker, Al’ Jama-ah supports the report. We note the enthusiasm of the chairman of the portfolio committee especially his efforts to get an unqualified audit.

However, we feel that the department should spend some time and

budget resources for more events all over the country. We feel that, if that could happen, this would be a concrete way of showing support for the tourism industry. Thank you very much.

Ms S T XEGO: Deputy Speaker, hon members of the NA, greetings to you all. The ANC supports the Performance Report on the Third and Fourth Quarter Performance of the Department of Tourism as introduced by the chairperson of the committee, hon S O R Mahumapelo, before this august House. The tabling of this report comes at the right time immediately after the people of South Africa had again shown confidence in the ANC during the 95 by- elections that were held on 11 November countrywide, where the ANC recorded not less than 70% of support overall. I thank the electorate for such support to the ANC.

The report before this House is a reflection on the performance of the Department of Tourism that we oversee as a committee for its third and fourth quarter performance of 2019-20 financial year. As a committee, we robustly engaged the department during presentations and agreed on this report. We observed that the department is responding positively to the President’s call as outlined in the state of the nation address, Sona, of doubling the numbers of international tourists to 21 million by 2030. We also observed that the department displayed commitment to developing

and implementing policies that talk to the strategic objectives of the country – of job creation, addressing historical imbalances, and paying special focus on rural provinces including small towns like Port St Johns in the Eastern Cape. Their performance report, among other things, talks to the development of a national tourism information and monitoring system; provision of funding for signage to five national parks; skills development and empowerment of small enterprises; and other activities under various programmes as highlighted in the report.

It is encouraging to oversee a department that reports not only on achievement but also on shortfalls, and is ready to account. It also takes responsibility and accounts on targets that are not met. The example is when the department had a target of creating

1 517 full-time equivalent jobs. But instead of accounting for that number, they accounted for 1 255. Among the reasons given to the committee was the impact of Covid-19 pandemic which largely resulted in the country being placed under national lockdown to curb the spread of the virus. Both international and domestic travels were affected and that led to some of the department’s ... [Interjections.] ... being postponed and later cancelled.

As a committee, we observed a number of initiatives from the National Command Council because of the disaster that was declared

by the President. We observed the establishment of a Tourism Relief Fund. A budget of R200 million was set aside and businesses were all encouraged to apply for that fund. That was done to make interventions to save jobs. Generally, the performance report was accepted in the committee. On behalf of the ANC, I am of the view that this report be considered by this House.

*IsiXhosa:*

Ndiyabulela Sekela Somlomo.

Motion agreed to.

Report accordingly adopted (Economic Freedom Fighters dissenting).

# UNPARLIAMENTARY LANGUAGE

(Ruling)

The HOUSE CHAIRPERSON (Ms M G Boroto): Hon members, on 1 September 2020, during the debate on the recent scourge of farm attacks in South Africa, the hon C N Mkhonto said: The right-wingers and those who are hellbent on maintaining colonial ill-gotten wealth by all means possible the DA is part of this grouping of white racists. In response to the remarks, the Chief Whip of the DA rose

on a point of order to contend that it is unparliamentary to cast aspersions on members of the House or refer to people in a derogatory way at the time. At that time I ruled that the hon Mkhonto was not referring to a specific member, but rather a political party, and as such her remarks were not unparliamentary and they were in order.

I nevertheless indicated that I would study the record and revert to the House to clarify my ruling. Hon members, this is unusual but we have to do it so that it is able to assist us going forward. Having had an opportunity to review the records, I wish to state the following: Firstly, I must refer to section 58 of the Constitution which provides for parliamentary privileges. It states that members of the National Assembly have freedom of speech in the Assembly and its committees subject to its Rules and Orders. The Rules themselves ensure that parliamentary proceedings can be conducted in an orderly manner and a respectful manner but they must be interpreted to place the fewest limitations on free speech.

Hon members, this standard has been reinforced by the courts in 2015. The supreme court held that while Parliament may be empowered to make Rules, its Rules must be interpreted in an in conformity with the crucial guarantee of freedom of speech in

Parliament afforded by section 58(1) of the Constitution. That right is necessary incident of representative government in a democratic society. In the context of the Constitution, the Rules necessarily prevent members from, amongst other things, using offensive language or imputing improper motives to the other members. They do not, however, prohibit members from criticising or even maligning others - that is those not specifically protected by the Rules. This would - as the supreme court declared in the same case I have quoted, include references to government and political parties in general. Such a prohibition would infringe free speech. Indeed, presiding officers have consistently interpreted the Constitution and Rules in this manner. On 15 September 1998, the then Speaker, Dr Ginwala stated that we have always drawn a distinction between allegations against members of House and the expression of opinions about the beliefs and policies of political parties. Accordingly, references to a member as a racist have been held to be unparliamentary. Allegations that a political party supports racist views or has or is implementing racist policies are made frequently and have not been held to be unparliamentary. They are in my view, a part of normal political discourse, and any attempt to limit this will set a dangerous precedent.

Concerning the proceeding in question, it is clear from the record that Mr Mkhonto was not referring to a specific member or even members of the House but a political party in general. It was for this reason I allowed her to continue. Notwithstanding what I have said, I must also comment on the role that Parliament must play in our society. We come from an exclusionary past – a past where our people were set against each other.

As members of a democratic Parliament, we must be passionate and robust in confronting the social ills, but we must also show respect and restraint. In this regard, we must be mindful of references, although not made in relation to an individual member but are in themselves inflammatory and divisive. I trust that this ruling clarifies the matter and the prevailing precedent. That is the conclusion of my ruling.

Hon members, the other ruling I won’t make because I have inquired about the members if they are on the platform but one of the members is not on the platform, as such I will privately talk to the parties’ Chief Whips of the members involved so that I will make a ruling when they are on the platform.

Debate concluded

The House adjourned at 17:16.