



23 November 2021

## UPDATE BRIEFING: THE STATUS OF IRREGULAR EXPENDITURE CASES IN THE DOD

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### 1. INTRODUCTION

On 25 August 2021 the Department of Defence (DOD) briefed the Portfolio Committee on Defence and Military Veterans (PCDMV) on the status of fraud and corruption cases in the Department. Following the presentation, the Committee expressed resolved to recall the DOD to further present on cases resulting in irregular expenditure. The request was for the presentation to cover new cases, the commencement date of investigations, progress to date and to indicate whether there are persons on paid suspension and for how long have they been on paid suspension.

This paper provides an overview of the previous discussion between the PCDMV and the DOD that took place on 25 August 2021 as well as the information to be presented in the upcoming presentation scheduled for 24 November 2021.

### 2. 25 AUGUST 2021: KEY DISCUSSION POINTS

During the previous meeting (25 August 2021) on fraud and corruption cases in the DOD, the Secretary for Defence, Ambassador S. Kudjoe, introduced the topic and noted that the Department has a Corruption and Fraud Prevention Plan that has been in place since 1 April 2012. The Committee was informed that the DOD, through the Inspector-General, does detection investigations on reported incidents of fraud and corruption with the provision that positively identified cases are handed over to the Military Police or the South African Police Service (SAPS) and other investigative sections of the state for further investigation.

The DOD presented figures on the cases that have been identified and referred for investigations and prosecutions. In total the DOD indicated **407 identified cases** of which **40 were finalised**, **354 are still under investigation** and **2 cases** where the accused were **acquitted**. The DOD further reported that it had attained **12 convictions**, with **2 cases ongoing** in civilian courts.



During deliberations, the Committee highlighted the following:

- The Committee expressed concern regarding the number of **ongoing cases that emanated as far back as ten years**. The Committee queried whether such delays can only be occasioned by capacity constraints, which seem unlikely.
- The Committee indicated its displeasure at the **prolonged investigations**, with matters taking too long to reach the court process.
- The Committee expressed its displeasure about some cases being prolonged, especially against the background that **some officials are suspended with pay**.
- The Committee suggested that the DOD should investigate whether **deviant service providers** and/or their Directors can be **blacklisted** through National Treasury.

The Committee resolved to recall the DOD to further present on the cases of Irregular Expenditure. The presentation should also cover new cases, the commencement date as well as progress to date of cases and indicate whether there are persons on paid suspension and how long have they been on paid suspension.

### 3. REVIEWING THE UPCOMING DOD PRESENTATION (24 NOVEMBER 2024)

#### ***Focus of the new presentation***

The presentation submitted to the PCDMV on 22 November 2021 (to be presented on 24 November 2021) differs from the 25 August 2021 presentation in that it focuses exclusively on Irregular Expenditure (whereas the previous presentation focused on cases of fraud and corruption). To this extent it complies with the request of the PCDMV.

The DOD also stated previously that “instances of irregular, fruitless and wasteful expenditure are not in the domain of Inspector-General of the DOD and Military Police Division. Cases of Irregular Expenditure are handled administratively by services and division coordinated by Chief Finance Division.”

#### ***Key aspects of the new presentation***

In terms of Irregular Expenditure investigations to be presented, the following should be noted:

- Six cases are reported on.
- The cases amount to R1.578 billion.
- Two cases have been fully investigated and is under consideration by the DOD.
- Three cases have been investigated and management is in the process of implementing consequence management.
- One investigation report has been referred to the SAPS Directorate for Priority Crime Investigation (DPCI) (commonly referred to as the Hawks).
- 13 convictions have been obtained with fines to the value of R392 170 issued.
- 56 individuals have been suspended, some dating as far back as 2007.
- 10 Public Service Act Personnel have also been placed on precautionary suspension.



### ***Did the new presentation adhere to the PCDMV request?***

The latest presentation received from the DOD failed to adhere to the DOD request in the following respects:

- It is unclear whether the presentation includes new cases of Irregular Expenditure as requested (since the presentation notes fully investigated cases only).
- The commencement dates of investigations were not included.
- It was not indicated whether the 56 DOD suspensions are precautionary or permanent suspensions.

## **4. KEY OVERSIGHT FOCUS AREAS**

To fully comply with the PCDMV request and for the Committee to gain the necessary clarity, the following focus areas can be considered in relation to investigations into Irregular Expenditure:

- *Updated progress on investigations.* The presentation only refers to completed investigations and not new investigations. What is the status of current investigations?
  - *The Committee may note that, for example, the AGSA referred to the following Irregular Expenditure in the 2020/21 Annual Report:*<sup>1</sup>
    - *R12 million for two contracts awarded for spares concluded through an incorrect bidding process in the FY2017/18.*
    - *R105 million for the asset verification project awarded in the FY2017/18.*
    - *R39 million for an Information Communication Technology contract awarded in the FY2019/20.*
    - *R37 million was incurred for COVID-19 Personal Protective Equipment procurement, when the Department deviated from National Treasury's instruction.*
    - *R37 million was incurred when the Department followed an unfair bidding process in awarding the fuel contract for the North-West and Gauteng provinces.*
    - *R102 million was incurred for 11 different procurement deviations within the Sensitive Projects environment.*
- *Irregular expenditure on Compensation of Employees.* Overspending on Compensation of Employees has resulted in Irregular Expenditure for several years. Clarity is required on corrective measures in this regard or whether such expenditure has been condoned. For example, National Treasury indicated to Parliament, in previous Quarterly Reports, that "as part of the National Treasury's early warning system, the department was cautioned during the financial year that it is likely to incur irregular expenditure in 2019/20 should the expenditure trend on compensation of employees continue. The department was also reminded that the accounting officer should not commit a department to any liability for which money has not been appropriated as per section 38 (2) of the Public Finance Management Act of 1999."<sup>2</sup>
- *The status of suspended employees.* Clarity is required on the length of suspensions noted in the DOD presentation as well as the financial impact thereof.
- *Clarity on the timeframe of investigations are required.*

<sup>1</sup> DOD 2021 Annual Report, p. 170.

<sup>2</sup> National Treasury Report to the Standing Committee on Appropriations, 4<sup>th</sup> Quarter of 2019/20.