**MEDIA STATEMENT**

**COMMITTEE FOR SECTION 194 RESOLVES TO DECLINE REQUEST TO CALL PRESIDENT TO TESTIFY**

**Parliament, Tuesday, 16 August 2022 –** The Committee for Section 194 Enquiry into Public Protector (PP) Adv Busisiwe Mkhwebane’s fitness to hold office today resolved to decline the request from the Public Protector’s legal team to summon President Cyril Ramaphosa to testify before the enquiry.

The committee was briefed by Ms Fatima Ebrahim from Parliament Legal Services on the legal opinion arising from the written request from the PP’s legal team requesting the committee to summons the President to testify. Committee Chairperson Mr Qubudile Dyantyi said the majority of committee Members were clearly in favour of the comprehensive legal opinion. Members felt the reasons listed in the legal team’s request were not relevant to the committee’s mandate and it was therefore declined.

Ms Ebrahim informed the committee that on 19 July, the PP’s legal team wrote to the President requesting him to testify before the enquiry on, among other things, his suspension of the PP, the review of the PP’s report in the so-called CR-17 matter, the President’s position in the current litigation that the PP should not be represented by the legal representatives of her choice and accusations made by the President against the PP, including but not limited to accusations of criminal conduct in the form of perjury, which, if true, could constitute impeachable conduct.

The State Attorney, acting on behalf of the President, replied to the PP’s request indicating that the President will not accede to the request for various reasons, including that the threshold of relevance has not been met.

The PP’s legal team then approached the committee with a request to subpoena the President and thereafter the committee Chairperson requested a legal opinion on the matter. Ms Ebrahim told the committee that in determining whether or not to summons the President, the decision should be based on the President answering questions related to the CR-17 matter only. She said the committee should take into account, among other things, the fact that the PP has requested that the President be summonsed to answer questions relating to a matter that is already settled by the Courts.

The President, as the subject matter of the CR-17 report, was not involved in the investigation, nor in the drafting or issuing of the CR-17 report and it is that process that will ultimately be scrutinised by this committee. The President’s version of events that led to the complaints against him and the subsequent challenge to the report form part of the court record and is contained in sworn affidavits. The President’s evidence is thus readily available.

The committee heard that whilst Parliament must exercise oversight over the President, this committee is not mandated to conduct such oversight, as its singular task is to establish the veracity of the charges against the PP and to report to the NA. Ms Ebrahim further stated that the President may have an executive function to perform after the parliamentary process and should, therefore, not be lightly drawn into any preliminary stages.

She made it clear that while there is no legal impediment prohibiting the committee from summonsing the President or any other person to appear before the enquiry, it may do so only where that person is able to provide the committee with information necessary for it to determine the veracity of the charges, and the information sought is within the personal knowledge of the person and not available through other less restrictive means.

“In the event that the committee is of the view that the President’s presence before this committee is necessary, we advise that in the spirit of co-operative governance the committee itself first invites the President before proceeding with the issuing of a summons,” Ms Ebrahim advised.

Mr Dyantyi said after extensive engagement on the matter: “It is clear the Members are not in favour to subpoena the President due to irrelevance of the reasons listed in the request. We are not going that route. The request for the subpoena is therefore declined, based on the arguments listed in the legal opinion.”

The committee further discussed its draft programme. It was agreed that the Chairperson together with the team will re-work the programme after several new options were suggested regarding the time and days that the committee will sit.

The committee also received a request from the PP’s legal team to recall Mr Johann van Loggerenberg and Mr Ivan Pillay. Mr Dyantyi said the committee cannot just recall witnesses for the sake of recalling. “We need specific issues or questions that they want the witness to answer. Mr van Loggerenberg spent three days with the committee and questions can be done in writing, as per suggestion from members and Mr van Loggerenberg.”

The committee will continue with its hearings tomorrow. The committee was established by the National Assembly (NA) on 16 March 2021 to conduct a constitutional inquiry into the Public Protector’s fitness to hold office. The enquiry is hybrid and can be followed live on Parliament’s media platforms. Committee documents can be found on its page on [Committee for Section 194 Enquiry - Parliament of South Africa](https://parliament.us15.list-manage.com/track/click?u=174940c63c5e06b60f5650bea&id=94c57b8835&e=da105e4f6a)

**ISSUED BY THE PARLIAMENTARY COMMUNICATION SERVICES ON BEHALF OF THE CHAIRPERSON OF THE COMMITTEE FOR SECTION 194 ENQUIRY, MR QUBUDILE DYANTYI.**

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