**MEDIA STATEMENT**

**COMMITTEE FOR SECTION 194 SUPPORTS CHAIRPERSON’S DECISION NOT TO RECUSE HIMSELF**

**Parliament, Monday, 17 October 2022 –** The Chairperson of the Committee for Section 194 Enquiry into Public Protector (PP) Adv Busisiwe Mkhwebane’s fitness to hold office, Mr Qubudile Dyanti, has decided not to recuse himself following an application by the Public Protector for his recusal and the recusal of Mr Mileham.

Mr Dyantyi informed the committee today that after taking the facts into account and having taken time to carefully consider the PP’s application for his recusal he decided not to recuse himself. He said: “I do so in the belief that the PP has failed to establish any grounds upon which it can be said that I am biased or that my conduct may give rise to an apprehension of bias. I am satisfied, for the reasons set out below, that there is no basis for me to stop discharging the important public function with which I have been charged.”

He continued: “I remain open-minded in my conduct of the proceedings and can say with certainty that I have not reached any firm conclusions in relation to any of the content of the Motion. I have no preconceived notions as to the outcome of the Committee’s work.”

Mr Dyantyi said that there can be no doubt that the committee’s process must be fair and this standard of fairness has been met. According to him prior to the commencement of the hearings, the PP was afforded an opportunity to make written representations to the committee, but declined to do so. In addition, the PP has an opportunity to deal with the written and oral evidence presented by the Evidence Leaders, may lead her own evidence and respond to questions from members of the committee and the Evidence Leaders, and will, at the end of the hearings, be afforded another opportunity to make representations to the committee in relation to any findings or recommendations prior to such being adopted by the committee. The PP has had, at all times, the benefit of the assistance of her legal team and that won’t change.

Some of the grounds listed for recusal, against Mr Dyantyi include: the scope of the enquiry, unlawful and unilateral amendment of directives and the misapplication thereof; refusal to subpoena President Cyril Ramaphosa and unduly favouring the evidence leaders and unwarranted proximity to collusion with them; and generally adopting an oppositional posture towards the PP and/or her representatives.

Mr Dyantyi went into great detail in responding to all the 12 grounds laid out by the PP on why he should recuse himself. He elaborated extensively on the complaint regarding the alleged collusive relationship with the evidence leaders. He highlighted numerous examples of how the PP’s legal team was granted much more time for cross-examination. He further noted that the decision to reject the request to summons President Cyril Ramamphosa as a witness was the committee’s decision based on relevance to the motion before it and not a ruling of the Chairperson.

Committee Member, Mr Kevin Mileham, who also faced allegations of bias and an application to recuse himself, indicated that he would not be doing so. He said at various points in the proceedings, it has been suggested by the PP’s legal counsel that he has “failed to declare” his relationship with the complainant, his spouse - Ms Natasha Mazzone. He said it has been and is declared annually (since the date of our marriage) in the Register of Member’s Interests.

Furthermore, he said the marriage was celebrated in Parliament during a sitting of the National Assembly in August 2017, by the Former Speaker of the House, Ms Baleka Mbete. Regarding the claims of Tweets displaying alleged bias, Mr Mileham indicated that at no stage did he tweet about the PP’s fitness to hold office but rather responded to tweets regarding the conduct of her legal counsel.

Regarding the independent legal opinion obtained by the committee, the committee heard that none of the various grounds relied upon by the PP in support of her application for the recusal of either the Chairperson or Mr Mileham has merit. “We are, however, aware that the required approach is to also consider whether, even if taken on its own, none of the allegations make out a case for recusal, when weighed together or cumulatively, recusal is not warranted,” read the legal opinion.

The majority of members of the committee who participated in the discussion supported the decision by the Chairperson and Mr Mileham. Objections were noted from the Economic Freedom Fighters, African Transformation Movement and the United Democratic Movement (UDM) indicating that they reject the legal opinion as Adv Ismail Jamie, SC has acted for the Democratic Alliance in other matters.

The committee heard further that the UDM has also submitted a request for the Evidence Leader Adv N Bawa, SC to be removed. This matter is also receiving attention.

Mr Dyantyi concluded the meeting by stating that there is a need to move with speed to ensure that the work of the committee is not further delayed as any further delay will also have an impact on the Office of the PP.

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. Committee documents can be found at: [Committee for Section 194 Enquiry - Parliament of South Africa](https://parliament.us15.list-manage.com/track/click?u=174940c63c5e06b60f5650bea&id=aa7fa9d77e&e=da105e4f6a)

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

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