**MEDIA STATEMENT**

**COMMITTEE FOR SECTION 194 HEARS ABOUT EVER-INCREASING LEGAL COSTS OF OFFICE OF PUBLIC PROTECTOR**

**Parliament, Thursday, 3 November 2022 –** The Committee for Section 194 Enquiry into Public Protector (PP) Adv Busisiwe Mkhwebane’s fitness to hold office yesterday heard evidence from Mr Neels van der Merwe, senior manager for Legal Services in the Office of the PP, detailing the ever-increasing legal costs incurred by the Office of the PP over the past few years.

The committee heard that the Office has spent R147 million on legal fees in the past six years. Some of this includes the PP spending R213 000 on a legal opinion relating to whether Adv Mkhwebane could receive crowd-funding to pay for a personal cost order of R226 621 issued against her in the Reserve Bank case. It further includes over R200 000 on obtaining a legal opinion on the appointment of Adv Mkhwebane’s special advisor. Further legal opinions were obtained relating to the lawfulness of her appointment of the CEO, Mr Vussy Mahlangu, who tendered his resignation two days after the legal opinion confirmed that his appointment was unlawful.

Mr van der Merwe further confirmed invoices and payments made to law firms representing the Office of the PP. The committee heard that Seanego Attorneys received the lion’s share of legal instructions totaling approximately R55 million for services rendered from June 2018 to May 2022, with Adv Dali Mpofu, SC, receiving R12,267 million in fees. Other payments listed were to Adv Bright Shabalala, who is currently also part of the PP’s legal team for the enquiry, who received R9,12 million; Adv Muzi Sikhakhane, SC, who received R4,7 million; Adv Vuyani Ngalwana, SC, R4,7 million; and Adv Thabani Masuku, SC, R4,5 million.

Mr van der Merwe’s affidavit states, “With burgeoning litigation costs, it obviously meant that other costs had to be curbed. This also meant that investigators were restricted from conducting investigations physically. They became unable to interview witnesses in person or to source the services of expert witnesses. It also had a significant impact on training.

“All of this impacted on the quality of the investigations conducted and would have a knock-on effect on the quality of the reports that could be produced. It results in the number of reviews increasing, resulting in greater legal costs and less money being available for operations.”

The committee further heard that the Office of the PP does not have a document classification system in place. According to Mr van der Merwe, the PP Act only requires confidentiality. Documents have not been classified in accordance with the Minimum Information Security Standards.

Whilst austerity measures were implemented in 2018 in the Offices of the PP, Mr van der Merwe was not aware of any directive in the Office at the time that any investigation should not be conducted because of financial constraints, he said, referring to the Vrede Diary investigation.

The committee heard more evidence yesterday about how public relations and media analysts and strategists – Ms Kim Heller, Prof Sipho Seepe and Mr Paul Ngobeni – were paid thousands of rands to promote the PP’s public and media image. They also wrote critical articles about certain judges who had ruled against the PP.

At the start of the hearings yesterday, Adv Mkhwebane once again indicated her unease about being present at the hearings without her legal representative present. She indicated that the ruling the previous day, which did not allow her to be excused, made her feel like a “hostage” or someone in an “abusive relationship”, where gender-based violence (GBV) was taking place.

Committee Chairperson Mr Qubudile Dyantyi replied that his ruling stands. “Your request to be excused is denied. It is in your best interests to be here. This is an exercise in accountability. This is the work of the National Assembly. As the head of a Chapter 9 Institution, you account to this body.

“We expect Seanego to also be here today. There is no leave of absence here. If they are not present today, they will have to explain their absence. They are the attorneys of record, your legal representatives. If they take a particular choice not to be here, it will have to be explained. The Constitutional Court refers to your right to have your legal representative present, not necessarily an SC. We are under no obligation to pause or postpone the hearings; there is no legal impediment for us to stop.

“Furthermore, I request again that you refrain from using the comparison of abusing or GBV relationship. As there are no new evidence in front of me to take a different decision, my ruling of yesterday stands.”

The committee adjourned the hearings until Wednesday. The committee was established by the National Assembly 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=3c56aa3b90&e=da105e4f6a)

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

For media enquiries or interviews, please contact the committee’s Media Officer:
**Name: Rajaa Azzakani (Ms)**
**Tel: 021 403 8437**