**MEDIA STATEMENT**

**COMMITTEE FOR SECTION 194 DECLINES  PUBLIC PROTECTOR’S APPLICATION FOR REMOVAL OF EVIDENCE LEADERS**

**Parliament, Tuesday, 29 November 2022 –** The Committee for Section 194 Enquiry into Public Protector (PP) Adv Busisiwe Mkhwebane’s fitness to hold office today declined the application by the PP for the removal of evidence leaders.

Committee Chairperson Mr Qubudile Dyantyi said the majority of Members of the committee that participated agreed not to accede to the application. Mr Dyantyi noted that a strong minority view was raised by the Economic Freedom Fighters in support of the application, but that view did not carry the necessary support and it was unsuccessful. Similarly the United Democratic Movement also supported the application.

The committee deliberated during the morning session on the application made by the PP yesterday as well as taking into consideration the written response by the evidence leaders in reply to the application. This morning the PP provided a written reply to the evidence leaders’ response.

Parliamentary Legal Adviser, Ms Fatima Ebrahim, addressed the committee at the start of proceedings today to sketch the factors that Members of the committee had to focus on. Mr Dyantyi further said 10 out of 12 Members that took part in the deliberations felt that the  application bears no relevance and that it must be dismissed. Those Members felt the application was a stalling or delaying tactic and some expressed their view that there was nothing in the conduct of the evidence leaders that warranted their removal.

Ms Ebrahim reminded the committee that they are performing a Constitutional function and that the committee had to ensure the process was procedurally fair with due regard to the rights of the PP and the interest of the public.  She further said that the publication of the names of the counsels and attorneys paid by the PP’s Office was expressly requested by the committee itself. Parliament plays an oversight role over the executive, other organs of state and all institutions supporting democracy. The Office of the PP is subject to the Public Finance Management Act which means its expenditure is for public consumption – it is an issue on which there must be transparency and accountability, she said.

Ms Ebrahim said that evidence leaders have been accused of racism by displaying the names of black legal practitioners. She rejected the notion that when service providers’ names are raised in connection with fruitless and wasteful expenditure that it would automatically mean that the service provider was corrupt as the blame for fruitless and wasteful or irregular expenditure cannot necessarily be attributed to service providers.

She noted that the information provided by the counsel who made submissions on the fees was important as it provided context and the committee must take these into consideration when deliberating on the evidence. However,  the question that the committee needed to ask is whether this display of fees would amount to a reasonable perception of bias by Adv Mkhwebane.

According to the written response to the removal application made by evidence leaders, Adv Nazreen Bawa, SC, and Adv Ncumisa Mayosi, the racism accusations levelled against them over legal fees disclosures are not only false and “contrived”, but part of a desperate attempt to stall the proceedings. They said, sadly a common thread that emerged from these accusations is that when all else fails, there is resort to accusations of racism. They said this appears to be the case here. The evidence leaders stressed Adv Mkhwebane's legal team was very much aware the payments made to legal practitioners would be disclosed and had unsuccessfully objected to that disclosure “not once but twice”.

They said: “Finally, it seems that there is a perception that one needs only to be accused of racism in order for it to stick, in order for it to be real, without any substantiation or justification whatsoever. We state clearly, this is not the case and, it cannot be right.

“Going forward, we request this committee not to be side-tracked any longer, and to continue with its work according to the time schedule it has set for itself.”

In his ruling, Mr Dyantyi also addressed the matter of the continued “unfair” and “unwarranted” attacks on support staff also by some Members of the committee. He said: “We should not be attacking the messenger. We must deal with the message. It is not helpful to continue doing that.” He added: “I am not going to ask members to pull punches when dealing with me. But we need to protect members of staff and professional teams, including evidence leaders. We were conscious in appointing these two black competent women. It is unfair to attack them purely for doing their work.”

Following the failure of the removal application, Adv Dali Mpofu, SC, led the first witness for the PP, Mr Freddie Nyathela, President of the South African Roadies Association – a non-profit organisation that dedicate to the advancement of skills and knowledge among the youth in technical sector of sound and production. Mr Nyathela testified about a complaint they laid with the Office of the PP under Adv Lawrence Mushwana, it continued under Adv Thuli Madonsela and was according to him finally resolved, after 11 years, under Adv Mkhwebane.

The committee will continue tomorrow with the evidence of Mr Nyathela. 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=cbad3f19d7&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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