



Committee for Section 194 Enquiry

Chairperson: Mr QR Dyantyi, MP

Committee Secretary
Mr Thembinkosi Ngoma

Executive Secretary
Mr Khaya Vellem

18 February 2023

Adv B Mkhwebane
Public Protector of South Africa

Dear Madam Public Protector, Adv. B Mkhwebane,

YOUR LETTER OF 17 FEBRUARY 2023

I have received your response to my letter of 15 February, the content of which is noted.

You will recall that when you raised various concerns in respect of my letter, the Committee requested you to put such concerns in writing so that they have the opportunity to properly consider the matter before commenting thereon. Accordingly, as is the norm in the Committee, I will table your response to members at a Committee meeting to be held on Tuesday, 21 February 2023 prior to the hearings commencing later that day at 14h00, so that members can engage with the matters in a manner they deem fit.

As such I do not intend to respond, at this juncture, to your various demands other than noting that you are at liberty to raise your grievances in whichever forum you deem appropriate and note that you have indeed copied both the Speaker and Commission on Gender Equality in relation to your letter. Please note that whatever steps you deem necessary to take, I reserve my rights to respond thereto as and when required. However,

as Chair of this Committee I am tasked to see its proceedings to fruition, and allegations of bias levelled against me in the course of doing so are erroneous and unwarranted.

Your counsel has repeatedly indicated that you desire to account to the Committee and presumably whatever steps you may seek to take should not derail the proceedings or create an impression that such course is being followed to avoid you testifying before the Committee, which I am presuming you would not want, nor intend. It would of course detract considerably from the importance of the Committee being provided with your account and for you to deal with the written and oral evidence put before the Committee. I have been mindful to say – and remain of the view – that the Committee would be enriched in hearing your evidence before having to finalise its report especially given your desire to want to testify and it would be unfortunate were the timing thereof to be derailed.

I note that you appear to encapsulate and comment on a conversation which ensued solely between Adv Mpofu SC and the evidence leader, Adv Bawa SC. I was not privy thereto and will not presume to encapsulate what ensued. I urged Adv Bawa SC to resolve issues collegially with Adv Mpofu SC as they are both part of the legal profession with high standards of ethics, and they are both to be commended for the level of co-operation up to now. I am not going to let it be reduced to a he says- she says exercise, placing them at loggerheads when in the greater scheme of the motion before the Committee and its work, it is significantly immaterial. I continue to urge both to continue to agree to disagree without the need to cast aspersions on either of them so that we can move on constructively with the remainder of the Committee proceedings. I am not prepared to engage in respect thereof with you as neither I, nor you, had been privy to the conversation. This is especially as I have been informed that their relationship has not derailed and that they have communicated since then and in fact been able to have fruitful discussions on the way forward.

I have been appraised of these discussions and been persuaded by Adv. Bawa, SC, to accede to certain requests in relation to the programme for the hearings going forward, and more particularly as regards the coming weeks. In doing so I made it clear that I will not permit deviations in respect thereof which would again result in the hearings being derailed. These I understand will be confirmed in by the Secretariat in separate correspondence to Mr Seanego today, which you will no doubt be made aware of.

With reference to the various demands made in your letter, as I do not intend to engage in unending letter writing on matters not material to the terms of reference, I will leave it to the Committee to make a determination as to whether or not they wish to hear from your legal

representatives on the issue of legal fees as indicated in paragraph 471. Should the Committee wish to hear from the legal representatives then time shall be allocated in the schedule for them to do so, most likely after hours given the schedule now agreed to. This would not need to delay or interfere with the schedule at all. You further refer to "*other additional issues*" that your legal representatives wish to address the committee on, in the absence of details thereof I am not able to accede to such request.

Further, I do not accede to the demands made in 47.2 and 47.3 of your letter and see no reason to provide the undertaking sought in 47.4. I do not need until 24 February to advise you thereof. As indicated above, I note that you have already sent this letter to both the Speaker and the Commission for Gender Equality. I trust that whatever steps you take do not scupper or contradict in anyway the arrangements your counsel has made and agreed to in respect of the further conduct of the hearings. As Adv Mpofu, SC has made it clear that he only acts on instructions, you have been apprised thereof, and approved thereof prior to it being requested. In doing so, I am pleased that it affords you more time to prepare your evidence for the Committee, as this will, I am sure facilitate the provision thereof.

Yours faithfully



Mr QR Dyantyi, MP

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