**MEDIA STATEMENT**

**COMMITTEE FOR SECTION 194 DECLINES PUBLIC PROTECTOR’S REQUEST FOR POSTPONEMENT OF PROF MADONSELA’S TESTIMONY**

**Parliament, Tuesday, 28 February 2023 –** The Committee for Section 194 Enquiry into Public Protector (PP) Adv Busisiwe Mkhwebane’s fitness to hold office, will tomorrow continue with its scheduled programme to hear the inputs of former PP, Prof Thuli Madonsela who is appearing on the request of the PP.

The committee’s resolution follows a written request made earlier today by Adv Mkhwebane’s legal team to have the evidence of Prof Madonsela stand over until an undetermined date. The committee met tonight after concluding its daily hearings to discuss a letter from Seanego attorneys

The letter requested that the outstanding evidence of Mr Rodney Mataboge, which is scheduled for Friday, be heard tomorrow. There was also a request for the committee to call further witnesses and an appeal for reconsideration of the committee’s decision not to call President Cyril Ramaphosa, Minister Pravin Gordhan and Ms Natasha Mazzone, a Member of the National Assembly.

There was a further request to recall three witnesses and a demand that the Chair apologizes for muting the PP’s legal representatives at the meeting of 23 February in particular.

In sumarising the committee discussions, committee Chairperson, Mr Qubudile Dyantyi, said that the scheduled programme for Wednesday until Friday will continue as it stands. He said Adv Mkhwebane’s team created a lot of confusion by writing to Prof Madonsela, while the committee confined her testimony to the Vrede and CIEX investigations.

He said: “If there is any delay, it is because of that kind of confusion created.” He also raised concerns about the timing of the request, less than a day  before Prof Madonsela is due to appear before the committee.  “The PP and her legal team are directed to appear before the committee tomorrow. Failing to do so, we will continue without them.”

Regarding the calling of further witnesses, the committee resolved that the PP must provide reasons why their testimony is necessary. Regarding the request to reconsider calling Pres Ramaphosa, Minister Gordhan and Ms Mazone, the committee indicated that it had long since concluded on the matters due to the relevance of their evidence.

In relation to the complaint of muting the PP’s legal team, Mr Dyantyi said the committee is a rules-based institution. The committee’s directives empower him to do the muting, which he did. “The Chairperson can remove a member from the meeting. Muting is the first step when someone disrespects the authority of the Chair. It is the PP’s legal team, and she will have to explain at some point whether she condones this kind of behaviour.”
Earlier in the day the committee heard that although Ms Bianca Mvuyana, Senior Investigator at the PPSA, was the investigator in the   South African Revenue Services (SARS) report, she did not meet with any member of the SARS Investigation Unit team before reaching a conclusion.

This came to light during the questions by Evidence Leader, Adv Nazreen Bawa, SC that no independent investigation was done by her or the PPSA to make findings or remedial action in the SARS matter. It was rather based on other findings like the Inspector-General of Intelligence (IGI) report, Sikhakane report and the Ad Brassey opinion .

The committee heard that although the PPSA and Ms Mvuyana were aware that Mr Johann Van Loggerenberg, who headed the SARS Investigation Unit which was under scrutiny, would appear in court on a different matter and a subpoena could be served on him there, the PPSA did no use the opportunity to do so. Ms Mvuyana admitted very little was done to serve the subpoena.

The committee further heard that Ms Mvuyana didn't check the authenticity of the submission, not via a sworn affidavit of a witness who listed the alleged spying equipment the SARS unit allegedly procured. “So you didn't do any independent investigations?” Adv Bawa asked.

Ms Mvuyana conceded that the PPSA didn't ascertain the veracity of recordings in which members of the  unit were supposedly saying that they illegally intercepted communications. Adv Bawa went on to state that PPSA found that the SARS Investigation Unit and its members have been engaged in illegal activities. “There are 26 members in the unit, but they didn't speak to any one of them.”

Ms Mvuyana also conceded that not everything in the SARS report can be attributed to her. Specific reference was made by Adv Bawa regarding parts that relate to the confidential IGI report. Ms Mvuyana indicated over the two days with the committee that she did not have access to that report as she did to have top secret security clearance. According to her testimony, Adv Mkhwebane and Mr Rodney Mataboge, Chief Investigator at PPSA, had such security clearance.

After several questions from members about whether the SARS investigation was of a high quality level, Ms Mvuyana concede that “no, there were certain things that were overlooked”.

The hearings will continue tomorrow. The committee was established by the NA on 16 March 2021 to conduct a constitutional inquiry into the Public Protector’s fitness to hold office and is expected to provide the NA with a report by the end of April 2023. 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=0d0e9bab1e&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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