**MEDIA STATEMENT**

**COMMITTEE FOR SECTION 194 HEARS LENGTHY ARGUMENT ON PROF MADONSELA’S AFFIDAVIT**

Parliament, Monday, 6 March 2023 – The Committee for Section 194 Enquiry into Public Protector (PP) Adv Busisiwe Mkhwebane’s fitness to hold office, Heard today the testimony of former PP, Prof Thuli Madonsela.

A bigger part of the morning session was taken up by Adv Dali Mpofu, SC, questioning the legality or validity of the affidavit of Prof Madonsela that was provided to the committee on 28 February 2023. Adv Mpofu said in terms of the Justices of the Peace and Commissioner of Oaths Act and the Regulations governing it, the legality of the “document” as he called it, was brought into question as not each page was initialed.

Prof Madonsela questioned the relevance of these questions and stating in return that Adv Mpofu was “wasting taxpayers’’ money”. At various stages she also indicated it is not an inquiry into her conduct. She further indicated that from the written communication with the PP’s legal team, she got the impression it was a case of “putting her under the bus”.

Last week the committee provided the PP’s legal team with a second opportunity to lead the testimony of Prof Madonsela, who they requested the committee to subpoena. The PP’s legal team initially claimed Prof Madonsela is not their witness and refused to lead her evidence. The committee later repeated its offer in writing. The second offer was accepted by the PP’s legal team.

When the committee agreed to Adv Mkhwebane's request to call Prof Madonsela as a witness, the committee limited the areas of her testimony to CIEX/South African Reserve Bank and the Vrede Dairy matters. Both these investigations were started during Prof Madonsela’s tenure but they were completed by Adv Mkhwebane.

Prof Madonsela told the committee today that she resisted being spied on by the State Security Agency (SSA) through sudden repeated requests to vet her as she was finalising the Waterkloof Landing incident by the Gupta family. At that stage she was already four years into her tenure when the SSA suddenly sought to question her security clearance.

What Prof Madonsela could not prevent, the committee heard, was the SSA accessing a box of evidence containing information on the CIEX matter which she had arranged to have delivered from the United Kingdom as it was too heavy for her to carry herself. The box, which also contained a flash disc with information, was according to Prof Madonsela opened.

According to Prof Madonsela’s affidavit, regarding the Vrede Dairy probe, the investigation was conducted by the PP regional office in Bloemfontein during her term. The investigator and her team struggled, with drafts being sent back from her and from their peers in the Think Tank, presumably because the investigator had primarily been doing service failure investigations. Until her tenure, regional offices did not conduct investigations on complex matters particularly involving corruption and related financial impropriety allegations.

She said they still failed to meet the Standards in the Standard Operating Protocol (SOP) which Prof Madonsela personally developed and issued as a handbook, even after training using the same tool. One of the key reasons was the omission of names and failure to conduct a forensic investigation, which is compulsory in the SOP in matters where corrupt relationships are alleged or suspected. She confirmed that she then asked Mr Sphelo Samuels, Free State representative at the time, to take over the investigation.

At one stage Adv Mpofu indicated that Adv Mkhwebane completed the Vrede report in seven months, while Prof Madonsela had it for four years and she could not finalise it. Prof Madonsela responded by saying the report of her successor was reviewed and set aside. She went on and said: “None of my reports have been taken even so far as the Supreme Court of Appeal. I think in the Constitutional Court, we can’t escape the issue of shoddiness.” She said that she preferred to hold back on releasing reports and rather do thorough investigations instead of issuing inadequate reports.

At the end of today’s proceedings, Members of the committee raised concerns regarding the utterances about the legality or validity of the affidavit by Prof Madonsela and indicated that the matter must be addressed. The Chairperson of the committee, Mr Qubudile Dyantyi, told the committee that the hearings will continue tomorrow with evidence leader Adv Ncumisa Mayosi questioning Prof Madonsela. 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 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

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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