



PUBLIC PROTECTOR  
SOUTH AFRICA

**Accountability • Integrity • Responsiveness**

**PRIVATE OFFICE**

175 Lunnon Street  
Hillcrest Office Park  
Pretoria, 0083

Private Bag X677  
Pretoria, 0001

**Toll Free:** 0800 11 20 40

**Tel:** 012 366 7116

**Email:** PrudenceM@pprotect.org

**Facebook:** Public Protector South Africa

**Twitter:** @PublicProtector

Advocate Busisiwe Mkhwebane  
The Public Protector  
South Africa

Dear Adv Mkhwebane

**THE FUNDING OF LEGAL SERVICES TO ADV B MKHWEBANE DURING THE PROCEEDINGS BEFORE THE SECTION 194 COMMITTEE**

1. My earlier letter of 30 March 2023 has reference.
2. The purpose of this letter is to confirm that the position of the Public Protector South Africa (PPSA) remains as communicated on 01 March 2023, that it is not in a position to extend its funding commitment for the reasonable and budgeted costs for the provisioning of legal services to you for the purpose of the Section 194 proceedings, beyond the current financial year ending on 31 March 2023.
3. As you are aware an amount of R14,976,264.00 was originally budgeted for the 2022/ 23 financial year for the procurement of legal and related services by the PPSA. As at the end of February 2023 the expenditure for legal services sourced by the PPSA for the financial year in question had already exceeded the allocated budget by an amount of R12,024,178.50.
4. The legal costs for which the PPSA has been billed in the current financial year in respect of the legal challenges of the validity of the Parliamentary Rules for the removal of office bearers of Institutions Supporting Constitutional Democracy, as well as the impeachment process (PPSA/The Speaker of the National Assembly & Others), exceeded R6.1 million.

5. For the period July 2022 to September 2022, the legal fees in respect of the Section 194 proceedings alone, which were paid by the PPSA, amounted to R 10,202,786.30. Further invoices were recently presented to the PPSA for your legal costs in relation to the said proceedings for the period October 2022 to February 2023, in the amount of R 9,913,048.04. Payment of the invoices are currently being processed, which will bring the total expenditure for the legal fees in respect of the litigation on the impeachment process, as well as the proceedings before the Section 194 Enquiry for the 2022/23 financial year, to approximately R26,2 Million.
6. The processing of the latest batch of invoices, which still excludes the legal fees for March 2023, is likely to increase the amount of the variance with which the Legal Services budget would be exceeded during the current financial year, to an amount in excess of R21, 937,226.54.
7. The Department of Justice and Correctional Services has transferred to the PPSA an additional amount of R20,000,000.00 for the current financial year, ending on 31 March 2023. The reality however, is that even with the financial assistance from the Department of Justice and Correctional Services the PPSA is unlikely to avoid an over-expenditure on its legal services budget to the amount of at least R1, 937, 226.54, to which the legal fees for the Section 194 proceedings for the period of March 2023, must still be added.
8. Furthermore, the current expenditure does not include contingencies for the taxed bills and invoices emanating from cost orders awarded against the office, where the PPSA is currently negotiating to defer payments to the new financial year. The PPSA is therefore likely to commence operations in the next financial year with a deficit that will significantly impact on its ability to source and procure critical legal services that may be required during the 2023/24 financial year, as well as its general operations.
9. Efforts to engage National Treasury on a budget adjustment for the 2023/24 financial year have furthermore been unsuccessful. During the budget bilateral meetings hearings between PPSA and National Treasury, it was highlighted that the baseline for 2023/24 financial year will remain the same as initially approved.

10. In the circumstances I wish to confirm that the PPSA's position as communicated on 01 March 2023, has not improved and that it is unable to commit any further funding towards your legal costs for the remainder of the proceedings on the Committee's draft programme after 31 March 2023.

Sincerely,



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**ADV KHOLEKA GCALEKA**  
**ACTING PUBLIC PROTECTOR OF THE**  
**REPUBLIC OF SOUTH AFRICA**  
**DATE: 31 MARCH 2023**

And to:

1. **Mr QR Dyantyi, MP**  
**Chairperson: Committee for Section 194 Enquiry**  
[tngoma@parliament.gov.za](mailto:tngoma@parliament.gov.za)/[kvellem@parliament.gov.za](mailto:kvellem@parliament.gov.za)/[febrahim@parliament.gov.za](mailto:febrahim@parliament.gov.za)
2. **Mr Gratitude Magwanishe, MP**  
**Chairperson: Portfolio committee on Justice and Correctional Services**  
Email: [smthonjeni@parliament.gov.za](mailto:snthonjeni@parliament.gov.za); [vramaano@parliament.gov.za](mailto:vramaano@parliament.gov.za)
3. **Ms Nosiviwe Noluthando Mapisa-Nqakula, MP**  
**Speaker of the National Assembly**  
[zngoma@parliament.gov.za](mailto:zngoma@parliament.gov.za); [speaker@parliament.gov.za](mailto:speaker@parliament.gov.za)

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**Ms T Sibanyoni**  
**Chief Executive Officer:**  
**Public Protector South Africa**  
[thandis@pprotect.org](mailto:thandis@pprotect.org)