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PROCLAMATIONS • PROKLAMASIES

PROCLAMATION NOTICE 264 OF 2025

**by the
PRESIDENT of the REPUBLIC of SOUTH AFRICA**

**JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS REGARDING
EFFORTS OR ATTEMPTS HAVING BEEN MADE TO STOP THE INVESTIGATION OR
PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES**

In terms of section 84(2)(f) of the Constitution of the Republic of South Africa, 1996, I hereby appoint a Judicial Commission of Inquiry to investigate allegations of whether efforts or attempts were made to stop the investigation or prosecution of the Truth and Reconciliation Commission cases with the terms of reference in the Schedule attached hereto and appoint the Honourable Madam Justice S Khampepe as its Chairperson and the Honourable Mr Justice F D Kgomo and Adv A Gabriel, SC, as members of the Commission.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this 26th day of May Two thousand and twenty-five.

Mr CM Ramaphosa
President

By Order of the President-in-Cabinet:

Ms MT Kubayi
Minister of the Cabinet

SCHEDULE

**TERMS OF REFERENCE
OF THE
JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS REGARDING
EFFORTS OR ATTEMPTS HAVING BEEN MADE TO STOP THE INVESTIGATION OR
PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES**

A Judicial Commission of Inquiry ("the Commission") is hereby appointed in terms of section 84(2)(f) of the Constitution of the Republic of South Africa, 1996. The Commission is appointed to investigate matters of public and national interest concerning allegations regarding efforts or attempts having been made to stop the investigation or prosecution of Truth and Reconciliation Commission ("TRC") cases.

1. The Commission must, in relation to the period since 2003, inquire into, make findings, report on and make recommendations concerning the following, guided by the Constitution, relevant legislation, policies and guidelines—
 - 1.1 whether, why, and to what extent and by whom, efforts or attempts were made to influence or pressure members of the South African Police Service or the National Prosecuting Authority to stop investigating or prosecuting TRC cases;
 - 1.2 whether any members of the South African Police Service or the National Prosecuting Authority improperly colluded with such attempts to influence or pressure them; and
 - 1.3 whether any action should be taken by any Organ of State, including possible further investigations to be conducted or prosecutions to be instituted, where appropriate, of persons who may have acted unlawfully by—
 - 1.3.1 attempting to influence or pressure members of the South African Police Service or the National Prosecuting Authority to stop investigating or prosecuting TRC cases; or

- 1.3.2 members of the South African Police Service or the National Prosecuting Authority colluded with or succumbed to attempts to influence or pressure such members to stop investigating or prosecuting TRC cases; and
 - 1.4 whether, in terms of the law and fairness, the payment of any amount in constitutional damages to any person is appropriate.
2. Interested parties in the Commission, include the following parties:
 - 2.1 The parties in the application proceedings under North Gauteng Division of the High Court, Pretoria, in the case of *L B M Calata and 22 Others v the Government of the Republic of South Africa and 5 Others (case number 2025-005245)*; and
 - 2.2 families of or victims in TRC cases, other than those applicants referred to in subparagraph 2.1, who have a substantial interest in the matter set out in paragraph 1, and who are admitted as parties in the Commission under the regulations that are made under the Commissions Act, 1947 (Act No. 8 of 1947).
3. These Terms of Reference may be added to, varied or amended by proclamation from time to time.
4. The Commissions Act, 1947, shall apply to the Commission, subject to such amendments, including amendments in relation to the Terms of Reference of the Commission, and exemptions as may be specified by proclamation from time to time.
5. Regulations may be made, after consultation with the Chairperson of the Commission, in terms of the Commissions Act, 1947, and shall apply to the Commission in order to enable the Commission to conduct its work meaningfully and effectively and to facilitate the gathering of evidence by conferring on the Commission powers as necessary, including the power to enter and search premises, secure the attendance of witnesses and compel the production of documents.
6. The Commission shall where appropriate, refer any matter for prosecution, further investigation or the convening of a separate enquiry to the appropriate law enforcement agency, government department or regulator.
7. The Commission must—
 - 7.1 complete its work within a period of 180 days from the date of this proclamation; and
 - 7.2 submit its report to the President within 60 days after the date on which the Commission completed its work.

PROKLAMASIE KENNISGEWING 264 VAN 2025

van die
PRESIDENT van die REPUBLIEK van SUID-AFRIKA

REGTERLIKE KOMMISSIE VAN ONDERSOEK TEN EINDE ONDERSOEK IN TE STEL NA BEWERINGS VAN POGINGS WAT GEMAAK IS OM DIE ONDERSOEK OF VERVOLGING VAN DIE WAARHEIDS-EN-VERSOENINGSKOMMISSIE SAKE TE STOP

Ingevolge artikel 84(2)(f) van die Grondwet van die Republiek van Suid-Afrika, 1996, stel ek hierby 'n Regterlike Kommissie van Onderzoek aan ten einde onderzoek in te stel na bewerings van pogings wat gemaak is om die onderzoek na of vervolging van die Waarheids-en-Versoeningkommissie sake te stop, met die opdrag in die Bylae en stel ek hierby die Agbare Regter S Khampepe as Voorsitter en die Agbare Regter F D Kgomo en Adv A Gabriel, SC, as lede van die Kommissie, aan.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die 26^{ste} dag van Mei Twee duisend vyf-en-twintig.

Mr CM Ramaphosa
President

Op Las van die President-in-Kabinet:

Ms MT Kubayi
Minister van die Kabinet

**BYLAE
OPDRAG
VAN DIE****REGTERLIKE KOMMISSIE VAN ONDERSOEK TEN EINDE ONDERSOEK IN TE STEL NA BEWERINGS VAN POGINGS WAT GEMAAK IS OM DIE ONDERSOEK OF VERVOLGING VAN WAARHIEDS-EN-VERSOENINGSKOMMISSIE SAKE TE STOP**

'n Regterlike Kommissie van Onderzoek ("die Kommissie") word hierby ingevolge artikel 84(2)(f) van die Grondwet van die Republiek van Suid-Afrika, 1996, aangestel. Die Kommissie word aangestel ten einde aangeleenthede van openbare en nasionale belang te ondersoek met betrekking tot bewerings van pogings wat gemaak is om die onderzoek of vervolging van Waarheids-en-Versoeningkommissie ("WVK") sake te stop.

1. Die Kommissie moet, met betrekking tot die tydperk sedert 2003, ondersoek instel na, bevindings maak, verslag doen oor en aanbevelings maak met betrekking tot die volgende, met inagneming van die Grondwet, toepaslike wetgewing, beleid en riglyne—
 - 1.1 of, hoekom, en die mate woortoe en deur wie, pogings aangewend is om invloed of druk te plaas op lede van die Suid-Afrikaanse Polisie diens of Nasionale Vervolgingsgesag om ondersoek of vervolging van WVK sake te stop;
 - 1.2 of, enige lede van die Suid-Afrikaanse Polisie diens of die Nasionale Vervolgingsgesag onbehoorlik met sodanige pogings om hulle te beïnvloed of druk op hulle te plaas, saamgewerk het; en
 - 1.3 of, enige stappe deur 'n Staatsorgaan geneem moet word, met inbegrip van moontlike verdere ondersoeke gedoen moet word of vervolgings ingestel moet word, waar toepaslik, of persone wat onregmatig mag opgetree het deur—

- 1.3.1 gepoog het om invloed of druk op lede van die Suid-Afrikaanse Polisiediens of die Nasionale Vervolgingsgesag te plaas om die ondersoek of vervolging van WVK sake te stop; of
 - 1.3.2 lede van die Suid-Afrikaanse Polisiediens of die Nasionale Vervolgingsgesag saamgewerk het met of oorgegee het aan pogings om sodanige lede te beïnvloed of druk op hulle te plaas om die ondersoek of vervolging van WVK sake te stop; en
 - 1.4 of, ingevolge die reg en regverdigheid, die betaling van enige bedrag vir grondwetlike skade aan enige persoon na behore is.
2. Belanghebbende partye in die Kommissie, met inbegrip van die volgende partye:
 - 2.1 Die partye in die aansoek verrigtinge in die Noord-Gauteng Afdeling van die Hoë Hof, Pretoria, in die saak van *L B M Calata and 22 Others v the Government of the Republic of South Africa and 5 Others* (saak nommer 2025-005245); en
 - 2.2 families van of slagoffers in WVK sake, anders as daardie applikante in subparagraaf 2.1 bedoel, wat 'n substansiële belang in die aangeleentheid in paragraaf 1 uiteengesit het, en wat as partye in die Kommissie toegelaat is kragtens die regulasies wat kragtens die Kommissiewet, 1947 (Wet No. 8 van 1947), gemaak is.
3. Hierdie Opdrag kan, van tyd tot tyd, aangevul, verander of gewysig word by proklamasie.
 4. Die Kommissiewet, 1947, is van toepassing op die Kommissie, behoudens sodanige wysigings met betrekking tot die Opdrag van die Kommissie, en vrystellings as wat, van tyd tot tyd, by proklamasie gespesifiseer word.
 5. Regulasies kan gemaak word, na oorleg met die Voorsitter van die Kommissie, ingevolge die Kommissiewet, 1947, wat op die Kommissie van toepassing is, ten einde die Kommissie in staat te stel om sy werk behoorlik en effektief te kan doen en om die insamel van getuienis te vergemaklik deur om op die Kommissie die bevoegdhede op te lê as wat nodig mag wees, met inbegrip van die bevoegdheid om persele te betree en deursoek, die bywoning van getuies te verseker en om die oorlegging van dokumente te vereis.
 6. Die Kommissie moet, waar toepaslik, enige aangeleentheid vir vervolging, verdere ondersoek of vir byeenroeping van 'n afsonderlike ondersoek, na die toepaslike wetstoepassingsagentskap, Staatsdepartement of reguleerder verwys.
 7. Die Kommissie moet sy—
 - 7.1 werk binne 180 dae vanaf die datum van hierdie proklamasie voltooi; en
 - 7.2 verslag binne 60 dae nadat die Kommissie se werk voltooi is, aan die President oorhandig.

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