



## Minutes of the Committee for Section 194 Enquiry

**Date:** Tuesday, 22 February 2022

**Time:** 14:00

**Venue:** Virtual meeting

**Agenda:**

- Briefing by Parliament's Constitutional and Legal Services Office (CLSO) on the Constitutional Court judgement and proposed way forward.
- Consideration and adoption of Terms of Reference (ToR).
- Consideration of Revised Committee Programme.
- Adoption of Committee minutes of Wednesday, 28 July 2021.

**Members**

Status	Name of Member	Political Party
Present	Mr QR Dyantyi (Chairperson)	African National Congress (ANC)
	Ms DE Dlakude	
	Ms J Hermans	
	Ms TM Joemat-Pettersson	
	Ms TI Legwase	
	Mr S Luzipo	
	Mr MG Mahlaule	
	Ms JS Mananiso	
	Ms T Mgweba	
	Mr BS Nkosi	
	Mr X Nqola	
	Ms ED Peters	
	Mr AM Seabi	
	Ms VS Siwela	
	Ms NG Tolashe	
Mr BM Maneli*		
Ms ME Tihape*		
Ms GK Tseke*		
Mr GJ Skosana*		
	Dr A Lotriet	Democratic Alliance (DA)
	Mr KJ Mileham	
	Mr BB Nodada	
	Dr LA Schreiber	
	Mr ZN Mbhele*	
Ms BM Van Minnen*		
	Mr JS Malema	Economic Freedom Fighters (EFF)
	Ms OMC Maotwe	

Dr CP Mulder Ms H Denner* (FF+)	Freedom Front Plus (FF+)
Ms ME Sukers	African Christian Democratic Party (ACDP)
Mr AM Emam-Shaik	National Freedom Party (NFP)
Mr B Herron	GOOD
Mr B Holomisa	United Democratic Front (UDF)
Mr MGE Hendricks	Al Jama-ah
<b>Apologies</b> There were no apologies	

\*indicates that a member is an alternate

#### Parliamentary Officials and other

Name	Organization	Designation
Mr TK Ngoma	Parliament	Committee Secretary
Adv ML Tau	Parliament	Acting Section Manager
Mr M Dano	Parliament	Committee Researcher
Ms S Sipamla	Parliament	Content Advisor
Mr K Velle	Parliament	Executive Secretary to Chairperson
Ms F Ebrahim	Parliament	Legal Advisor
Dr B Loots	Parliament	Legal Advisor
Mr S Njikela	Parliament	Legal Advisor
Mr T Nage	Parliament	Procedural Officer
Mr P Hahndiek	Parliament	Procedural Officer
Mr S Thwala	ANC Caucus	Content Advisor
Mr M Sweet	ANC Caucus	Head: Research and Development

#### 1. Opening and welcoming

Mr Dyantyi opened the meeting and welcomed everyone present. He outlined the agenda of the meeting and requested the Committee Secretary to read apologies. There were no apologies except for Mr Mulder who had to leave early.

He proceeded to reflect on the undertakings made during the last meeting of the Committee in July 2021. The Committee had amongst others, adopted its programme as a working document. However, the Committee took a halt following the Cape High Court judgement, since it had a bearing on its work, to observe the Court processes.

## **2. Constitutional and Legal Services Office (CLSO) presentation**

Dr Loots briefed the Committee on the Constitutional Court judgement (**Annexure A**). In summary, she indicated that the Speaker of the National Assembly had appealed the Cape High Court judgement in the Constitutional Court. In its ruling on the matter, the Constitutional Court gave Parliament a go ahead with the enquiry, provided it made provision for the Public Protector to have legal representation during the process. The Court further found that it was desirable for a judge to lead an independent panel for the process, because of the separation of powers.

She also brought to the attention of the Committee that the Speaker, on 21 February 2022 received a letter from the Public Protector's legal representative to indicate that the Public Protector intends filing an application against certain parts of the judgement to be rescinded. The letter further requested that the Speaker adopts the same attitude as previously and put the proceedings on hold. The Speaker responded to the Public Protector indicating that there was no basis to halt the work of the Committee and there was no court interdict.

Following the response to the Public Protector, the Speaker received another letter on 22 February 2022 persisting that the proceedings be halted. However, there were no legal basis for the Committee to not continue with its work, as the Public Protector letter was merely a declaration of intent. The process had also not been interdicted by any court.

Ms Ebrahim proceeded to brief the Committee on the Terms of Reference (**Annexure B**). She reflected on the previous document that was presented to the Committee, in July 2021 before the proceedings were halted. The Committee had preferred a Member-led approach with internal and specialised external support, referred to as the 'hybrid approach' method. The external forensic support to was going to play a limited role of assisting with unpacking evidence. She proposed that, since the Constitutional Court upheld to decision of the Cape High Court for the Public Protector to have full representation, that the Committee consider making use of services of an Evidence Leader.

## **2.1 Deliberations**

The Committee deliberated and unanimously resolved to proceed with its work as there was no legal basis for it not to do so. The Committee further gave permission to the CLSO to proceed with identifying an Evidence Leader.

On a motion by Ms Lotriet, seconded by Ms Dlakude the Terms of Reference were adopted.

## **3. Consideration of Committee Draft Programme**

Mr Ngoma took members through a presentation of a draft programme. The programme is attached to the minutes as **(Annexure C)**.

### **3.1 Deliberation and resolutions**

There were no deliberations on the programme. On a motion by Ms Dlakude, seconded by Mr Mileham the programme was adopted as a working document.

## **4. Adoption of minutes of Wednesday, 28 July 2021**

The Chairperson tabled the minutes of Wednesday, 28 July 2021 to the meeting. On a motion by Ms Mananiso, seconded by Mr Maneli the minutes were adopted with no amendments.

## **5. Adjournment**

The meeting adjourned at 15:35

*Signed electronically*

*11 May 2022*

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**Mr QR Dyantyi, MP**  
**Chairperson: Committee for Section 194 Enquiry**

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**Date**