



Minutes of the Committee for Section 194 Enquiry

Date: Friday, 10 June 2022

Time: 14:00

Venue: Virtual meeting

Agenda:

- Briefing by Parliament's Constitutional and Legal Services Office (CLSO) on the work of the Committee done to date.
- Adoption of Committee minutes of Wednesday, 11 May 2022.

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	
	Ms ED Peters	
	Ms VS Siwela	
	Mr BM Maneli	
	Ms ME Thape	
Ms GK Tseke		
Mr GJ Skosana		
	Mr KJ Mileham	Democratic Alliance (DA)
	Mr BB Nodada	
	Dr LA Schreiber	
	Mr ZN Mbhele*	
	Ms BM Van Minnen*	
	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
Ms T Marawu Mr V Zungula**	African Transformation Movement (ATM)
Apologies Mr X Nqola (ANC)	

*indicates that a member is an alternate

**indicates non-member of the Committee

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 M Erasmus	Parliament	Committee Assistant
Mr K Vellem	Parliament	Executive Secretary to Chairperson
Ms F Ebrahim	Parliament	Legal Advisor
Ms T Gangen	Parliament	Legal Advisor
Mr S Njikela	Parliament	Legal Advisor
Mr T Nage	Parliament	Procedural Officer
Mr P Hahndiek	Parliament	Procedural Officer
Ms R Azzakani	Parliament	Principal Communication Officer
Mr S Twala	African National Congress	Office of the Deputy Chief Whip

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. He indicated that a lot of work has been done since the previous meeting and requested the CLSO to brief the Committee.

2. Constitutional and Legal Services Office (CLSO)

Mr Njikela indicated that nothing much changed in as far as the position that CLSO had communicated to the Committee in the previous engagement. He had informed the Committee that the Constitutional Court had made its decision and that there was another application to rescind the rescission application.

He reminded members that Adv. Busisiwe Mkhwebane had filed an application with the Western Cape High Court in two parts. Part A of the application sought to interdict Parliament from proceeding with any process that sought to consider the Motion on her removal. Part B constituted remedies which were sought from the President, which would prevent the President from suspending her.

On Friday, 10 June 2022 the presiding judge ruled on the matter. The bench found no merits on all remedies that Adv. Mkhwebane had sought against Parliament and the President. The full bench judgement confirmed that Parliament was executing its constitutional role. The Western Cape High Court full bench had refused to interdict the process and to stop the suspension.

Ms Ebrahim briefing the Committee on the following topics: (i) opportunity to the Adv. Mkhwebane to make written representations to the Motion; (ii) public participation process; (iii) issuing of summons; (iv) and working arrangements relating to the hearings.

Mr Ngoma provided an update on the public participation process and the number of submissions received by the Committee.

2.1 Deliberations

The Committee noted and welcomed the Western Cape High Court's dismissal today of Adv Mkhwebane's application for urgent interim relief, which sought to interdict the Speaker of the National Assembly and the Committee from taking any further steps in the enquiry process into her removal. Adv Mkhwebane simultaneously sought to interdict the President from suspending her.

The Committee deliberated and resolved to grant the Chairperson powers to summon critical witnesses that might assist the Committee in its work, in terms of section 14 of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act. The Chairperson may,

subject to this Act, summons any person recommended by the Evidence Leaders or identified by the Committee in the course of gathering evidence to appear before it and/or to provide a sworn written statement and/or produce documents where the presence of such a witness or the furnishing of such documents or sworn statement is material to the assessment of the motion.

Following the presentation by CLSO, a concern was raised by various members relating to statements made by leaders of political parties on the matter before the Committee. The Committee deliberated on the matter and other members were of the view that complaints of such nature should be addressed to the Speaker of the National Assembly.

Following member's deliberations, the Chairperson highlighted that the process was being undertaken with a twin-task and an open mind view ahead of the work before the Committee. When the Committee invited members of the public to provide it with information, it made it clear that it was looking for information that would assist exonerating the Public Protector on the issues raised in the motion as one part or any other role players that can assist the Committee on any other role players that can assist the Committee on any matters that will validate, collaborate and help the Committee to make findings in line with issues on the Motion. It was therefore important that the process was informed by that open-minded approach.

He reminded members that amongst others, the process was an exercise of accountability to check the fitness of the Public Protector to hold office. He further requested members to stay focused on the matters that would assist the Committee and its membership, such as evidence and facts before the Committee. He cautioned members to avoid any incidentals around the work of the Committee. No one could stop members of any party when they get to the House or wherever they are to raise any views they wanted to raise. It was the right of parties to express themselves in any manner but pleaded with members to be careful of their comments either on mainstream media or social media platforms relating to the work of the Committee. Parties and leaders of parties would continue to express themselves.

The Chairperson, therefore ruled that the matter would not be taken to the Speaker as suggested by other members, but would end at Committee level.

3. Adoption of minutes of 11 May 2022

Mr Ngoma took members through the minutes. On a motion by Ms Tihape, seconded by Ms Siwela the minutes were adopted with no amendments.

4. Adjournment

The meeting adjourned at 16:20

Signed electronically

16 August 2022

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

Date

Adopted Minutes