

AC/2001/228

TRUTH AND RECONCILIATION COMMISSION

AMNESTY COMMITTEE

APPLICATION IN TERMS OF SECTION 18 OF THE PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT,
NO.34 OF 1995.

EUGENE ALEXANDER DE KOCK 1ST APPLICANT

(AM0066/96)

ISAK DANIEL BOSCH 2ND APPLICANT

(AM3765/96)

NICOLAAS JACOBUS JANSE VAN RENSBURG

(AM3919/96) 3RD APPLICANT

3RD APPLICANT

EBEN FREDERICK COETZEE 4TH APPLICANT

(AM4079/96)

WILLEM HELM JOHANNES COETZEE 5TH APPLICANT

(AM4122/96)

FREDERICK CRAUSE 6TH APPLICANT

(AM4124/96)

PHILLIP RUDOLF CRAUSE 7TH APPLICANT

(AM4125/96)

ANTONIE MARIUS HEYSTEK 8TH APPLICANT

(AM4145/96)

JOHAN LE ROUX 9TH APPLICANT

(AM4148/96)

WIKUS JOHANNES LOOTS 10TH APPLICANT

(AM4149/96)

JOHANNES CHRISTOFFEL MEYER 11TH APPLICANT

(AM4152/96)

MARTIN JOHAN NAUDE 12TH APPLICANT

(AM4362/96)

CHRISTOFFEL JOHANNES

DU PREEZ SMIT 13TH APPLICANT

(AM4386/96)

ANTON PRETORIUS 14TH APPLICANT

(AM4389/96)

STANLEY H SCHUTTE 15TH APPLICANT

(AM4393/96)

WILLEM FREDERICK SCHOON 16TH APPLICANT

(AM4396/96)

JOHANNES ALBERTUS STEYN 17TH APPLICANT

(AM4513/97)

KAREL JOHAN DE BRUIN 18TH APPLICANT

(AM4906/97)

HENDRIK JOHANNES PRINSLOO 19TH APPLICANT

(AM4907/97)

CHRISTIAAN SIEBERT RORICH 20TH APPLICANT

(AM5011/97)

PAUL JACOBUS VAN DYK 21ST APPLICANT

(AM5013/97)

WYNAND ARNALDUS BARNARD

HATTINGH 22ND APPLICANT

(AM5016/97)

WYBRAND ANDREAS LODEWICUS

DU TOIT 23RD APPLICANT

(AM5184/97)

DECISION

The Applicants make these applications for amnesty in terms of the promotion of National Unity and Reconciliation Act 34 of 1995 as amended (the Act) and in respect of various offences and delicts which flow from the different incidents which become apparent below.

In the early 1960s the ANC, in the face of the failures of all the erstwhile strategies, opted to include an armed struggle as part of the resistance to the system of apartheid. A military wing, Umkhonto weSizwe (MK) was formed. This strategy met with equivalent defence by the apartheid machinery and the security forces of the then government. They resorted to legislation which allowed for detention without trial, lengthy periods of imprisonment, restrictions on anti-apartheid groupings and restrictions on that part of the media which was sympathetic towards the anti-apartheid cause.

This approach led to the ANC seeking foreign assistance and operating from outside the borders of South Africa especially when restrictions were placed on it. With the passage of time, many people left South Africa to join MK and were trained in various forms of combat. Many of them returned to the country trained and armed to fight the system of apartheid.

Assistance was received from Europe and as far afield as Russia. Many other countries also rendered assistance to the ANC in general, including assistance specifically for MK and its activities. They neighbouring States facilitated the flow of MK members both into and out of South Africa. MK activities from the mid-1970s to approximately 1992-'93 were fairly successful and met with similar response, in an ever increasing spiral of violence.

Some time during this period, the South African regime considered pre-emptive and retaliatory measures in combatting the efforts of armed resistance. The Security Council of the South African government discussed these strategies from time to time and concluded that measures on behalf of the South African government would take the form of overt and covert strategies. The principle of these practices was that especially with covert activities, only the army would be able to cross the borders of South Africa to complete attacks. This was in any event regarded by the South African government of the time as legal and legitimate. The practice in fact precluded the South African Police from embarking on any operation beyond the borders of South Africa.

This is a very significant issue since whenever members of the South African Police (always attached to the Security Police) did get involved in cross-border action, it would have been illegal (even by their own rules) and always directed at specific and well-defined targets. Such targets would be buildings wherein MK activities were being prepared for and where weaponry would be stored. As far as people were concerned, their targets would always be well defined and identified persons not necessarily by name but sometimes by means of the nature of contribution such a person would be making towards the success of MK activities. Noteworthy also is that the target would have been a direct threat either by directly assisting an operative or being directly involved in an operation. These are attacks which were executed by members of the South African Defence Force.

With the passage of time the Security Police reasoned that it was necessary to establish a number of secret bases from which these attacks and other internal operations could be planned and launched or where Security Police operatives could be trained in such ventures. A few such

bases were to be found on certain farms, the main base came to be known as 'Vlakplaas'. The offences actually committed outside the borders of South Africa do not necessarily constitute offences in terms of South African law. However, such preparations for the commission of such acts committed in neighbouring States may very well constitute offences in themselves and in any event the Act allows for consideration of applications for amnesty related to offences and delicts committed beyond the borders of South Africa.

The Act makes provision for certain formalities to be complied with before any application can be dealt with by the Committee. All the Applicants have in this instance complied with the necessary formalities.

The Act further provides for certain requirements to be fulfilled before amnesty can be granted. Section 20 of the Act compels the Amnesty Committee to grant amnesty to an Applicant if it is satisfied that:

- a. the acts for which amnesty is sought were committed with a bona fide political motive; and
- b. that full disclosure of the facts related to such acts to the Committee.

It is on this basis that the Committee approaches these applications.

A. INCIDENT: ATTEMPTED MURDER OF MR MARTIN THEMBISILE HANI

APPLICANTS: E F COETZEE (APPLICANT 4); J DE BRUIN (APPLICANT 18); H J PRINSLOO (APPLICANT 19)

During 1980, Applicant 19, stationed at Bloemfontein, was investigating the large-scale propaganda campaign launched from Lesotho into South Africa. He was attached to the Security Police as were the other Applicants. The investigation disclosed that Martin Thembisile Hani, also known as Chris Hani, a trained mentor of MK was behind it. Further investigation indicated that Mr Hani was charged with the election of trainees for military combat. This information was reported to his superiors on a continuous basis. It seems that it in turn was passed on to higher ranking officials.

During the course of these investigations, Applicant 19 was called to the office of Lieutenant Colonel Coetzee (APPLICANT 4). The latter informed him that Head Office had requested that a plan be made with Chris Hani. This was interpreted as an instruction to kill Mr Hani. Applicant 19 agreed to see that this was done and consequently travelled to Pretoria to honour an appointment with Colonel Viktor who was at the Security Branch of Head Office and tasked specifically with overseeing the monitoring of such activities in Lesotho. Colonel Viktor then confirmed the request which Applicant 19 had agreed to. He then reported back to Applicant 4 and repeated his willingness to comply with the wish to have Mr Hani killed. Upon this he was then instructed to contact Applicant 18, a Sergeant at the time, at Ladybrand who was in touch with an informer who had direct access to Mr Hani and his residence. He did this and it appeared that Applicant 18 had knowledge of the plan.

It turned out that the informer was one ERNEST RAMATOLO, a national of Lesotho.

The plan was then put into operation though the informer did not know that eventually, Mr Hani was supposed to be killed. The information about Mr Hani's routine suggested that the best way to kill him was by way of a bomb being placed in his motor vehicle. It was then decided to execute the plan in this way. This exercise of gathering information and making the decision as to how to kill Mr Hani spanned approximately three months. The final plan was then explained to Applicant 4 and Colonel Viktor in Pretoria. Applicant 19 was provided with the necessary explosives by Colonel Viktor. The bomb was to be fitted to Mr Hani's motor vehicle by means of a magnet. Applicant 19 then prepared the bomb in a cake tin.

He then informed Ramatolo of the plan. Ramatolo expressed a desire to be involved and undertook to assist in the operation. All that he was required to do was to attach the bomb to the undercarriage under the passenger seat of Mr Hani's motor vehicle. He was instructed as to how to do that. During this instruction, Applicant 18 was present and had knowledge of all the details regarding the plan.

Because of the unrest in Lesotho at the time, there were too many policemen in Lesotho. To obviate problems, Ramatolo was given a motor vehicle to minimise detection while in possession of this bomb. The bomb was placed in a concealed space specially built for that purpose behind the front seat of the Valiant motor vehicle bought for Ramatolo.

Sometime thereafter the motor vehicle and bomb was handed to Ramatolo at the border by Applicants 18 and 19 so that he could immediately complete the operation.

They waited in the veld till the next morning. They expected Ramatolo to return to South Africa as was arranged. By approximately 12 noon that day, he had not returned. Applicant 19 then returned to his office in Bloemfontein where Applicant 4 confirmed that a radio report suggested that the informer had been injured in a blast. Later this was confirmed when Applicant 19 heard that bail for the informer in respect of a criminal matter in Lesotho had been arranged for him.

Ramatolo also testified and confirmed material aspects of the applications. There were a number of discrepancies related to the relationship between Ramatolo and his handlers. These included whether he was promised payment for assassinating Mr Hanani or not, whether Ramatolo was trained in the use of a firearm or not; whether he was presented with a firearm by Applicant 18 or not and the type and length of the training Ramatolo received in placing the bomb.

Ramatolo also testified that before he could place the bomb on the motor vehicle as planned, it fell and exploded. He was badly injured as a result.

These discrepancies are matters that are too remote to the considerations related to amnesty and would not have materially affected the outcome. Indeed the fundamental aspects are confirmed by Ramatolo.

The Committee is satisfied that the Applicants have made a full disclosure as to the motive and actual occurrences related to the attempted assassination of Mr Hanani. Clearly by the very nature of Mr Hanani's activities, the attack directed at him was for political reasons.

The bomb exploded before its desired effect. Mr Hanani was not even in the motor vehicle when it exploded. There was therefore no actual attempt on his life. However there was clearly a conspiracy to commit murder.

The Committee is of the view that the Applicants have complied with the requirements of the Act.

In the result, amnesty is GRANTED to them in respect of all offences and delicts arising from their endeavours in this regard.

B. THE ATTACK ON TWO "TRANSIT HOUSES" IN SWAZILAND DURING 1980

APPLICANTS: N J JANSE VAN RENSBURG (APPLICANT 3); C S RORICH (APPLICANT 20); P J VAN DYK (APPLICANT 21); W A B HATTINGH (APPLICANT 22); W A L DU TOIT (APPLICANT 23)

Applicants 3, 20, 21 and 22 make application in respect of two counts of murder, three counts of malicious injury to property, various transgressions of the Explosives Act No 26 of 1969 and illegal crossing of the South African border. Applicant 23 makes application in respect of being an accessory after the fact to those offences and the transgression of the Explosives Act No 26 of 1969.

During the middle of 1980 Applicant 3 was the Branch Commander of the Security Branch at Ermelo. It was during the time of insurgency and counter-insurgency of members belonging to anti-apartheid structures and the South African Police respectively. Soon after the attack on Sasol at Secunda, Applicant 3 spoke to Brigadier Van der Hoven, who was stationed at Middelburg, about suchlike matters. They came to the conclusion that it was a viable option to attack what was referred to as transit houses to stop insurgency. "Transit houses" were houses used as the last place of abode in preparation for infiltration into South Africa by members of the anti-apartheid forces. They were obviously located near the borders of neighbouring States and South Africa. Brigadier Van der Hoven later informed Applicant 3 that the planned action had been approved of, presumably by superiors. Applicant 3 then set the plan into operation knowing full well that persons could be killed. He kept abreast of the details as the operation developed.

Applicant 3 then placed Applicant 20 in charge of the general operation. Two houses in Manzini, Swaziland were selected as targets. Applicant 3 was kept informed of the situation regarding the activities there and the identity of those occupying them. Applicant 3 testified that in addition to technical reasons, he required this type of monitoring to avoid the loss of innocent life as opposed to the lives of trained people who were at least prospective insurgents.

Applicants 20 and 22 were at that stage demolition experts. Both were able to construct explosive devices. Each manufactured, upon instruction to do so, an explosive to be used in this operation. Each knew of the intended use and nonetheless associated themselves with the consequences thereof. They produced the devices as required. The nature of the devices were such that they were able to be detonated with the aid of a timing device.

Applicants 20, 22 and 23 then proceeded to illegally enter Swaziland after being briefed and armed with the information already obtained during the approximately three month period prior to the execution of the operation. After they had entered Swaziland and activated the devices, Applicant 22 said he could not continue with the operation. His reasons are not known. The device was then taken by Applicant 20 from Applicant 22 and placed adjacent to and against the wooden house, one of the targets. Applicant 20 also took the device with which he was armed and placed it against the wall of the house painted in white, the other target. They all then left the vicinity before the devices exploded. They say they took as much care as they could to avoid damage to the neighbouring homes despite the unpredictability of such devices when exploding.

They were later informed that the houses were in fact damaged by the blasts. There were two fatalities one in each house, which resulted from the blasts. The one in the house painted white was a young child. Because the actual murders were committed in a foreign State they would at best, be entitled to amnesty for any offence connected therewith and committed within the borders.

Applicant 23 was at the time attached to the Security Police in South Africa and involved in creating electronic and other technical equipment to facilitate the operation of devices used in the activities of the apartheid machinery to contend with those of the anti-apartheid structures. Amongst his activities was the conversion of ordinary watches into electrical switches in order to set a bomb such that it exploded at a set time. Such devices were essential for the success of illegal operations.

While he was not part of the planning or the execution of this incident, he knew that his contribution was assisting in an unlawful venture but nonetheless continued to do so knowing full well that, by the very nature of the devices, lives could be lost. While he did not know what these devices were going to be used for, he later found out what they were in fact used for. He did not disclose this then.

Mrs Hlubi, a Swaziland national testified that on 4 June 1980, her house, No 122, was damaged. She was of the opinion that it was her house that was in fact mistakenly attacked because it was not in her home but in the neighbouring house, painted in white, that MK members, in transit, were being housed. Her belief that her home was targeted is based on the fact that her home was extensively damaged. The roof and walls were damaged. It seems however that the neighbouring house No 123 was worse off and in fact someone died in it during the blast.

In the circumstances it seems that it was in fact her neighbour's home, No 123, that was targeted and that her home, No 122 was damaged as a secondary effect of the blast.

The Committee is satisfied that all the Applicants related to this incident have complied with the requirements of the Act especially by making full disclosure of the facts related to the executions which was clearly motivated by political considerations.

Amnesty in respect of all offences and delicts flowing from this incident is therefore GRANTED.

C. INCIDENTS: MURDER OF MR NAIDOO, MURDER OF UNKNOWN PERSON IN BOTSWANA

APPLICANTS: EUGENE ALEXANDER DE KOCK (APPLICANT 1); IZAK DANIEL BOSCH (APPLICANT 2)

The two Applicants apply for amnesty in respect of:

1. murder of one Mr Naidoo;
2. murder of an unknown person in Botswana;
3. possession of a stolen vehicle of Peter Vale;
4. illegal possession of stolen firearms;
4. illegal possession of ammunition.

Applicant 1 testified that he was introduced to one Kentane by a former Rhodesian. He was told that Mr Kentane was a former member of the Rhodesian Selous Scouts and had also acted against organisations like the Azapo and Azano.

The Security Police attached to the South African Police wanted a person who would infiltrate the ANC and PAC structures operating in neighbouring States. He would befriend them and thereafter try to attack high profile members by shooting them or by using explosives. This person was also required to have knowledge of the areas where the ANC and PAC operated in neighbouring States more specifically Botswana and Zambia. Mr Kentane was found to meet all the criteria necessary for this operation.

Applicant 1 then drafted a report which he submitted to General Joubert who was second in command of the Security Police at Headquarters. He informed General Joubert about Mr Kentane's particulars and also that there would be an operation to "neutralise" the membership of MK outside the borders of the country, either by recruitment or by killing members of Umkhonto weSizwe (MK) members.

This operation was approved by General Joubert and it was to run for six (6) months and if there were any further reports it could be extended. This was the so-called "Operation Delta".

Mr Kentane was to be given a monthly salary and he was also given a motor vehicle which had been stolen by the Port Elizabeth police from one Professor Peter Vale.

He was also provided with illegal weapons and ammunition.

The first incident which Mr Kentane reported to the Applicants was that he had been travelling with a member of the ANC from whom he got a lift. He then shot this person with a .25 pistol. According to Mr Kentane this person was in possession of a Tokarev pistol.

Applicant 1 stated that there had been a report in one of the Botswana newspapers, which corresponded reasonably accurately with what Mr Kentane had told him. The Security Police could however not identify this person as an ANC member.

The second incident which Mr Kentane reported, was the murder of a person described during that time as an "Indian man". Mr Kentane informed Applicant 1 that he had made contact with a

certain group known as the Kabalalas while in Lusaka. This was a gangster group and they were prepared to assist him in attacks on ANC targets. He reports that he, together with four (4) or five (5) people had one evening gone to a farm in Lusaka where they shot dead an Indian man.

A newspaper reported on this incident and the person who was said to have died was a certain Mr Naidoo. Mr Kentane himself did not mention Mr Naidoo's name. It was the connection between the newspaper report and the information which Mr Kentane gave Applicant 1 which led him to conclude that it was Mr Naidoo.

Applicant 2 also gave evidence. He stated that at the time (1989) he was working as a Sergeant at Vlakplaas. He was approached by Applicant 1 who gave him an order that he would Mr Kentane's handler. As a handler he had to give logistical, administrative as well as moral support. He gave Mr Kentane a motor vehicle which had been spray-painted and fitted with false compartments in order to enable him to hide weapons. (in the false compartment). He would also deal with his salary, and payments for claims for petrol etc.

With regard to the incident concerning Mr Naidoo, Applicant 2 heard about it when he listened to a telephone message in his office that there had been an attack on an 'ANC farm'. Mr Kentane reported that one person had been killed. Mr Kentane arrived at Vlakplaas 3 - 4 days after this incident.

Applicant 2 stated that Mr Kentane would not furnish him with the details of the farm attack. At page 317 of the record, he states:

"MR ROSSOUW: What did he tell you at that stage, what happened?

MR BOSCH: That there'd been an attack on a farm with those robbers and during the debriefing session, I realised that some of the detail was very vague. I wanted a description, I wanted to have a plan as to what the farmhouse looked like etcetera, so that I could verify it with C2's people who had been on the farm, with some of the ANC people who had been on the farm, but it wasn't quite successful.

CHAIRPERSON: Why not? Why couldn't he give you this detail?

MR BOSCH: Chairperson, he couldn't give me the finer detail.

CHAIRPERSON: Could he tell you why he couldn't do that?

MR BOSCH: No, he just said he was nervous and that that happened during the night.

MR ROSSOUW: Mr Bosch, you've heard Mr De Kock testifying that he couldn't give a description of the farmhouse, the house on the farm, is that correct?

MR BOSCH: Yes, Chairperson.

MR ROSSOUW: The fact that he couldn't give you the finer detail of the whole set-up on the farm, what was your conclusion from that fact?

MR BOSCH: I'd handled quite a few people - well, not quite in the same kind of situation, but it did happen in the past that if a person had been to a place one he could tell me what exactly it looks like, where the vehicles are, where the back door was, but I simply couldn't get that detail from him..

MR MALAN: The question is, what was your conclusion?

MR BOSCH: My conclusion was I was uncertain whether he had really been there or not."

Applicant 2 was unsure whether in fact Mr Kentane had actually committed the murder. Applicant 2 then submitted a claim form for Mr Kentane and a sum R2 000 was paid to him for killing one person. (Unknown ANC member from whom he received a lift). As regards the stolen vehicle, Applicant 2 is applying for amnesty for defeating the ends of justice. He says that they had been informed by Colonel De Kock that the vehicle had been stolen in Port Elizabeth. That was the evidence in chief by the Applicants. This application was opposed by the members of the Naidoo family.

During cross-examination it was put to first Applicant that he had no proof that Mr Kentane killed Mr Naidoo. He conceded this.

Secondly, it was put to Applicant 1 that during the incident where Mr Naidoo was killed, two (2) people were killed. The second person was Mr Moses Mutenge also an ANC member. It could not be explained by Mr Kentane would claim only one (1) murder when in fact two (2) people had been killed, unless it was not the same incident or he was fabricating his version. It was also put to him that shortly after this killing, a certain Mr Tex was arrested and charged for the murder of Mr Naidoo. It was further put to him that it was highly unlikely that Mr Kentane was responsible for this killing as he could not even give a proper description of the farm or details of this killing. Applicant 1 conceded this.

Having considered the evidence of the Applicants, the Committee is not satisfied that there is sufficient evidence linking Mr Kentane to the death of the unknown person in Botswana, and the death of Mr Naidoo.

In regard to the unknown Botswana man, first Applicant himself testified that they could not link this person to the ANC.

There is furthermore no evidence to link the Applicants to the death of Mr Naidoo.

Accordingly amnesty is REFUSED to both Applicants with regard to the:

- (i) death of an unknown man in Botswana;
- (ii) death of Mr Naidoo in Zambia;

The Committee is however satisfied that both Applicants have satisfied the requirements of the Act in regard to and that amnesty should be GRANTED to them as follows:

- (i) possession of the stolen vehicle of Peter Vale;
- (ii) unlawful possession of weapons;
- (iii) unlawful possession of ammunition.

In the result, amnesty is GRANTED to both of them in respect of these offences. Amnesty is also GRANTED to Applicant 2 for defeating the ends of justice in the circumstances and as applied for.

D. INCIDENT: THE MURDER OF MK NALEDI

Applicant: WIKUS JOHANNES LOOTS (APPLICANT 10)

Applicant 10 applies for amnesty in respect of the murder of MK Naledi.

It was pointed out by Applicant's legal representative that the person known as MK Naledi was in fact Patrick Sandile Mvundla. There was legal representation for the family of the deceased (MK Naledi) and they were not opposing the application but sought full disclosure. The deceased will be referred to as Mr Naledi for the purposes of this decision.

The Applicant testified that in 1988 he was the Commander of the Western Transvaal Security Branch. He first knew of MK Naledi's activities between 1985 and 1986. He knew him as a member of MK who was operating from Gaborone in Botswana. He stated that on 25 February 1985 he attended a meeting between the Department of Foreign Affairs of the Republic of South Africa and the Department of Foreign Affairs of Botswana. At this meeting Mr Naledi's activities were discussed as a problem for the South African government.

Naledi's name was given by the Botswana delegation. After this meeting, a warning was issued to the Botswana government that they should limit ANC activities from Botswana to South Africa otherwise South Africa would regard any ANC activity from Botswana to the Republic of South Africa as an act of aggression.

On 25 March 1988 four armed MK members infiltrated South Africa from Botswana. Three of these persons were killed by the South African Defence Force. The fourth person who was not killed, was one Vuyo. He was arrested and then handed over to Applicant 10 on the instructions of Applicant 16. Vuyo was interrogated and during the interrogation, he stated that he acted under the command of Naledi when he infiltrated. Vuyo pointed out the house where Naledi was living from certain air photos of Gaborone.

This information was then passed to Colonel Joe Verster and he went with the team to Botswana where the house was identified. The Applicant stated that he knew that the information which he had disclosed to Mr Verster would be used for the purposes of an operation that was aimed at eliminating Mr Naledi.

On 28 March 1988 an attack on Mr Naledi took place and it was executed by the Special Forces under command of Verster. The people who launched the attack reported to Verster that a man and a woman had been killed in the house. However Applicant 10 was not sure of the details of the people who had been killed. He himself did not participate in the attack. As far as he knew the aim of the Special Forces was to kill Mr Naledi and to destroy the safe house and everybody inside it. Applicant 10 stated that he did not know of Vuyo's whereabouts or what happened to him thereafter.

The ANC list as referred to the commission contains the names of MK Naledi and it seems probable that he was in fact killed during the incident referred to by Applicant 10.

Having heard the evidence of the Applicant the Committee is satisfied that the Applicant has complied with the requirements and formalities of the Act.

Amnesty is therefore GRANTED to the Applicant for the murder of MK Naledi also known as Patrick Sandile Mvundla and all transgressions of the Explosives Act No 26 of 1956 committed in respect of this incident.

The mother of MK Naledi, Mrs Busang is referred to the Reparations and Rehabilitation Committee as a victim as envisaged by the Act. The identity of the victims who died with MK Naledi are not known to us, but the matter is nonetheless referred to the same Committee.

E. INCIDENT: CONSPIRACY TO MURDER NAT SERACHE

APPLICANTS: JOHANNES ALBERTUS STEYN (APPLICANT 17); W F SCHOON (APPLICANT 16); CHRISTOPHER JOHANNES DU PREEZ SMIT (APPLICANT 13); STANLEY HAROLD SCHUTTE (APPLICANT 15); WIKUS JOHANNES LOOTS (APPLICANT 10); PHILLIP RUDOLF CRAUSE (APPLICANT 7)

The Applicants are applying for amnesty in respect of:

1. conspiracy to commit the murder of and to destroy property of Nat Serache;
2. malicious injury to property;
3. defeating the ends of justice.

The Applicants were all members of Western Transvaal Security Branch. On the 13th February a meeting was held in Ottoshoop, a safe house which was used by the Security Branch. It was on a farm in Ottoshoop between Zeerust and Mafikeng. This meeting was a so-called "target development meeting" in which inter alia Mr Serache's activities were discussed.

It was held over two days and there were approximately 20 people attending. Attending the meeting were all the Applicants, General Erasmus, Brigadier Oosthuizen, Commandant Charl Naude and a certain Mr McPherson who was from Pretoria Security Branch Head Office.

The people slept over at the farm and the following day General Kat Liebenberg as well as Applicant 15 arrived. General Liebenberg was the head of the Special Forces in the South African Defence Force.

At the meeting it was stated that Nat Serache's home in Botswana was a transit facility which was used by armed members of (MK), who would infiltrate the Republic of South Africa via this house and their aim was to commit acts of sabotage.

As a result of this activity Nat Serache was surveilled by the members of the Western Transvaal Security Branch by means of informers and reconnoitrers. He was regarded as a legitimate target by the Security Branch members.

Co-operation existed between the Security Branch and the Special Forces regarding the exchange of intelligence information. Nat Serache was considered to be a very important MK member. The Security Branch had information that there were four MK members who were in Nat Serache's house and who were about to enter South Africa in order to commit acts of sabotage. The attack on Serache's home was therefore regarded as urgent.

The attack took place shortly after this meeting but none of the Applicants could remember the exact date. None of the Applicants took part in the actual bombing of Serache's house. The operation was carried out by members of the Special Forces who did not apply for amnesty and who are not known to the Applicants. However the Applicants were aware that the house was to be destroyed. They were not aware that any people were injured. However they are prepared to accept the report from the Investigative Unit of the Commission that two (2) people were injured, a possibility they all appreciated when they contributed to the planning of the operation. The injured included William Moedera.

Having heard the evidence of the Applicants, the Committee is satisfied that the acts of the Applicants were associated with a political objective and that the Applicants have made a full disclosure in regard to the incident.

In the result amnesty is GRANTED to the Applicants in respect of offences and delicts arising from this incident.

Nat Serache and Mr William Moedera are in the opinion of the Committee victims as envisaged by the Act and are referred to the Reparations and Rehabilitation Committee for consideration.

F. INCIDENT: KRUGERSDORP ARMS CACHE RE: ATTACK ON BOTSWANA

APPLICANTS: WILLEM FREDERICK SCHOON (APPLICANT 16); MARTIN JOHAN NAUDE (APPLICANT 12); JOHANNES CHRISTOFFEL MEYER (APPLICANT 11); WILLEM HELM JOHANNES COETZEE (APPLICANT 5); JOHAN LE ROUX (APPLICANT 9); EUGENE ALEXANDER DE KOCK (APPLICANT 1)

The first Applicant to testify in this matter was Applicant 16. He applied for amnesty for his part in the establishment of an arms cache, which would serve as a reason or an excuse for the South Africa Defence Force to launch a raid in Botswana in 1988. It was a ruse.

He stated that in 1988 he was the head of Section C1 at Security Head Office. During that period a meeting took place at Vlakplaas where certain targets in Botswana were identified. General Kat Liebenberg from the South African Defence Force also attended the meeting and had a private discussion with the Applicant 16 where he asked him if it would be possible to establish an arms cache in order to create a climate which would justify an attack in Botswana. This discussion took place after a meeting.

The main idea was to have an arms cache which would be viewed by the public as an arms cache which belonged to the operatives of the ANC. There would be a tremendous amount of

weapons and would also be exposed to the media and this would serve as a reason to attack the identified targets in Botswana.

Applicant 16 then asked Applicant 1 of Vlakplaas and Applicant 12 of Section C2 to obtain the necessary weaponry so that they could go and bury it at some place. The weapons were to be of Eastern Bloc origin which were in the custody of the police, and stored at the Security Branch Head Office. The explosives were to be provided by the explosives unit of the Security Branch police and Applicant 1 also had some such weapons at Vlakplaas. After Applicant 16 had given the instructions to Applicant 1 and Applicant 12 to collect the necessary weapons, he tried to make contact with the Krugersdorp Security Branch head, Applicant 9. He however could not get hold of Applicant 9 and then spoke to Applicant 5 whom he instructed to create an arms cache.

The following day Applicant 16, General Kat Liebenberg, Applicant 12 and General Joubert of the Defence Force went to Cape Town by air.

Applicant 16 went to Cape Town, as he had been asked by General Liebenberg, to be in attendance if needed, to present the plan to attack Botswana to the State Security Council. When they arrived in Cape Town he and Applicant 12 were asked to wait in a separate room and did not take part in the meeting at all.

Applicant 12 was the second person to give evidence. The main thrust of his evidence was that he was instructed by Applicant 16 to obtain explosives from the explosives unit. The following day he put the explosives in a trunk which he took to Krugersdorp. At Krugersdorp he met Applicant 5 at the police station at about 10 or 11 pm. The following morning he and Applicant 5 went to bury the trunk and its contents at some place. After the weapons had been buried he flew with Applicant 12 to Cape Town. He only knew what was going to happen to the weapons after he had spoken to Applicant 5 in Krugersdorp.

The weapons and ammunition were "discovered" early in the morning while they were on their way to Cape Town. They were discovered just before the meeting in Cape Town took place. As a result of this "discovery", authorisation for the attack on the targets in Botswana was obtained.

His testimony was that he was not aware if any people had died as a result of the attack in Botswana. It is possible that some may have been injured but he had no personal knowledge of it since he did not participate therein.

The next person to give evidence was Applicant 11. His testimony was that he was a Lieutenant or Captain in C2 whilst Applicant 12 was his commander. He stated that he went to Vlakplaas where they obtained the arms and then went to Krugersdorp where they found Applicant 5. They then went to bury the arms. After the arms had been buried he came back and proceeded with his normal duties. He however knew of this plan.

The next witness to give evidence was Applicant 5. He was at the time a Major and stationed at the Security Branch Krugersdorp. His commander was Applicant 9. His evidence was that he had been called by Applicant 16, who informed him that the South African Defence Force was looking for a reason to launch an attack against an ANC facility in Botswana.

After the briefing he returned to Krugersdorp where he found a suitable place in a mine dump. He took some people, whose identity he could not recall, to go and dig a hole there. The weapons were taken to the mine and buried there. He then telephoned Applicant 12 in the early hours of the morning and informed him telephonically of the arms cache which had been found due to information which they had obtained.

The press and other people were informed and the whole operation was publicised.

The next witness was Applicant 9 who at the time was the Divisional Commander of the West Rand Security Branch stationed in Krugersdorp. His testimony confirmed what the witness before him had stated and that he also associated himself with the fraudulent exercise to justify an attack that would be launched in Botswana. His main task was to create as much publicity of the matter as possible. He thus arranged people from the South African Broadcasting Corporation and other members of the publicity teams.

The last Applicant to testify was Applicant 1. His testimony did not differ from the others and he confirmed what the other Applicants had already stated insofar as it affected him.

None of the Applicants are aware if any people died as a result of the attack in Botswana nor are they aware of any people who were injured therein.

All of the Applicants however knew that their respective participation was facilitating the eventual attack in Botswana.

Having heard the evidence of the Applicants, the Committee is satisfied that they have complied with all the requirements of the Act.

In the result, amnesty is GRANTED to the Applicants for all offences and delicts flowing from all the actions related to this incident.

G. INCIDENT: KILLING OF ROGER NKADIMENG - 14 MAY 1985

APPLICANTS: P CRAUSE (APPLICANT 7); A J STEYN (APPLICANT 17)

Applicant 7 was at the time a Brigadier and Commander of the Western Transvaal Division of the Security Branch of the SAP. Applicant 17 was a Captain and Commander of the Zeerust Branch of the Division, reporting to the First Applicant.

They both apply for amnesty for the killing of Roger Nkadimeng (The Deceased), an MK member operating in Botswana in a car bomb explosion in Gaborone on 14 May 1985.

The Applicants testified at the hearing that approximately a month before the killing of the deceased, they were approached by Commandant Charl Naude, Commander of the Special Forces Unit of the SADF, for information at their disposal regarding the deceased and one Jackie Molefe, a female member of MK. The Applicants had known at the time that the military was planning an attack in Botswana and that specific identified targets would be killed. The request for information was not strange. Apart from the members of the Security Branch gathering information in Botswana, other agencies had their own intelligence activities in Botswana. These included both National Intelligence and Military Intelligence.

Although the final selection of targets was to be the decision of the Military they knew that both the deceased and Molefe would probably be targeted and killed. They did not know how it would be done, but they did know that Special Forces, would execute the operation.

They learnt about a month later that the deceased had been killed in a car bomb explosion. They do not know whether Molefe had been targeted although she had lived at the same address as the deceased. They know that she was not killed. Naude later merely informed Applicant 17 that the operation into Botswana had been successful.

The African National Congress (ANC) in both their submissions to the TRC referred to the incident in which Roger Nkadimeng was killed in a car bomb explosion. In their May 1997 submission on page 49, they show the date as 14 May 1985 and in their August submission on page 93 as 21 May 1985. The variation in dates is not serious especially because the actual death of the deceased has been confirmed.

The Committee is satisfied that the Applicant's passing on the information as well as their active association with the killing of the deceased, was associated with a political objective. The Committee is further satisfied that they have both made a full disclosure of all material facts related to the killing of Roger Nkadimeng.

In the result, the Applicants are both GRANTED amnesty in respect of offences and delicts flowing from the murder of Roger Nkadimeng.

The position of the next-of-kin of Roger Nkadimeng is referred to the Reparation and Rehabilitation Committee for consideration.

H. INCIDENT: ABDUCTION OF MOLEKE PETER LENGENE - 6TH FEBRUARY 1982

APPLICANTS: WILLEM HELM JOHANNES COETZEE (APPLICANT 5); ANTONIE MARIUS HEYSTEK (APPLICANT 8); ANTON PRETORIUS (APPLICANT 14)

The Applicants apply for amnesty for the abduction of Moleke Peter Lengene from Botswana on 6th February 1982, his unlawful detention, assault, the contravention of border control regulations and illegally taking firearms across the Botswana border and back into South Africa.

All three the Applicants testified at the hearing. Lengene, was an Applicant for amnesty with regard to a number of other incidents. He has passed away since he had lodged his application for amnesty. His widow attended the hearing, was duly represented and extensive cross-examination was done to establish a comprehensive account of the incident for which amnesty is sought. In the end, the applications were not opposed by Mrs Lengene.

After the 1976 Soweto Riots an organisation, the South African Youth Revolutionary Council (SAYRCO) was formed and established itself inter alia in Botswana. It had a military wing, the Tactics and Strategy Unit (TSU) whose members received military training in various countries. Their objective was the revolutionary and violent overthrow of the then State structures. It had a close liaison with the ANC which at that stage was a banned organisation. Members of SAYRCO also became involved in criminal activities.

The Applicants, all members of the Soweto Division of the Security Branch of the South African Police became involved in 1981/2 in the monitoring and infiltration of SAYRCO through a network of informers and undercover policemen, called RS agents. In the process Lengene came to their attention. He was a member of TSU and directly in command of military activities. It was arranged to focus a number of informers on Lengene, one of whom won his confidence with a promise and delivery of arms, provided by the Soweto Security Branch. In time this informer reported that he was of the opinion that Lengene could be recruited as an informer for the Security Branch. An RS agent was placed in contact with Lengene. It became clear that he wanted to return to the RSA but he feared for his personal safety as well as that of his family. He relayed information to the Soweto Security Branch, becoming in a way an active informer, which led to the arrest of a number of SAYRCO members in Soweto after infiltration from Botswana.

During 1982 they decided to actively recruit Lengene, which required his initial abduction from Botswana. Applicant 8, as commander of the Soweto Branch, authorised Applicants 5 and 14 to have Lengene abducted in order to recruit him.

A meeting in Botswana between Applicant 5 and Lengene was arranged through an informer. Applicant 5 confirmed that this informer, named in a statement by Lengene, signed before his death, was indeed one George Khoza. It was decided that Lengene would be abducted from that meeting place and brought to South Africa. This was then done. Those who assisted Applicant 5 were Applicant 14, a Sergeant Matthee, a Sergeant Ludick, Sergeant Mathuba, and Constables Selamolela and David Tiyane. Lengene was not told that he would be abducted.

At the meeting place, a house in Broadhurst Gaborone, and shortly before midnight, Lengene, on his arrival was seized, searched and bound and transported to Rustenburg where he was held in the garage of the father-in-law of Applicant 5.

At Rustenburg he was given alcohol to drink to calm him. On his arrival Lengene was interrogated for about a week by Applicants 5 and 14, Matthee and Mothiba, during which period he was also assaulted, though not seriously. He was cuffed by his hands and/or feet from time to time and according to a statement by Lengene before his death, assaulted by the father-in-law of Applicant 5 with pliers on his private parts. The Applicants had no knowledge thereof. The recruitment process was completed in about a week and Lengene came to work at the Soweto Security Branch. He was bought clothes and his general needs taken care of and ever since treated very well. His mother was informed. After about 2 months of his arrival, he became a Constable and his brother Tony also joined the Police Force.

At some stage a Mr Hersfeldt of the Botswana Security Police visited Pretoria. He asked to meet with Lengene and the meeting was arranged. The abduction had received a wide media coverage. According to Lengene's statement, some of his fellow SAYRCO members had been prosecuted and of vehicle theft and sentenced to 11 years imprisonment. Lengene was also wanted for prosecution on these charges. He opted not to return to Botswana. He remained a member of the SAP Force until his death, some 16 years later.

The Committee allowed extensive cross-examination on behalf of the widow of Lengene to be conducted on the basis of Lengene's statement.

The Committee is however satisfied that the Applicants' acts were associated with a political objective within the context of the conflicts of the past and that they have made a full disclosure of all material facts related to the incident.

In the result, amnesty is GRANTED to all these Applicants in respect of the abduction of and assault on Moleke Peter Lengene.

I. INCIDENT: CONSPIRACY TO THE MURDER OF JOHANNES MNISI - AUGUST 1985

APPLICANTS: JOHANNES ALBERTUS STEYN (APPLICANT 17); PHILLIP RUDOLF CRAUSE (APPLICANT 7); CHRISTOFFEL JOHANNES DU PREEZ SMIT (APPLICANT 13); FREDERICK CRAUSE (APPLICANT 6)

The Applicants apply for amnesty in respect of conspiracy to the murder of Johannes Mnisi, also known as MK Victor, who was during 1985/86 the head of Special Operations of MK in Botswana.

Applicant 17 was at the time the Commander of the Western Transvaal Division of the Security Branch. Applicant 7 was Commander of the Zeerust Branch and Applicants 13 and 6 were a Lieutenant and a Warrant Officer respectively at Zeerust under the command of the Applicant 7.

Part of their function was to gather information on the activities of Liberation Movements in Botswana. Whatever information they received, they shared with the broader security community, notably also with the Special Forces Unit of Military Intelligence.

Mnisi had been a target for elimination for quite a number of years, but they could never track him down. He became a high priority target when it was discovered that he had been involved in what became known as the Church Street Bomb. It appears that he was indeed an applicant for amnesty in relation to the Pretoria Church Street Bomb incident in 1983.

During July or August of 1985 Applicant 7 was approached by one Harmse who informed him that they, the Special Forces unit of the South African Defence Force Intelligence section, had rigged a motor vehicle with explosives and had also equipped it with a radio transmitter. This was done after it had been communicated to them by an informer that the latter had been asked by Mnisi to provide a car for daily transport. The car had been sent to Gaborone.

Applicant 7 was requested to provide access to a safe house near the border where Special Forces could erect a receiver so as to monitor conversations in the car. The purpose would then be to detonate the explosives by remote control, so killing Mnisi the moment they could establish his presence in the car. They accepted that others might be killed with him.

The facility was provided and with the consent of applicant 17, applicants 13 and 6 assisted with the monitoring. After a few days communication failed. They suspected that the vehicle had left Botswana to the North, causing the break in communication. Despite an attempt to establish the whereabouts of the vehicle by air surveillance to see if they could pick up the signal, they never again received any information about the car, until one Sunday morning,

approximately 3 months later in November 1985, Applicant 17 heard over the news media that a car bomb had exploded near the Machudi Hospital in Botswana. To their recollection, people were killed and others injured. They enquired and established that the Military Forces unit Special Operations had detonated the bomb in the motor car intended for Mnisi. They cannot recall any names of persons killed or injured in the explosion. As it turned out, Mnisi escaped with his life.

Mnisi's legal representative informed the Committee that he would not be attending the hearing and that he was not opposing the application.

The Committee is satisfied that the acts of these applicants relate to a conspiracy to murder, and malicious damage to property and that the applicants acted with a political objective within the context of the conflicts of the past and that they all have made a full disclosure of all material facts related to the incidents as envisaged in the Act.

In the result, amnesty is GRANTED to them for all offences and delicts flowing from this incident.

The Committee is further satisfied that Johannes Mnisi is a victim as envisaged by the Act, and his name and particulars are referred to the Reparation and Rehabilitation Committee for its consideration.

SIGNED AT CAPE TOWN THIS THE 31ST DAY OF MAY 2001

JUDGE R PILLAY

ADV S SIGODI

MR W MALAN

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