THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS REGARDING EFFORTS OR ATTEMPTS TO STOP THE INVESTIGATION OR PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES (TRC CASES INQUIRY)

HELD AT:

Sci-Bono Discovery Centre, Corner of Miriam Makeba & Helen Joseph Street
Newtown, Johannesburg

BEFORE:

COMMISSIONERS:

The Honourable Ms Justice Sisi Khampepe (Judge Ret.) – Chairperson
The Honourable Mr Justice Frans Diale Kgomo (Judge President Ret.)
Adv Andrea Gabriel (SC)

EVIDENCE LEADERS:
Adv Ishmael Semenya (SC)
Adv Vas Soni (SC)
Adv Fana Nalane (SC)
Adv Nompumelelo Seme
Ms Baitseng Rangata

REPRESENTATIVES
Adv Varney (SC) – The Calata Group
Adv D Pillay – The Calata Group
Ms A Thakor – The Calata Group
Mr J Venter – The Calata Group
Ms L Doubell – The Calata Group
Adv Gwala (SC) – NPA representative
Adv Motlalepula Rantho (for SAPS)
Adv Tlotlego Tsagae (for Department of Justice)
Adv Masuku SC (for Adv Menzi Simelani)

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MzanziSA Business Solutions
Arbour Square
Cnr Melle & Juta Street
Ground Floor, Office 3
Braamfontein, 2001
TEL: 011 339 1289 Cell: 0794374335
E-mail: transcription@mzanzisa.com

PROCEEDINGS ON 16 JANUARY 2026

CHAIRPERSON: Good morning, all.

ADV SEMENYA: Morning.

CHAIRPERSON: Mr Semenya or Mr Soni?

ADV SONI: As it pleases Chairperson. Chairperson, we would like to leave, with your leave, the evidence of Doctor Silas Ramaite today.

CHAIRPERSON: Thank you. Doctor Ramaite, please place your full names on record.

MR RAMAITE: My full names, Chairperson and Commissioners, is Mashaho Silas Ramaite.

CHAIRPERSON: Yes. Are you going to take an oath or affirmation?

MR RAMAITE: The oath, Chairperson and Commissioners.

CHAIRPERSON: Yes. Do you swear that the evidence you will give will be the truth and nothing but the truth? If so, raise your right hand and say; so help me God.

MR RAMAITE: I do, so help me God.

CHAIRPERSON: Thank you. He is sworn.

ADV SONI: Chairperson, may I just point out that the main reason for calling Doctor Ramaite is he served as the Acting NDPP during a period in the 2004 and he occupied various positions, senior positions in the NPA.

CHAIRPERSON: Yes.

EXAMINATION BY ADV SONI: Doctor Ramaite, can I ask you in respect of the evidence you are about to give, did you make an affidavit?

MR RAMAITE: Yes, I did.

ADV SONI: Chairperson, the affidavit appears at page 232 onwards of the evidence leaders' statements and affidavits.

CHAIRPERSON: Yes, Mr Soni.

ADV SONI: Now Doctor Ramaite, do you confirm that what is contained in this affidavit is true and correct?

MR RAMAITE: I do confirm.

ADV SONI: Now I just want to ask you in relation to the affidavit that you made, is it correct that you made the affidavit in response to the affidavits that had been made by Advocate Pikoli and Advocate Ackermann relating to the matters at the NDPP?

MR RAMAITE: That is correct.

ADV SONI: And when you compiled your affidavit, what documents did you have to refer to in respect of the matters that are dealt with in your affidavit?

MR RAMAITE: I did not have any documents, I did not have access to any official documents.

ADV SONI: Okay, so let us just deal with access to documents. You served in various positions in the NDPP, I mean the NPA. I am going to come to those in a moment. Can I ask you, are you still with the NPA?

MR RAMAITE: I am no longer with the NPA, I took early retirement in August 2019.

ADV SONI: And since then have you had access to any documents?

MR RAMAITE: I have not had access to any official documents.

ADV SONI: So just to confirm, the documents that the, the affidavit that you have made is based largely on the documents that were contained in the affidavits of Advocate Ackermann and Advocate Pikoli.

MR RAMAITE: That is correct.

ADV SONI: Now can I ask you in relation to the positions you served in the NPA, you deal with that in paragraphs 6 onwards of your affidavit, but can we give the Commissioner the synopses of the senior positions that you occupied in the NPA?

MR RAMAITE: Particularly after the coming into operation of the NPA Act I was appointed as the Director of Public Prosecutions in Pretoria responsible for North Gauteng and it also included Mpumalanga and now Limpopo and the Vaal Triangle.

ADV SONI: And in that position, who was the senior person?

MR RAMAITE: I was the Director of Public Prosecutions.

ADV SONI: Oh.

MR RAMAITE: I was the most senior person.

ADV SONI: Okay, and what was the next senior position that you occupied?

MR RAMAITE: The next senior position was that of a Special Director of Public Prosecutions in the Office of the National Director of Public Prosecutions.

ADV SONI: Before that did you not serve as the DPP in what was the Pretoria High Court?

MR RAMAITE: That is correct, I did.

ADV SONI: And who was in charge of the office at the time that you were appointed?

MR RAMAITE: At the time that I was appointed Doctor Jan D'Oliveira was the Auditor-General, but after the coming into operation of the NPA the title of Auditor-General changed into that of Director of Public Prosecutions.

ADV SONI: Can I then ask you, for what periods did you serve in that office?

MR RAMAITE: I served as Director of Public Prosecutions from 1998 up to 2001 when I was moved to head office as the Special Director of Public Prosecutions and then part of the advisory team of the National Director.

ADV SONI: Who was who?

MR RAMAITE: Who was Bulelani Ngcuka.

ADV SONI: And thereafter?

MR RAMAITE: After serving as a Special Director of Public Prosecutions I was appointed by Mr Ngcuka, well by the President on recommendation of Mr Ngcuka as a Deputy National Director of Public Prosecutions.

ADV SONI: And was anybody else appointed as a further Deputy?

MR RAMAITE: Mr Leonard McCarthy was also appointed. He was appointed as Head of the Directorate for Special Operations. I was appointed as Head of what was then called the National Special Services Division, which consisted of the Sexual Offences and Community Affairs Unit, the Priority Crimes Litigation Unit, the

Witness Protection and, ja there were four. It was the PCLU, SOCA, Witness Protection.

MALE SPEAKER: We are at paragraph 12 of your CV.

MR RAMAITE: Paragraph 12, thank you, thank you Commissioner. Yes, yes. I was appointed to be in charge of the National Special Services Division responsible for the PCLU, that is the Priority Crimes Litigation Unit, the Specialised Commercial Crimes Unit, the Sexual Offences and Community Affairs Unit, and the Witness Protection Unit. Thank you Chair, Commissioner.

ADV SONI: Yes Doctor, there is no problem if you refer to the affidavit. These matters happened about 20 years or more than 20 years ago, so please refer to your affidavit to refresh your memory.

MR RAMAITE: Thank you.

ADV SONI: Now just one other matter, you say Advocate McCarthy was the second Deputy NDPP and he was in charge of the DSO.

MR RAMAITE: Yes.

ADV SONI: Is the DSO colloquially known as the Scorpions?

MR RAMAITE: That is correct.

ADV SONI: Now in regard to the evidence that you deal with in your affidavit and that I what not deal with today, now I want to refer to specific aspects of your affidavit. Can I ask you first, you were appointed the Deputy Auditor-General of the so-called Transvaal Division at the time when Doctor D'Oliveira was the head, am I correct?

MR RAMAITE: Yes, I was first appointed as a Deputy Auditor-General.

ADV SONI: Yes.

MR RAMAITE: As one of the deputies of Doctor Jan D'Oliveira.

ADV SONI: Then you became the DPP.

MR RAMAITE: That is correct.

ADV SONI: In place of Doctor D'Oliveira.

MR RAMAITE: That is correct.

ADV SONI: What happened to Doctor D'Oliveira when you became DPP?

MR RAMAITE: Doctor D'Oliveira was appointed as a Deputy National Director of Public Prosecutions responsible for prosecutions, in other words he was responsible for all the Directors of Public Prosecutions.

ADV SONI: Including yourself?

MR RAMAITE: Ja, including myself, that is correct.

ADV SONI: And he was moved to head office.

MR RAMAITE: That is correct.

ADV SONI: And you remained at what I would call the Pretoria office.

MR RAMAITE: That is correct.

ADV SONI: All right. Now I would like us to deal firstly with the matters that, where you inherited, as it were, from Doctor D'Oliveira. What type of cases was he doing?

MR RAMAITE: Well, there were many other cases, but of significance and I think for purposes of the present situation there

were two (indistinct) cases. There were cases where that related to mainly the (indistinct).

MALE SPEAKER: Do not move from the microphone.

MR RAMAITE: Oh thank you, thank you Chair, thank you Commissioner. I apologise for that. Ja, there were two categories of cases, the ones relating to the Boeremag and the (indistinct), those were supervised or handled by Advocate Fick and there were cases that involved the formal, well the security forces, namely the security police, the intelligence officers and to a certain extent the (indistinct). Those were being handled by Advocate Anton Ackermann, but at that time Advocate Ackermann was actually busy with the Wouter Basson matter.

ADV SONI: Yes, and you were in overall control of the office at the time.

MR RAMAITE: That is correct.

ADV SONI: Now the Commission has heard about cases emanating from the Goldstone Commission. Can you tell the Commission more about that?

MR RAMAITE: Yes, that is correct. At the time that Doctor D'Oliveira was the DPP he was also the chief evidence leader in the Goldstone Commission, so when the Goldstone Commission wrapped up its work he came over to the Auditor-General's office with the dockets that featured before the Goldstone Commission.

ADV SONI: Yes, and what type of cases were those, the Goldstone Commission cases?

MR RAMAITE: Well, most of them related to the security forces, but there were some that actually featured before the TRC Commission.

ADV SONI: But they were before the Goldstone Commission before the TRC had starts its ... (intervenes)

MR RAMAITE: That is correct, that is correct.

ADV SONI: And what effectively, I am just trying to understand the situation, is persons who had been prosecuted in terms of what had happened with regard to the Commission had then applied to the TRC for amnesty.

MR RAMAITE: That is correct.

COMMISSIONER KGOMO: Mr Ramaite, just look at paragraph 16 of your statement. I may be missing something where you say only one police investigator who was part of the investigation team of the Goldstone Commission who was assigned to deal with these cases, and who was it?

MR RAMAITE: I cannot, Chair, Commissioner, Commissioners and Chairperson, I cannot recall the name. It escapes me. I tried as best I could, but what I do know is he was actually a police officer who was part of the investigation team that was assisting Doctor Jan D'Oliveira at the Goldstone Commission.

COMMISSIONER KGOMO: YEs.

MR RAMAITE: But I cannot recall his name, unfortunately.

COMMISSIONER KGOMO: Yes. As the evidence leaders, as it was long ago. Okay, you may proceed, Mr Soni.

ADV SONI: As you please, Commissioner. In regard to the single

investigator you mentioned at paragraph 16, prior to your coming to the office was there always only one investigator or were there more investigators?

MR RAMAITE: Well, at that time I was a Deputy, so I was not *au fait* with, you know, the matters that the Auditor-General, Doctor Jan D'Oliveira, I only got to know after I took over from Doctor Jan D'Oliveira that there was this one investigator. In fact, he was stationed at the Office of the DPP at that stage.

ADV SONI: Now when you came there, this officer, this police officer, what was the instruction given to him thereafter?

MR RAMAITE: He was, he had a number of dockets that he was actually investigating and then that was my understanding and he tried, I think he liaised directly with Advocate Ackermann, but I never liaised directly with him.

ADV SONI: And in regard to, did he remain at our disposal?

MR RAMAITE: He remained for a short while, but there arose some tension between the Office of the DPP in particular and that ... (intervenes)

ADV SONI: That is your office?

MR RAMAITE: Yes.

ADV SONI: Yes.

MR RAMAITE: And the National Commissioner of Police, which then led into the National Commissioner of Police withdrawing this police officer from assisting in the… Remember, those are cases that came from, mostly from the Goldstone Commission.

ADV SONI: Goldstone Commission, yes.

MR RAMAITE: And he had here those dockets in his possession and the National Commissioner instructed that those dockets will actually be given to the Office of the DPP.

COMMISSIONER KGOMO: So was that Commissioner Jackie Selebi?

MR RAMAITE: Commissioner Jackie Selebi, that is correct, Commissioner.

ADV SONI: Now before that, before the instruction was given that those dockets be returned, now it is, I want to personalise it, it is not just the Office of the DPP because now at that stage you are the DPP.

MR RAMAITE: Yes.

ADV SONI: So Commissioner Selebi tells this officer to return the dockets to you.

MR RAMAITE: Yes.

ADV SONI: Did he consult you or the NDPP before that happened, are you aware?

MR RAMAITE: Well, the dockets were sort of in a sense literally dumped in the Office of the DPP. I then called the National Director of Public Prosecutions.

ADV SONI: Well, we will come to that in a moment, I just want to clear this up. When you say the dockets were dumped, what do you mean?

MR RAMAITE: Well, remember that there were, he had them in his

possession because he was the investigator, in fact he was still in the process of investigating them, but after the instruction from the National Commissioner he returned, well in fact he gave the dockets over to the Office of the Director of Public Prosecutions.

ADV SONI: I am just trying to work out the mechanics, because it seems to be quite a serious matter that dockets in the possession of the police are just given or handed over to your office. What was said at the time of that handing over?

MR RAMAITE: Well, it was said that the National Commissioner has instructed that these dockets should be taken to the Office of the DPP.

ADV SONI: And what was the response of the DPP to that instruction?

MR RAMAITE: Well, my response was that the dockets are actually still under investigation and once the investigations had been completed we needed to take a decision on whether to proceed with it or not.

ADV SONI: I suppose what I am asking is, were you happy that this process had now taken this turn?

MR RAMAITE: Not at all, I was not happy at all.

ADV SONI: All right, what did you do about that?

MR RAMAITE: I then called the National Director of Public Prosecutions and informed him about the situation.

ADV SONI: All right, and what did he do?

MR RAMAITE: He arranged that the dockets should be taken to

head office.

ADV SONI: I am trying to understand who took these documents, who took these decisions, Doctor Ramaite. So when you say the arrangements, what I want to know is who took the decisions that the dockets be transferred to, from the DPP where they were dumped to the Office of the NDPP.

MR RAMAITE: It is the National Director himself.

ADV SONI: Yes. I think let us just keep that so we know who to attribute certain actions to. Is that okay?

MR RAMAITE: Yes.

ADV SONI: If you cannot remember that it is fine, but it just would help if, because you are the person closest to those events and it would help to know who took decisions and what the response to those decisions were.

MR RAMAITE: Understood.

COMMISSIONER KGOMO: Doctor Ramaite, I think you will find some help, it is a lot of dockets, the number 400 is mentioned, go to your paragraph 23 and see if it can help you.

MR RAMAITE: Yes.

COMMISSIONER KGOMO: You can read it if it is relevant, read it aloud.

MR RAMAITE: Chairperson and Commissioners I think those are, the reference of 400 it is something different.

COMMISSIONER KGOMO: Oh, it is something different, okay.

MR RAMAITE: Yes.

ADV SONI: Okay.

MR RAMAITE: Yes, now that is the dockets, first of all we had the dockets that came from the DPP that was, that came from the Goldstone Commission and then thereafter, I might not have included it in my affidavit and thereafter the National Director instructed all the Director of Public Prosecutions who had cases related to TRC matters to transfer to head office, so that is the 400 or somewhere around there that I am referring to in that paragraph.

MALE SPEAKER: Oh yes, because I was just trying to find out how many dockets or estimated dockets were then transferred.

MR RAMAITE: I do not have the number and I cannot recall unfortunately.

MALE SPEAKER: Okay, thank you. Thank you, Mr Soni.

ADV SONI: Okay, then let us then look at the second decision that the NDPP, who was Mr Bulelani Ngcuka at that time, you referred to it at paragraph 18. What was his decision in regard to TRC cases?

MR RAMAITE: Well, his decision was that all cases that are TRC related should be transferred to the Office of the NDPP.

ADV SONI: All right, now in order to accommodate those cases, what did he do? Can you… You deal with it in your statement. Can you tell the ... (intervenes)

MR RAMAITE: He established a unit that was called the Human Resources Investigative Unit, the HRIU which was headed by Judge Vincent Saldanha.

ADV SONI: Well, now Judge Vincent Saldanha.

MR RAMAITE: Yes, now (indistinct).

ADV SONI: (Indistinct) at that time.

MR RAMAITE: That is correct, yes.

ADV SONI: Now in regard to those matters, to the best of your knowledge, were there any prosecutions?

MR RAMAITE: There were no prosecutions.

ADV SONI: All right, then how long did the Human Rights Investigative Unit operate for?

MR RAMAITE: It operated until about, ja 2000.

ADV SONI: So it was about a year.

MR RAMAITE: A year, yes.

ADV SONI: And what happened to those dockets, the dockets that had been given to them?

MR RAMAITE: They were transferred to the Directorate of Special Operations, the DSO.

ADV SONI: And where was that unit based? Was it based at your office at the DPP, I mean the DPP's office or was it based at the NDPP's office?

MR RAMAITE: It was, they actually resorted under the Deputy National Director of Public Prosecutions who was Advocate Macadam, I will show it.

ADV SONI: Advocate Macadam.

MR RAMAITE: Advocate Macadam, yes.

ADV SONI: So they were at head office.

MR RAMAITE: Ja, they were at head office.

ADV SONI: And to the best of your knowledge in regard to those matters, were there any prosecutions?

MR RAMAITE: There were no prosecutions.

ADV SONI: And then you say at paragraph 20 you were then appointed as the Special Director of Public Prosecutions.

MR RAMAITE: Yes, that was in 2001.

ADV SONI: Okay. Can I ask you, was that a special, that a position that was created or was it in existence?

MR RAMAITE: No, it was specifically created.

ADV SONI: And what was the purpose of creating that office?

MR RAMAITE: There were a number of initiatives that the National Director of Public Prosecutions had in mind and the idea was to provide specialised focus on specific categories of types of crime such as specialised commissions, such as commercial matters, sexual offences, ja.

ADV SONI: Commercial crimes?

MR RAMAITE: Commercial crimes maybe, ja.

ADV SONI: Yes, and these read to be specialised units.

MR RAMAITE: Yes.

ADV SONI: And who was going to be in overall control of those units?

MR RAMAITE: And who was going to be in overall control of those units?

MR RAMAITE: I as the Deputy National Director of Public Prosecutions responsible for, they actually felt under what was then

called the National Special Services Division and I was the overall, the person who was overall in charge.

ADV SONI: All right, one of the units that was created was the PCLU.

MR RAMAITE: That is correct.

ADV SONI: Would you tell the Commissioners that that unit was about?

MR RAMAITE: It was intended to deal with what we referred to as priority crimes and one of the priority crimes of course was matters arising from the TRC.

ADV SONI: Because that is what the NDPP had determined.

MR RAMAITE: Yes.

ADV SONI: You remember you ... (intervenes)

MR RAMAITE: That is correct.

ADV SONI: Yes, all right and who was in charge of the PCLU? Who was the Head of the PCLU?

MR RAMAITE: Advocate Ackermann was in charge. I recommended that he be appointed as a Special Director responsible for priority crimes, because I worked with him. He was my deputy in the Office of the Disciplinary Procedure.

MALE SPEAKER: Yes sorry Mr Soni, you seem to be moving to paragraph 21. Mr Ramaite, in paragraph 22, and Mr Lungisa Dyosi will forgive me, I cannot place him and I mean no disrespect, who is he and where is he?

MR RAMAITE: Mr Lungisa Dyosi was the advisor of the National

Director of Public Prosecutions, he was in the office of the National Director of Public Prosecutions. He was, I think he was a Senior State Advocate at that time. So I worked with him in the Office of the National Director of Public Prosecutions.

MALE SPEAKER: The second part, where is he?

MR RAMAITE: I think he is, well he works in the same, I think the same company as Mr Ngcuka.

MALE SPEAKER: Okay, thank you.

MR RAMAITE: I stand to be corrected, but the last time I, well I can remember he was working with Mr Ngcuka.

MALE SPEAKER: Yes, thank you. Proceed, Mr Soni.

ADV SONI: Thank you. In paragraph 22 you say that Mr Ackermann was appointed by a Presidential Proclamation.

MR RAMAITE: That is correct.

ADV SONI: Now you name a number of offences that they dealt with and you referred to terrorism, sabotage, high treason, sedition, international crimes under the state, under the wrong statute and foreign military assistance and other priority crimes. Amongst those other priority crimes, I take it, would be TRC.

MR RAMAITE: That is correct.

ADV SONI: And you say these had been declared, you say in paragraph 23 these had been declared as priority crimes by the NDPP in 2003.

MR RAMAITE: That is correct.

ADV SONI: Now this is the issue that I think Commissioner Kgomo

was asking you about earlier, these 400 cases. Where did they come from?

MR RAMAITE: They were cases that were already at National Office. We had those that came from the DPP's office, we had those that were in the various DPP offices.

ADV SONI: Around the country?

MR RAMAITE: Around the country and then on the instruction of the National Director of Public Prosecutions they were taken to head office.

ADV SONI: And the 400 refers to all the cases that were sent to that office.

MR RAMAITE: Yes, yes.

ADV SONI: Not only TRC related cases.

MR RAMAITE: Ja, the majority of them, ja were TRC cases, or rather let me put it in this way, ja most of them were TRC cases.

ADV SONI: Who would know what those cases or those 400 cases were about?

MR RAMAITE: Advocate Anton Ackermann SC and Advocate Chris Macadam.

ADV SONI: Just in relation to your various positions you occupied, were your tasks mainly operational or mainly supervisory?

MR RAMAITE: My task was mainly supervisory. I was not involved in the day to day operations such as decision-making, actual prosecutions, it was supervisory.

ADV SONI: And so various, the various memoranda had been

presented as part of the Kalaga High Court application, most of those memoranda relating to these matters emanate from Advocate Ackermann and Advocate Macadam, am I correct?

MR RAMAITE: That is correct.

ADV SONI: And it is based on those memoranda that you relied on for your affidavit.

MR RAMAITE: That is correct.

ADV SONI: That matter.

MR RAMAITE: That is correct.

ADV SONI: And in general your knowledge of these matters, save where you were personally involved, is from what emanates from what they told you or the documents they ... (intervenes)

MR RAMAITE: Ja, what they would have reported to me. They provided us with monthly reports which were presented every month at the Executive Committee of the National Prosecuting Authority, which was chaired by the National Director of Public Prosecutions.

ADV SONI: And that is the point you make at paragraph 24 of your affidavit.

MR RAMAITE: Yes.

ADV SONI: All right. Now things seem to have been moving forward slightly after the National Commission of Police had decided that they would not investigate TRC matters things came to a sudden halt in July 20024. What happened then?

MR RAMAITE: Mr Ngcuka resigned from his position as National Director of Public Prosecutions.

ADV SONI: Is there any reason that you know that he resigned?

MR RAMAITE: It is difficult for me to mention any specific reason. What I do recall was, I think it was over the weekend, he called me as well and I came to understand Mr Lungisa Dyosi and asked us to draft a letter of resignation and that is as far as I was involved.

ADV SONI: So you assisted him in drafting his letter of resignation.

MR RAMAITE: At his request, yet.

ADV SONI: Well, Mr Ngcuka is going to come and give evidence, I am sure he will explain his reasons.

MR RAMAITE: Yes.

ADV SONI: Now who was appointed in his place?

MR RAMAITE: I was appointed in his place.

ADV SONI: As what?

MR RAMAITE: As an Acting National Director of Public Prosecutions, but still retaining my position as Deputy National Director of Public Prosecutions.

ADV SONI: Okay. Now you say in paragraph 26 of your affidavit during the period 2003, 2004 and 2005 the PCLU, this is the unit operating under Advocate Ackermann and Mr Macadam.

MR RAMAITE: That is correct.

ADV SONI: You say he identified a number of TRC cases and will you just tell the Commissioners some of the more relevant of those?

MR RAMAITE: Ja, the one I can remember is the Eugene Terreblanche and then there was the Buleli Blani and Gidoen Nieuwoudt, I think there was also a Van Zyl and a Gule, I think it is

Gule.

COMMISSIONER KGOMO: Gule.

MR RAMAITE: Gule, is it Gule? Thank you, Commissioner.

ADV SONI: Now in your, so at that time, at the time of the (indistinct) matter you were the Acting NDPP.

MR RAMAITE: Yes.

ADV SONI: All right, and now then there was another matter, this related to the accused or the police officers accused of attempting to murder Reverent Frank Chikane.

MR RAMAITE: That is correct.

ADV SONI: But I account first of all to deal with the Nieuwoudt matter. What can you tell the Commissioners about that matter?

MR RAMAITE: Well, the Nieuwoudt matter involved the murder of three anti-Apartheid activists known as the Pebco Three. Nieuwoudt and the others have been denied amnesty in 1999. They launched an application for a review of the decisions to refuse them amnesty and then Nieuwoudt died in 2005 and what I do know is that the review was delayed by some five years, it was only finalised in 2009 when the High Court ruled that an Amnesty Committee must be convened to hear the application. Now that is the application of Van Zyl.

ADV SONI: Do you know whether that ever took place?

MR RAMAITE: The case against Van Zyl and Gule was provisionally withdrawn in 2009, pending finalisation of the re-hearing of the amnesty application. As far as I know, and I stand to be corrected,

the Amnesty Committee was never reconvened and the case against Van Zyl and Gule was never reinstated.

COMMISSIONER KGOMO: Can I just ask you, do you know where Gule is?

MR RAMAITE: I have no idea, Commissioner, I do not know.

COMMISSIONER KGOMO: Maybe there is something that I must disclose. He is late. He is not testifying because the investigators can get (indistinct). I know because I attended his funeral actually in 2018, 2019. His younger sister was married by my elder brother, that is how I know him and that is for the investigators and I had to disclose that. You may proceed.

ADV SONI: As you please, Commissioner. Now the other case that was of importance while you were the Acting NDPP is the case of the three accused in the, or the three persons accused of attempting to murder Reverent Frank Chikane.

MR RAMAITE: Yes, that is the poisoning of Reverent Frank Chikane.

ADV SONI: Yes. Can I ask you, you have some personal knowledge of these matters. When I say personal knowledge, relating to what happened in that initial attempt to prosecute.

MR RAMAITE: Ja, I do not have personal knowledge of the content of the docket of course, but Advocate Ackermann briefed me about the matter.

ADV SONI: Before we get to that, when are we talking about? What period are we talking about?

MR RAMAITE: That would have been November 2004.

ADV SONI: All right.

MR RAMAITE: When I was Acting National Director of Public Prosecutions.

ADV SONI: It appears from both your affidavit and Advocate Ackermann's affidavit that Advocate Ackermann approached you on the 11th of November 2004. Can you recall that?

MR RAMAITE: Yes, that is correct.

ADV SONI: Now what happened in that interaction between you and Advocate Ackermann?

MR RAMAITE: He reported to me that he had received a call from a Mr Waggenaar who was an attorney representing the accused in the Chikane matter and then that Mr Waggenaar had advised him not to proceed with the arrest and charging of his clients. Ackermann was representing the three.

ADV SONI: Who were the three accused?

MR RAMAITE: It was Major General Smith, Christoffel Smith, Colonel Gert Otto and Johannes van Staden.

ADV SONI: Yes, and what did Mr Ackermann tell you?

MR RAMAITE: He also told me Mr Waggenaar also told him that he was going to receive a telephone call from the Ministry of Justice advising him that he should not proceed with the case against Smith, Otto and Van Staden and that the arrest must be, and the prosecution must be put on hold.

ADV SONI: Yes. Now what was, is this before the Ministry of Justice contacted, in this conversation between you and Mr Ackermann?

MR RAMAITE: That was, ja, as far as ja, that was before the Minister contacted me.

COMMISSIONER KGOMO: Were you speaking to Minister Brigitte Mabandla?

MR RAMAITE: That is later. Advocate Ackermann did not mention any names at that stage.

COMMISSIONER KGOMO: Okay.

MR RAMAITE: He just said someone from the Ministry, he will receive a call from the Ministry of Justice.

COMMISSIONER KGOMO: Okay.

MR RAMAITE: It is I who later received a call from the Minister of Justice, which was Brigitte Mabandla at that stage.

COMMISSIONER KGOMO: I see.

ADV SONI: The chronology is important. Let us deal with the chronology. Mr Ackermann approaches you and says look, I have received this call from Mr Waggenaar who told me that somebody from the Ministry is going to tell me that these matters must be put on hold.

MR RAMAITE: Yes.

ADV SONI: He approaches you, I take it for your views on what to do.

MR RAMAITE: He was informing me as a supervisor.

ADV SONI: Okay. What did you tell him?

MR RAMAITE: Before that, at the same time he also spoke, well rather told me that after he had spoken to Mr Waggenaar he did

indeed receive a call from an official from the Ministry of Justice.

ADV SONI: Did he name the official?

MR RAMAITE: No, he did not name the official.

ADV SONI: And then?

MR RAMAITE: Ja well, and that was in relation to the Chikane matter in fact. I told them that I had no personal knowledge about exactly what was happening and then in fact I expressed surprise that Mr Waggenaar, who is the attorney representing the accused, would in fact mention the Ministry instead of making representations to the Office of the National Director of Public Prosecutions.

ADV SONI: And what was your attitude towards the Ministry being involved in this matter?

MR RAMAITE: I was not happy with that.

ADV SONI: You then say at paragraph 32 that you advised Mr Ackermann it would be best to wait to get a better understanding of the matter.

MR RAMAITE: That is correct.

ADV SONI: Now what happened after you had spoken to Mr Ackermann?

MR RAMAITE: After I had spoken to Mr Ackermann I then received a call from the Minister of Justice, a telephone call from the Minister of Justice, Ms Bridgette Mabandla.

ADV SONI: Before you go on, did you know Mr Mabandla?

MR RAMAITE: Yes, I know her. I interacted with her.

ADV SONI: Sorry.

MR RAMAITE: I interacted with her before.

ADV SONI: On many occasions or on a few occasions?

MR RAMAITE: Well, I would not say on many occasions, but like on a few occasions, more especially during my tenure as Acting National Director of Public Prosecutions.

ADV SONI: While you were the ... (intervenes)

MR RAMAITE: The Acting NDPP.

ADV SONI: Okay yes, and there were cordial relations?

MR RAMAITE: Ja, there were cordial relations between me and her.

ADV SONI: Okay. Now Ms Mabandla phones you, what does she say to you?

MR RAMAITE: She told me that there is a task team which was appointed by the, what is called Directors General Forum to develop a mechanism to deal with TRC cases.

ADV SONI: Yes, and what else did she tell you? Well, what was your reaction?

MR RAMAITE: Well, my ... (intervenes)

CHAIRPERSON: Mr Ramaite, before you give your reaction, prior to the telephone discussion with Minister Mabandla did you know of the existence of the Directors General Forum?

MR RAMAITE: I got to know it during my acting stint as Acting NDPP, but I was not familiar with it, but I did have some understanding of what it is from previously, because previously my younger brother was actually Director General of the Public Service and Administration and I do know that he chaired that forum, so I

knew of its existence.

CHAIRPERSON: Thank you.

ADV SONI: As it pleases you. And did you know what its role was?

MR RAMAITE: I did not have any, you know specific knowledge of it, no.

ADV SONI: Now Ms Mabandla tells you that there is a task team which was appointed by the Director Generals Forum to developing a mechanism to deal with TRC cases.

MR RAMAITE: That is correct.

ADV SONI: What was your reaction to Minister Mabandla?

COMMISSIONER GABRIEL: Before you get there, what was this mechanism? Did the Minister explain?

MR RAMAITE: No, she did not explain.

COMMISSIONER GABRIEL: Thank you, Mr Soni.

ADV SONI: Yes, what was your reaction to Ms Mabandla?

MR RAMAITE: My reaction was to express a concern. I did tell her that I am concerned about an outside process or mechanism, especially which involves the Executive, because in my view the Directors General actually report directly to the Executive and then therefore were in my view part of the Executives and I was not happy with the involvement of the Executive in anything that deals with, you know prosecution of cases.

ADV SONI: What prompted your concern just as the Acting NDPP?

MR RAMAITE: What prompted my concern was hearing that there was an outside forum and then particularly in relation to a mechanism

of dealing with the TRC cases, because we as the prosecution were already seized with those cases and more particularly at that time the Chikane matter.

ADV SONI: Yes, but just at a level of delegation of powers, who is it that determines who should be prosecuted and who should not be prosecuted?

MR RAMAITE: It is the prosecution and I am saying prosecution broadly, but it is the National Director, the DPPs as well as the prosecutors.

ADV SONI: Did that play a role in your concern?

MR RAMAITE: It did, it did indeed.

ADV SONI: And what was the nature of the concern?

MR RAMAITE: The nature of the concern was it cut through the prosecutorial independence of the prosecution.

ADV SONI: Okay. Now what, you then say the Minister insisted that the prosecution of all TRC cases must be put on hold until the development and adoption of guidelines.

MR RAMAITE: That is correct.

ADV SONI: Is that what she told you?

MR RAMAITE: Yes.

ADV SONI: So she starts off with the particular arrests that were going to be made and now she then says but it does not apply only to that case, but to all cases.

MR RAMAITE: Yes.

ADV SONI: And what was your reaction to the Minister in regard to

that? Because this is now not prosecution only in regard to one matter, but all matters falling into this category of TRC cases.

MR RAMAITE: Again I raised a concern with her because, and then that is what I recall telling her that we already have prosecution policies that was actually developed and then agreed upon by the National Director of Public Prosecutions and after, together with the Directors of Public Prosecutions as in section 179 of the Constitution and in my view there was, the prosecution directives or policy directives that we had were sufficient to cater for all conceivable cases.

ADV SONI: And what was the Minister's reaction to that?

MR RAMAITE: Well, she said you must not proceed until these guidelines are finalised.

ADV SONI: Now clearly from what you are saying that reflected an intrusion by the Minister into the independence of the prosecution, of the NDPP.

MR RAMAITE: That is correct, particularly also viewed in light of the decision that had already been made in respect of the Chikane matter that was going to proceed with the arrests and that we were going to proceed with the prosecution.

CHAIRPERSON: And you say, Doctor Ramaite, that you conveyed that message clearly to the Minister.

MR RAMAITE: Yes.

CHAIRPERSON: That this was an intrusion of your powers?

MR RAMAITE: Well, I did not say so in so many words, but I did say

I am concerned at you as the Minister having to direct us what to do, because that infringes upon the prosecutorial independence of the prosecution.

COMMISSIONER KGOMO: You were diplomatic.

MR RAMAITE: Yes, I was diplomatic, to put it honestly.

COMMISSIONER GABRIEL: How did the Minister respond to that?

MR RAMAITE: Well, she said you must stop, you must not proceed with the charging and the prosecution.

COMMISSIONER GABRIEL: So she gave you an order to stop.

MR RAMAITE: An instruction.

COMMISSIONER GABRIEL: An instruction.

ADV SONI: Now having received the instruction from the Minister, what did you do?

MR RAMAITE: I then called Mr Ackermann, because remember that this flows from what Mr Ackermann said to me before. I then called him and I told him that I have received an instruction from the Minister that the investigation and prosecution of all TRC, and that is what she had said and specifically when she referred to the guidelines, that she had instructed that all investigation and prosecutions, that the investigation and prosecution of all TRC related cases must be put on hold pending the development and the adoption of the guidelines.

We had a lengthy, well I cannot remember all the details of my discussion with Mr Ackermann, but because Mr Ackermann was actually insisting that we must proceed and I then said to him, I actually pleaded with him and said okay well look, let us just wait and

get an understanding of what exactly, of what exactly is happening and that at the end of it what the Minister had said was placing an effective moratorium on all TRC cases.

ADV SONI: Doctor Ramaite, I must ask you this, did you then instruct Advocate Ackermann not to proceed with the matter? Well, firstly there was going to be an arrest and then there was going to be the matter in court.

MR RAMAITE: Yes, I did give him an instruction based on what the Minister had said and then you know, with the expected, although I had reservations around the guidelines, but she had said that there were guidelines that were being prepared and I said well, let us wait.

ADV SONI: But I mean, you gave the instruction to him after the Minister had given you the instruction.

MR RAMAITE: Yes, not to proceed.

ADV SONI: Yes. Now one of the things that I am obliged to put to you about your interactions with Mr Ackermann is he also deals with this interaction between you and him about this matter and I am going to read it to you. Commissioners, it is part of his affidavit which appears at annexure FA8 in the Kalaga papers and it deals with this interaction at paragraph 17. You might remember, Commissioners, that this paragraph was read to the witness.

CHAIRPERSON: It is annexure what, Mr Soni, just again?

ADV SONI: Sorry?

CHAIRPERSON: It is annexure what?

ADV SONI: Annexure FA8.

CHAIRPERSON: 8.

ADV SONI: 8 To the Kalaga papers.

COMMISSIONER KGOMO: It is page 388.

ADV SONI: 217 Of the Kalaga papers.

CHAIRPERSON: Yes.

ADV SONI: You are correct, Commissioner Kgomo, 21.

CHAIRPERSON: 21.

ADV SONI: So this is what he says about that interaction and I am going to read it to you in full.

COMMISSIONER GABRIEL: This is paragraph 17.

ADV SONI: Paragraph 17, yes Commissioner.

COMMISSIONER GABRIEL: On page 388.

ADV SONI: On page 388, yes. It says:

> "On the morning of 11 November 2004 the police was on the verge of affecting the arrests of three former officers of the Security Police on charges which related to the attempted murder of the Reverent Frank Chikane, the former Head of the South African Council of Churches, in 1989 by poisoning. The three former policemen were former Major General Christoffel Smith, Colonel Gert Otto and Johannes Manie van Staden (indistinct) had applied for amnesty for this crime."
>
> And that is what you also say in your affidavit.

MR RAMAITE: That is correct.

ADV SONI: It goes on at paragraph 17.1.

"On the same morning I received a call from Jan Waggenaar, the attorney for the abovementioned suspects. He told me that I would receive a phone call from the Ministry of Justice and I would be advised that the case against his clients must be put on hold."

That is what she told you as well.

MR RAMAITE: That is correct.

ADV SONI: Then he says:

"Shortly thereafter I received a phone call from an official of the then Ministry of Justice. I was informed by the said official that a decision had been taken that the Chikane matter should be put on hold pending the development of guidelines to deal with the TRC cases. I told him that only the NDPP could give me such an instruction."

Now that is more or less what I understand he told you.

MR RAMAITE: That is correct.

ADV SONI: Now this is what he then says at paragraph 17.3.

"A few minutes later the NDPP contacted me and instructed me not to proceed with the arrests. I believe that it can be safely assumed that the NDPP was instructed at a political level to suspend these cases."

Now Doctor Ramaite, the difference might be small, but I must put to you that the one essential difference between what you say and what you said today and what you said in your affidavit you

had told Mr Ackermann and what Mr Ackermann says is he does not say that you told him that the person who had given you the instruction and upon which instruction you had acted was the Minister, do you see that?

MR RAMAITE: Yes, yes, but if my memory serves me well I did indeed tell him that I had received a call from her, because there is this chain of events which then culminated in me saying to him let us not proceed until we get an understanding of what is happening.

ADV SONI: Well no, you went further, Doctor Ramaite.

MR RAMAITE: Yes, yes.

ADV SONI: In fairness, you instructed him.

MR RAMAITE: Sorry?

ADV SONI: You instructed him. I am just putting in context what actually happened.

MR RAMAITE: Yes.

ADV SONI: Right, but we are dealing now with the difference between what you say happening in your last interaction with him on this issue and the fact that he said he assumes that it came from high up, whereas you say you did tell him it was the Minister who had given you that instruction.

MR RAMAITE: Yes, that is correct.

ADV SONI: And as you recall the interaction, that is what happened.

MR RAMAITE: Yes.

ADV SONI: That you did tell him that that instruction came to you from the Minister and you were thereafter instructing him to stop this

prosecution.

MR RAMAITE: Correct.

ADV SONI: Now in paragraph 34 and ... (intervenes)

CHAIRPERSON: Mr Soni?

ADV SONI: Yes.

CHAIRPERSON: At an appropriate time you must allow for tea adjournment.

ADV SONI: As you please. Chairperson, it may be an appropriate time, because I am going to a slightly different issue.

CHAIRPERSON: We will adjourn and reconvene at 11:20.

ADV SONI: As you please, Chair.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Thank you, Mr Soni.

ADV SONI: Thank you, Chairperson. Dr Ramaite, just to finalise this part of your evidence, the Minister had told you it was not only the case of the Frank Chikane accused, but all TRC cases.

MR RAMAITE: That is correct.

ADV SONI: And the instruction was in relation to TRC cases.

MR RAMAITE: That is correct.

ADV SONI: All right. After that instruction was issued, what was the position in relation to TRC cases?

MR RAMAITE: No further prosecutions took place.

ADV SONI: Okay. Now, in fairness to you, Dr Ramaite, you have raised in paragraphs 35, 36, 37 and 38 your concerns about the Minister's intrusion into prosecution territory, if I can call it that.

MR RAMAITE: That is correct ja.

ADV SONI: And do you confirm that? You have already alluded to that during your evidence earlier this morning.

MR RAMAITE: I do confirm.

ADV SONI: Now, you were appointed, I think from about the 1 August, as the acting NDPP, is that correct?

MR RAMAITE: That is correct.

ADV SONI: How long did your acting stint, or your acting period, last?

MR RAMAITE: From August 2004 to January 2005.

ADV SONI: And what happened then?

MR RAMAITE: Advocate Pikoli was then appointed from the 1 February as the National Director of Public Prosecutions. And then I reverted back to serving in my capacity as Deputy National Director of Public Prosecutions, but still responsible for the PCLU and reporting to the National Director of Public Prosecutions.

ADV SONI: That is now Advocate Pikoli.

MR RAMAITE: Advocate Pikoli, that is correct.

ADV SONI: Now, as I understand it from your affidavit, Advocate Pikoli then gave you quite an important exercise.

MR RAMAITE: That is correct.

ADV SONI: And what was that?

MR RAMAITE: It was to chair a task team that was set up to review TRC-related cases and to get an agreement on the police providing investigative capacity.

ADV SONI: Let us just stop there for a moment. You will recall that much earlier you indicated that the one policeman, who had been assigned, certainly to the Goldstone inquiry cases, had been removed and the dockets had been sent back. You remember your evidence.

MR RAMAITE: Yes.

ADV SONI: Was part of the task team, the role of the task team, to attend to that challenge that had arisen?

MR RAMAITE: Yes, basically to all the TRC cases that the NDPP, Mr Ngcuka had instructed, should be handed over to the PCLU.

ADV SONI: Yes.

MR RAMAITE: That is the 400 or so dockets.

ADV SONI: Okay. Now, when was the first meeting of the task team? I think you deal with that in paragraph 40 of your affidavit.

MR RAMAITE: Yes, it was on 12 October 2006. The first meeting was actually chaired by Mr Pikoli himself, but I was also present there and Advocate Ackermann was also present.

ADV SONI: Did anything of significance happen at that meeting?

MR RAMAITE: Well, the idea was to inform the other parties of the establishment of the task team and to outline exactly what the task team was expected to achieve.

ADV SONI: And who were the other parties in that task team?

MR RAMAITE: There was a senior representative from South African Police Services. I cannot actually remember his name. And, well, there was, of course, the National Prosecuting Authority and there was also someone from the Department of Justice, but I cannot remember who it was. And there was a representative from the National Intelligence Agency. I still remember that it was Mr Jafta.

ADV SONI: And were specific roles given to each of these state institutions, the NPA, the police, the NIA?

MR RAMAITE: Yes, well, in particular, the role of the police was to agree on the police providing investigative capacity.

ADV SONI: And was, well, let us deal with that issue as the meetings unfold. But what was the role, for example, of the NIA?

MR RAMAITE: I could not understand, but they were there. They participated. I cannot, I do not have an explanation for that.

CHAIRPERSON: How did you feel, Dr Ramaite, about the participation of people like the SAPS, NIA, in the task team?

MR RAMAITE: Chairperson, I could understand the participation and, in fact, the importance of the SAPS being there because they were the ones who were expected to provide the investigative capacity.

CHAIRPERSON: Yes.

MR RAMAITE: The idea was the SAPS would agree to provide investigative capacity. But with respect to the role of NIA, I have no idea why they were there.

ADV SONI: Can I just ask you, following up from what the Chairperson asked. The TRC process had revealed a number of

instances where people who perhaps had not been granted amnesty or who had refused to apply for amnesty but where complaints had been made to the TRC about atrocities.

MR RAMAITE: Yes.

ADV SONI: There was sufficient information to start or to open dockets in respect of those matters.

ADV SONI: Yes, the dockets were there. They were with the PCLU. The only remaining thing was to get those dockets that were fit for trial, trial ready.

ADV SONI: And for that you needed investigators?

MR RAMAITE: For that we needed police to investigate.

ADV SONI: Why did you require sort of inviting the police to do that? Is that not the job of the police?

MR RAMAITE: Well, remember that previously, and that is from the experience that we had with the National Commissioner, because even before the so-called moratorium, there were challenges with getting sufficient investigative capacity. So we wanted to come to an agreement that the police would provide dedicated police investigators to deal with these cases.

ADV SONI: Now, in paragraph 41, you deal with what happened at the second meeting of the task team.

MR RAMAITE: Yes, the second meeting was held on 25 October, and at that meeting, Advocate Ackerman presented an audit report on all the TRC cases which the PCLU were handling. And again, the need for investigative capacity to attend to these cases was

discussed. I do recall that the sub representative was a Mr Lekalakala. I cannot remember his rank. But he then made a commitment that he will go and discuss the need for investigative capacity with the National Commissioner of Police, Mr Selebi, and will report back at the next meeting.

ADV SONI: See, this is a question that must be of concern. If the investigation and investigations needed to be done, if the investigations were not to be done by the police, just in terms of our structure relating to crime investigation, who would do the investigation?

MR RAMAITE: Ja, as I have said, even before, there had been challenges with respect to providing investigative capacity. The hope was that this would be threshed out and resolved at these meetings.

ADV SONI: Was any, from the time you were acting NDPP and actively involved in the task team, was any reason given for the reluctance of the police to be involved in the investigations of TRC-related matters?

MR RAMAITE: It did not, it was not clear at that early stage. But I think it later became clear at the subsequent meeting.

ADV SONI: And what became clear?

MR RAMAITE: That is the next meeting of 6 November 2006. At that meeting, the Chikane matter specifically was raised and discussed. Now, that was the first time that it was raised. It had not been raised at the previous meeting, although Advocate Ackerman had given a report on it, but then it was raised specifically. And the meeting was

then informed by Mr Lekalakala that the National Police Commissioner believed that Reverend Chikane was not interested in a prosecution. And then Advocate Ackerman then informed the meeting that Reverend Chikane had left the matter in the hands of the NPA, that is the prosecution. And the meeting unfortunately ended up without any resolution and with no commitment regarding the provision of investigative capacity. I then reported this development and outcome of the meeting to Advocate Pikoli.

ADV SONI: What is striking about what appears to be the main discussion at this meeting is that there was just a reference to the Chikane matter.

MR RAMAITE: Yes.

ADV SONI: But as I understand it, none of the TRC cases were being investigated. Am I wrong?

MR RAMAITE: You are right. At that stage, none of the cases were being investigated.

ADV SONI: So when the task team focused only on the Chikane matter, was it not raised? Okay, let us leave the Chikane matter because the Reverend does not want, according to the police. But what about the rest of the TRC matters?

MR RAMAITE: Well, the Chikane matter was actually, we were discussing provision of investigative capacity in respect of all the cases. But then suddenly the SAPS raised the Chikane matter and said that the National Commissioner had specifically said, "That Reverend Chikane was not interested in a prosecution".

ADV SONI: But that blurred the real issue. The real issue was the SAPS not providing investigators for any case, not only the Chikane.

MR RAMAITE: That is absolutely correct.

COMMISSIONER KGOMO: Sorry, Mr Lekalakala, it seems he is a SAPS member. Did he have a rank?

MR RAMAITE: I cannot recall his rank, Commissioner. I just remember the surname Lekalakala because it is a familiar surname from where I come from. So that is why I remember. But I cannot remember the rank.

COMMISSIONER KGOMO: Okay.

ADV SONI: I just want to then deal with the next issue or the next meeting, you say, which took place in early December when Deputy Commissioner Jacobs indicated that the Commissioner was not prepared to provide investigative capacity. But again, it seems that was only in relation to the Chikane matter.

MR RAMAITE: Yes, again, the focus, the emphasis really was on the Chikane matter, you know, as if it was only the Chikane matter which was the subject matter of our work. But I mean, it became clear that it extended to all other cases. I mean, if he was not prepared to provide investigative capacity in the Chikane matter, that was an indication that there was no will to provide investigative capacity in the other matters. That is how I interpreted it.

CHAIRPERSON: Was that made clear to the task team?

MR RAMAITE: Yes, it was actually made clear to the task team.

CHAIRPERSON: That it was not in relation to the Chikane matter where the investigative capacity was not being provided, but it was with regard to the TRC-related cases in general?

MR RAMAITE: Chairperson, what happened at this meeting was that the meeting had actually degenerated into only the Chikane matter. But it was clear that, you know, that was put forward as an example. But I mean, the meeting had actually degenerated into a focus on the Chikane matter because, I mean, that was the matter that actually, you know, I mean, I suppose that it was known that we were ready with the matter.

ADV SONI: Following from what the Chairperson has asked, as I understand it, the role of the task team, and you set this out earlier in your affidavit, that at paragraph 40 you say,

> "Advocate Pikoli assigned me to chair a task team, but you understood it was to review TRC-related cases and agree on providing investigative capacity."

MR RAMAITE: Yes.

ADV SONI: That was the role of the task team.

MR RAMAITE: That is correct.

ADV SONI: So this happens now in October. You come to December now, and you are still stuck with one case. And the question that one must ask is, was the task team playing any positive role in sort of unlocking this logjam?

MR RAMAITE: That was the original intention. That was the real intention of forming the task team, to clear any blockages.

ADV SONI: Yes.

MR RAMAITE: That were there in relation to the investigation and prosecution of all the TRC cases.

ADV SONI: Now, clearly that was not happening because, as you say, in the December meeting, a new structure was now put into place.

MR RAMAITE: Yes. Now, that was... (intervenes)

ADV SONI: You deal with it at paragraph 44.

MR RAMAITE: 44 yes, yes. Now, that is the meeting of December 2006.

> "Deputy National Commissioner Jacobs informed the meeting that the National Commissioner of Police had told him to make it clear that the function of the task team was to make a final recommendation to a committee of Directors general, which would in turn make recommendations to the National Director of Public Prosecutions on whether or not to prosecute, and who to prosecute and who not to prosecute."

And that was clearly inconsistent with prosecutorial independence.

ADV SONI: Which you have expressed already.

MR RAMAITE: Yes, yes.

ADV SONI: Did you express that at this meeting to Commissioner Jacobs?

MR RAMAITE: Indeed.

ADV SONI: And what was his reaction?

MR RAMAITE: Well, Deputy National Commissioner Jacobs' answer when we raised this thing was, well, that was the decision of the National Commissioner.

ADV SONI: The Commissioner?

MR RAMAITE: Yes, yes. And subsequent to that, in my discussion with Advocate Pikoli, we then agreed that Advocate Pikoli should directly approach the National Commissioner to resolve this impasse.

ADV SONI: So was this after the December meeting?

MR RAMAITE: Yes. At the end of the meeting, I went to Advocate Pikoli's office and informed of the developments. And then we then discussed what needs to happen. And he made a commitment that he was going to discuss the issue, the matter with the National Commissioner himself.

ADV SONI: Now, the task team, based on the information that is contained in your affidavit, holds this meeting in December. You do not refer to the task team in the rest of your affidavit. Did the task team meet again in 2007?

MR RAMAITE: I do not recall. No, I do not recall the task team meeting. What we had agreed after the meeting had disbanded, between me and Advocate Pikoli, we had agreed that Advocate Pikoli was going to have a meeting with the National Commissioner. And I believe that is what happened. But I cannot say much about that.

ADV SONI: Did Advocate Pikoli discuss with you, you recall that you are his representative, he specifically appointed you… (intervenes)

MR RAMAITE: Yes.

ADV SONI: To this task in your capacity as Deputy NDPP?

MR RAMAITE: Yes.

ADV SONI: Right. Now, there are these meetings from October to December. In December, it is now decided that the heads of the two units, that is the NDPP and the police, will meet. That is Advocate Pikoli and Commissioner Selebi.

MR RAMAITE: Ja. After, at the end of the meeting of December.

ADV SONI: Yes.

MR RAMAITE: I went to report to Advocate Pikoli.

ADV SONI: Yes.

MR RAMAITE: And reported to him what had happened. And then we then had a discussion between me and Advocate Pikoli, wherein Advocate Pikoli agreed to meet and actually made a commitment to meet with the National Commissioner of Police, Mr Selebi, to resolve the impasse.

ADV SONI: I am saying this, I am asking the next set of questions against this context. Clearly, from what you express in your affidavit, you were concerned about whether the task team was being effective or not.

MR RAMAITE: Yes. That is what I, in fact that is what I said to him, was it is not working. And I, as chairperson, cannot take it any further, because when we raised the issue with Deputy National Commissioner Jacobs, he referred to the National Commissioner. So

the only rational thing that was left for me was to suggest to Advocate Pikoli to take it up with the National Commissioner.

ADV SONI: No, I am saying, and if you just focus on the question I am asking, you were concerned.

MR RAMAITE: Yes, I was.

ADV SONI: You had been assigned this role by Advocate Pikoli.

MR RAMAITE: Correct, ja.

ADV SONI: Right. You say to Advocate Pikoli this is not working.

MR RAMAITE: Yes.

ADV SONI: Between the two of you, you say, okay, the two heads will meet now.

MR RAMAITE: Yes.

ADV SONI: That is Mr Pikoli and Commissioner Selebi.

MR RAMAITE: That is correct. Did you then discuss the matter with Advocate Pikoli?

MR RAMAITE: Thereafter, I do not recall us discussing the matter. We were then waiting for the feedback arising from Mr Pikoli and the National Commissioner's meeting.

ADV SONI: But as far as you were aware, nothing positive came out of that.

MR RAMAITE: I am trying to, I do not quite follow.

ADV SONI: So, as I understand it, there is now an impasse.

MR RAMAITE: Yes.

ADV SONI: You and Mr Pikoli say the way to resolve this impasse is for Mr Pikoli to talk to Commissioner Selebi.

MR RAMAITE: That is correct.

ADV SONI: Now, I am asking, from what you know, did anything positive come out of that interaction between Mr Pikoli and Commissioner Selebi?

MR RAMAITE: Ja, from what I know, and that was at a later stage, when Mr Pikoli was suspended, that in fact... (intervenes)

ADV SONI: We will come to Mr Pikoli's suggestion.

MR RAMAITE: Yes.

ADV SONI: And I am sorry to interrupt, but that happens in September 2007, nearly a year after the task team is set up.

MR RAMAITE: I honestly do not know whether and when Mr Pikoli had a meeting with the National Commissioner. All we had agreed between me and him was that he was going to meet with the National Commissioner. That is as far as I can take it.

ADV SONI: Yes. But so, as far as the handing over of the baton on that issue goes, your role stops in December 2006.

MR RAMAITE: Yes.

ADV SONI: Okay. And did you chair, or did you attend any further task team meeting?

MR RAMAITE: I did not chair or attend any further task team.

ADV SONI: Do you know whether any task team meetings were held?

MR RAMAITE: As far as I know, no further task team meetings were held, because I would have known I was the head of the PCLU.

ADV SONI: Yes, and you were the NDPP's representative at the task team.

MR RAMAITE: Yes, that is correct.

ADV SONI: So we can assume now that nothing happened in respect of unlocking this logged [indistinct].

MR RAMAITE: Yes.

ADV SONI: Now, you were then, and I interrupted you, and for that I apologise, you were then dealing with the suspension of Advocate Pikoli. You deal with that in paragraph 45 of your affidavit.

MR RAMAITE: Yes, September 2007, Advocate Pikoli was suspended as NDPP, and then Advocate Mokotedi Mpshe was appointed as acting NDPP. And then thereafter, Advocate Ackerman then came to me and told him that the acting NDPP, Advocate Mpshe, had relieved him of his duties in relation to the TRC matters.

ADV SONI: Can I ask you this? Because I understand your role as Deputy National Director of Public Prosecutions, and you retained that role after Mr Pikoli became NDPP.

MR RAMAITE: Yes, I retained that role, still responsible for the PCLU, that is the National Special Services Division, and Advocate Pikoli.

ADV SONI: Right.

MR RAMAITE: But subsequently, I assumed different other roles under different National Directors of Public Prosecutions.

ADV SONI: We will get to the further roles. At the time Advocate Pikoli was suspended, you were still the head of, the PCLU was still under your... (intervenes)

MR RAMAITE: Supervision.

ADV SONI: Supervision.

MR RAMAITE: That is correct.

ADV SONI: Now, Advocate Mpshe comes in and relieves Ackerman.

MR RAMAITE: That is correct. That is what Advocate Ackerman told me.

ADV SONI: But I want to go one step earlier.

MR RAMAITE: Okay.

ADV SONI: You, Advocate Ackerman, had been appointed on your recommendation.

MR RAMAITE: Yes.

ADV SONI: Right. And you were happy with the way he had been performing.

MR RAMAITE: Absolutely. I was absolutely happy.

ADV SONI: Now, Mr Mpshe comes in and the next thing that you hear, well, not the next thing, but as far as this appointment goes, is Advocate Ackerman saying to you, "Look, I have now been removed as the head of the PCLU".

MR RAMAITE: Yes.

ADV SONI: And that was by Mr Mpshe.

MR RAMAITE: Yes.

ADV SONI: The question I want to ask you is, did Mr Mpshe discuss that with you before he took that decision?

MR RAMAITE: No, he did not.

ADV SONI: You, in fact, heard it from Mr Ackerman.

MR RAMAITE: That is correct.

ADV SONI: And what was your reaction?

MR RAMAITE: Well, I was surprised, you know, because Advocate Ackerman was the lawfully appointed special Director responsible for the PCLU.

ADV SONI: As I understood, he had been appointed by proclamation, by President's proclamation.

MR RAMAITE: That is correct.

ADV SONI: Now, did you confront Mr Mpshe and say, look, he is under my direct supervision. How could you do this?

MR RAMAITE: I did not. I did not.

ADV SONI: Can I just ask again, and I just want to understand the atmosphere or the aura in the offices of the MPA. A major decision, the PCLU is now handling all TRC cases. I am asking.

MR RAMAITE: Yes.

ADV SONI: Now, the head of the PCLU is removed from office. The person who directly supervises the PCLU is you. You are not told.

MR RAMAITE: Yes.

ADV SONI: How did you react? I am talking about as a professional person now.

MR RAMAITE: I was not happy. I did not raise it directly with him, but I did raise the issue at the Executive Committee meeting where all the DPPs and the special Directors were there. And then where Advocate Ackerman was also there as part of EXCO.

ADV SONI: But sorry carry on.

MR RAMAITE: But the acting NDPP Advocate Mpshe said, "Well, that is his decision". And I mean, that was the end of the matter. These things happen. They have happened before in the NPA.

ADV SONI: But is that not what the Constitution, in a sense, guards against? It does not only protect the NDPP. As I understand the Constitution and the National Prosecuting Act, what it does is it protects the independence of prosecutors in terms of United Nations guidelines.

MR RAMAITE: That is correct, but on the other hand, it is very difficult to actually undermine the prerogative because at the end of the day, it is the prerogative of the NDPP who fulfils which functions. It has happened to me. I mean, I have literally fulfilled all the functions in the NPA, starting from special services, prosecutions, administration. It depends on the various NDPPs.

COMMISSIONER KGOMO: And if you confront him, that would be career-limiting.

MR RAMAITE: Well, for me, that thought came to my mind, but I mean, I really brushed it off because I believe that in whatever capacity I can serve, my interest was really the success of the NPA. Having been part of its formation, I was really keen to serve in

whatever capacity I was assigned. It is correct, it is career-limiting, but that was never a major thought in my mind.

ADV SONI: Who was appointed in place of Mr Ackerman?

MR RAMAITE: Excuse me?

ADV SONI: Who was appointed as the head of the PCLU in place of Mr Ackerman?

MR RAMAITE: No one was appointed. In fact, Mr Chair assigned the functions to Chris McAdams.

ADV SONI: As the head of the PCLU?

MR RAMAITE: No, no, no, no. He did not appoint him as the head of the PCLU. He only assigned him with dealing with the cases to the exclusion of Advocate Ackerman.

ADV SONI: And what was Mr Ackerman to do, having been removed from... (intervenes)

MR RAMAITE: He focused on other work that he had. I do recall, if memory serves me well, there were other cases involving foreign military assistance, which was actually quite urgent. And there were one or two other cases under the Rome Statute.

ADV SONI: Yes.

MR RAMAITE: Ja, that he focused his attention on.

ADV SONI: Can I just ask you, you say he was assigned to other cases which were urgent. I am just trying to work out, if you are triaging, putting in place the pecking order of importance, I would imagine that the TRC cases, given the length of time between the end

of the TRC process, and we are now looking at 2007-2008, that they would in fact attain a degree of priority.

MR RAMAITE: Certainly, yes.

ADV SONI: In fact, that is exactly what Mr Ngcuka had done. He said, these are the priority cases.

MR RAMAITE: Yes, indeed.

ADV SONI: Now, as far as your knowledge goes, was this impasse about investigators ever resolved?

MR RAMAITE: Yes, well, I mean, I can speak from my general knowledge as part of the Executive Committee. Ja, they were not well. They were really, during my time, never really resolved. But as I was saying earlier, during Mr Nxasana's time, I was assigned to be head of the National Prosecution Service responsible for the DPPs. So I was no longer responsible for the PCLU.

ADV SONI: Yes, and as far as those TRC matters, or all TRC matters are concerned, it seems from your affidavit that your direct involvement in the matters, and in the various committees like the task team, ended about 2008, when Mr Mpshe took over.

MR RAMAITE: Yes.

ADV SONI: Okay. Now, is that why your affidavit does not deal with developments relating to TRC matters after 2008?

MR RAMAITE: Yes, that is correct.

ADV SONI: Okay. Now, you then say in relation to your knowledge, and you might remember much earlier in your evidence, I pointed out

to you that you had been told by way of Rule 3.3 notices that you are mentioned in statements or affidavits by different people.

MR RAMAITE: Yes.

ADV SONI: And the three people about whom you were told were Mr Calata, Mr Ackerman, and Mr Pikoli.

MR RAMAITE: And I think Mr McAdam as well.

ADV SONI: Okay.

MR RAMAITE: I cannot remember whether that is mentioned in the notice, but Mr McAdam as well does mention my name.

ADV SONI: Okay. Can I then say that you then say that you read the affidavits of Mr Calata, Mr Ackerman, and Mr Pikoli, and you then say you confirm the contents of all of those affidavits to the extent that reference is made to yourself?

MR RAMAITE: That is correct.

ADV SONI: All right. I do not want to leave this too vaguely. Can I just say to you I have looked at the Calata affidavit. It seems to me that the issue that is of direct concern to you in the Calata affidavit is, Chairperson, a letter written by Dr Ramaite, which appears as annexure FA-26 to the Calata papers. And it starts at page 629 of those papers. Now, Dr Ramaite, the letter that I am referring to is a letter you wrote to Ms Nkadimeng. Do you remember that letter?

MR RAMAITE: Yes, I do.

ADV SONI: And you have seen that letter?

MR RAMAITE: Yes.

ADV SONI: You have a copy of that letter with you? I do not need you to have it, but you have seen that letter?

MR RAMAITE: Ja, I have seen it.

ADV SONI: Now, in that letter there is, and it is a four-page letter, you set out all the details of all the steps that the NPA had taken to bring this case to conclusion.

MR RAMAITE: That is correct.

ADV SONI: Now, you signed the letter.

MR RAMAITE: Yes, I did.

ADV SONI: Where did the information relating to this letter come from?

MR RAMAITE: The information came from Advocate Chris McAdam. In fact, upon receipt of the letter, I called Advocate McAdam.

ADV SONI: Sorry, on receipt of what letter?

MR RAMAITE: The letter that you are referring to.

ADV SONI: Now, this letter is a letter to Ms Nkadimeng.

MR RAMAITE: No, no, no, I am referring to... (intervenes)

ADV SONI: To a letter by her to you.

MR RAMAITE: Yes, yes.

ADV SONI: All right.

MR RAMAITE: Upon receipt of that letter, I then called Advocate McAdam and I inquired from him about the TRC cases. I think Advocate Ackerman could have been busy with another matter. That is why I called Advocate McAdam. And then I asked him to look into all the TRC matters and draft a response for me. He then drafted the

response, and then he came to me with a draft response. We discussed it, and then I said I am happy with it, and then I signed it.

ADV SONI: All right. So this letter is not all the TRC cases. This just deals with Ms Simelani's sister's matter.

MR RAMAITE: Yes, yes, that is a response to the Simelani letter, but also providing some background.

ADV SONI: Okay. So you confirm that you wrote this letter based on what Mr McAdam had told you relating to this investigation?

MR RAMAITE: I confirm, yes.

ADV SONI: Then in the affidavit of Mr Ackerman is I have already read to you paragraph 17, and there are other matters in his affidavit which you also deal with in your affidavit. You confirm the correctness of what Mr Ackerman said in his affidavit?

MR RAMAITE: I confirm.

ADV SONI: Except, of course, the difference between you and him in relation to whether you had told him that the instruction to you had come from the Minister.

MR RAMAITE: Ja.

ADV SONI: Okay. Then can I ask you in relation to the affidavit of Mr Pikoli, now that affidavit, Commissioners, is FA22, and it is an FA22 to the Calata Papers. It starts at page 564, and I just want to read to you, because he deals with the Chikane matter, and you would recall that that is one of the issues you mentioned when you were mentioning Dr I mean Mr Pikoli.

MR RAMAITE: Yes.

ADV SONI: All right. This is what he says in paragraph 23. He says:

> "The decision to prosecute both implicated in the attempted murder to the poisoning of former church leader and head of the South African Council of Churches the Referent Frank Chikane on 23 April 1989 at the Jan Smuts Airport, Kempton Park the Chikane matter. So the unravelling of the attempts by the NPA [indistinct] apartheid perpetrators accountable for their crimes.
>
> You confirm that assessment?

MR RAMAITE: Yes, I do.

ADV SONI: That, in fact, that is what you were saying, that that is what the Minister said.

MR RAMAITE: Yes.

ADV SONI: That all these cases must now stop.

MR RAMAITE: That is correct.

ADV SONI: And then at paragraph 24, Mr Pikoli goes on.

> "The initial decision to prosecute three security branch members, Colonel Smith, former Captains Otto and van Staden, was taken prior to my appointment as NDPP. This decision was taken in November 2004 by Dr Silas Ramaite in his capacity as acting National Director of Public Prosecutions."
>
> You confirm that?

MR RAMAITE: I confirm.

ADV SONI: Then he says:

> "However, he instructed that this matter and all other TRC cases be held over pending the development of guidelines to deal with the TRC cases that were to be incorporated into the prosecution policy."
>
> You confirm that?

MR RAMAITE: I confirm that.

ADV SONI: Now, I just want to ask you to, in conclusion of your evidence, and you know what this Commission is about, and that is why we have concentrated on those issues. The stopping of TRC investigations into TRC cases and the prosecution thereof.

MR RAMAITE: Yes.

ADV SONI: You then say, talking about the moratorium, you discuss your reflections on that at paragraphs 50, 51 and 52 of your affidavit. Will you tell the Commissioners what your assessment of that moratorium is?

MR RAMAITE: Yes.

> "I regard the imposition of a moratorium by the executive or a member of the executive on the prosecution of TRC cases purely on the basis of developing and adopting guidelines to deal specifically with these cases as a form of political interference. And then the development and formulation of prosecution guidelines by a committee consisting of Directors Generals of the security cluster is inconsistent with

section 1795A (B) of the Constitution and section 221 of the National Prosecuting Authority Act 1998 and unlawful.

I also regard the attempt to involve a body consisting of Directors Generals to make recommendations on who to prosecute and who not to prosecute as an encroachment into prosecutorial independence."

Sorry, should I continue?

ADV SONI: And then at paragraph 53.

MR RAMAITE:

"There is no doubt in my mind that the effective investigation and prosecution of TRC cases were severely hampered by political interference."

ADV SONI: And in respect of yourself, would that be a reference to Minister Mabandla's instruction to you?

MR RAMAITE: Ja, not only that, but the involvement of the National Commissioner and in particular the suggestion that the recommendations would be made by a committee consisting of Directors Generals. To me, that was executive encroachment into prosecutorial independence.

ADV SONI: Chairperson, that is the evidence we wish to lead in respect of this witness, Chairperson.

CHAIRPERSON: Thank you, Mr Soni. Mr Varney, any clarificatory questions?

ADV VARNEY: Yes, Chair, we have.

COMMISSIONER KGOMO: Only one of your microphones.

ADV VARNEY: Are they both on?

COMMISSIONER KGOMO: Yes.

ADV VARNEY: I think, Commissioner, they are. Let us just do a sound test.

COMMISSIONER KGOMO: Okay.

ADV VARNEY: Is that better?

COMMISSIONER KGOMO: Yes.

ADV VARNEY: Yes. Chairperson, we have quite a few questions of clarification to tie up various loose ends.

CHAIRPERSON: Yes.

ADV VARNEY: With the leave of the Chair, Dr Ramaite, can I refer you to your statement, paragraph 11?

MR RAMAITE: Sorry, just go again?

ADV VARNEY: Your statement at paragraph 11. It looks like it is page 235 or page four of your statement.

MR RAMAITE: Yes.

ADV VARNEY: So there you mentioned that you were part of a team that identified the need to establish special units, including a unit which you referred to as the PCLU, and that at some point all the cases from the provinces, at least the TRC cases, were referred to the PCLU. Is that correct?

MR RAMAITE: That is correct.

ADV VARNEY: And can I just ask, why did you decide that it was best to remove the cases from the provincial offices to a central office at the PCLU?

MR RAMAITE: We felt that those cases were priority crimes. So in other words, they are cases that required special focus. And that arose from our assessment of the effectiveness of the former Attorney's Generals and the DPPs, because the prosecutions were more generalised and there was no specific focus on areas which we had identified as requiring priority and specific focus. So a dedicated focus, in other words. That was the rationale behind it.

ADV VARNEY: Thank you. And just further down that page, at paragraph 13, you said:

> "You first became aware of the dockets relating to conflicts of the past while you were DPP for Northern Gauteng, and that a significant number of these cases featured in the TRC."

Can I ask whether there was a case against a former General Krappies Engelbrecht? Did that particular case come across your desk?

MR RAMAITE: I did not have access to documents, but the name Engelbrecht featured prominently. I still remember the name Engelbrecht, even when I was at the DPP's office. I do. I cannot recall the details, but the name does ring a bell.

ADV VARNEY: My apologies. I thought my phone was on silent, Commissioners. Yes, and that case does feature in the Calata

affidavit, and it is also featured, I think, in the Ackerman affidavit. Just to bring it to the attention of the Commissioners, General Krappies Engelbrecht served for a period during the 1980s as the head of a unit by the name of C1, Section C within the security branch. And within C1 was an entity known as Vlakplaas, which is quite well known, and I am assuming that the Commissioners are familiar with the role of Vlakplaas, and its then Commander, Eugene de Kock. Eugene de Kock reported to Krappies Engelbrecht. So I believe it is in the affidavit of Anton Ackerman that there was an expectation that dockets such as those dealing with Krappies Engelbrecht would be taken further. But from what we have been able to pick up, it was not taken further, and in fact a decision not to prosecute General Engelbrecht was taken. Are you familiar with that?

MR RAMAITE: I am not familiar with, well, I do not have the details, but let me say I am not familiar with that, but I do believe that Advocate Ackerman would have those details. He, in fact, was responsible for the investigation and prosecution. I am certain about that in the de Kock matter.

ADV VARNEY: Thank you. Commissioners, just for the record, in Bundle one there are a few references in the Calata affidavit to the case against former police General Krappies Engelbrecht. And in a report compiled by Advocate McAdam dated 15 May 2003, which is annexed to his affidavit, which is FA5, paragraph 131.4 of the Calata affidavit. There is reference to a decision not to prosecute General Krappies Engelbrecht. I can also mention, Dr Ramaite, that one of

the investigators who was with the Goldstone Commission, I think you might know him, Frank Dutton.

MR RAMAITE: Yes, I do.

ADV VARNEY: The late Frank Dutton. So he mentioned that there was a case against Krappies Engelbrecht, and he did a [indistinct] application in 2016, and the application came back with the reason for not providing that particular docket. And it was said that the docket could not be found. Can I ask, what happens to dockets in cases where a decision is not to prosecute? Are they kept somewhere at the NPA, or are they disposed of?

MR RAMAITE: If the decision is not to prosecute, they go back to the police. They are returned to the police.

ADV VARNEY: Okay. Thank you. And if we can turn to the next paragraph, paragraph 16, at the bottom of page five. You mentioned that:

> "For most of your time as DPP North Gauteng, Ackerman was busy with the [indistinct] Basson trial, so not much attention was paid to the bulk of the cases arising from the Goldstone Commission."

You said:

> "There was only one police investigator who was part of a team, Goldstone, assigned to deal with these cases."

Now, you mentioned that:

> "You cannot remember the name of that investigator."

MR RAMAITE: Ja.

ADV VARNEY: Of course, that is a long time ago.

MR RAMAITE: Ja.

ADV VARNEY: But can I just put a name to you and see if it rings a bell? Andrew Leisk?

MR RAMAITE: No, I know Andrew Leisk from the DSU. During his time as the chief investigator in the DSO, I do not recall him as an investigator prior to that. It would not have been Andrew Leisk.

ADV VARNEY: Okay.

MR RAMAITE: And Andrew Leisk was not there when I was DPP in Pretoria. And then you point out that:

> "That police investigator was subsequently withdrawn by the National Commissioner in order to return all dockets in his possession under his control to the office of the DPP."

Did the National Commissioner ever explain why he decided to withdraw that police investigator?

MR RAMAITE: He did not.

ADV VARNEY: And can I just check, in terms of the timeline, approximately what year was that?

MR RAMAITE: I became DPP in, I cannot remember. I can just check the month. I should have it somewhere here. In 1998. So that would have been 1999, I think.

ADV VARNEY: And correct me if I am wrong. Commissioner Jackie Selebi, I think he was appointed in the year 2000. And prior to him it was National Commissioner George Fivaz.

MR RAMAITE: Ja, it could, I cannot deny that. It could have been 2000, but I really cannot recall. But that was quite some time after I had been appointed.

ADV VARNEY: Okay.

MR RAMAITE: I cannot recall. It could have been 2000.

ADV VARNEY: Yes. And sorry to have to ask you to rack your brains in terms of years. In the next paragraph, you say:

> "Soon after the dockets were returned to the office of the DPP I approached the NDPP Mr Ngcuka and raised my concern about the lack of investigative capacity to deal with these cases."

And again, was that approximately what year would that have been?

MR RAMAITE: Are you referring to the year? Sorry.

ADV VARNEY: Yes, if you can give us a sense of the year, approximately.

MR RAMAITE: [Indistinct]... (intervenes)

ADV VARNEY: Was it also around 2000?

MR RAMAITE: Ja, it is now muddling up my mind. But as I say, it is a long time ago. So, you know, I mean, it could have been, because I was appointed. It could have been, ja. I cannot place my finger on the exact date I was appointed. It could have been 2000 because I left the DPP's office to Mr Ngcuka's office in 2001. I could be mistaken with the exact year.

ADV VARNEY: No, we understand. We are dealing with matters decades ago. It is very difficult to recall precisely. If I can then refer you to page eight of your affidavit. And in paragraph 26, you make reference to some cases. I will just read it to you.

> "During 2003, 2004, and 2005, the PCLU identified a number of TRC related cases for further investigation and possible prosecution. It instituted prosecutions against Eugene Terblanche, Lani..."
>
> And then the suspects in the PEPCO 3 matter.

MR RAMAITE: Yes.

ADV VARNEY: Those particular cases, am I right in saying that those matters had already previously been investigated?

MR RAMAITE: Ja, yes, you are right.

ADV VARNEY: And so even though the PCLU did not have assigned investigators they could proceed with those cases because they relied on past investigations.

MR RAMAITE: Yes.

ADV VARNEY: And Commissioner Cromwell correctly pointed out that one of the accused, Kole, died in 2018. And just for the record and so that you know, according to our records, Mr van Zyl died in 2011. And while we run the PEPCO 3 matter, you point out in paragraph 27 at the top of page nine:

> "That the review of the amnesty decision in the PEPCO 3 matter was delayed by some five years."
>
> Now in Advocate Ackerman's affidavit, he attributes the five-

year delay to the failure of the Department of Justice to file their papers. Can you express a view as to why it took some five years to file papers by the Department of Justice?

MR RAMAITE: I cannot. I cannot, unfortunately. I do not know.

ADV VARNEY: Right. Okay, let us move on. And just, and this might be just a small error, but I noticed in your transcript when you were talking about the interactions between Mr Ackerman and Mr Wagenaar and then subsequently between yourself and the Minister, the name Wasserman is referred to in the transcript. And I thought well maybe Wasserman was the official who called from the Department of Justice who called Advocate Ackerman. Was it possible that Wasserman actually, it is just a mistake, and you meant to say Wagenaar?

MR RAMAITE: No, I was referring to Wagenaar.

ADV VARNEY: Wagenaar. Okay all right.

MR RAMAITE: Mr Ackerman mentioned an official, he did not mention a name, but he mentioned Wagenaar, the attorney for the accused.

ADV VARNEY: Okay, so in the transcript there, and that was your interview with the evidence leaders, so the reference to Wasserman there is actually, should be a reference to Wagenaar.

MR RAMAITE: Ja, from what, Ackerman actually only mentioned Wagenaar. I remember, I remember the name, Wagenaar.

ADV VARNEY: Okay, yes, okay, so I think we can assume that the Wasserman in the transcript is actually Wagenaar. And then on the

next page of your statement, paragraph 32. Here you detail your telephone call from the Minister of Justice, Mrs Mabandla, and she tells you that there is a task team which was appointed by the Director's General Forum. That task team, was that the amnesty task team that was set up by the DG's Forum?

MR RAMAITE: She did not specifically mention amnesty task team, but she did refer to a task team.

ADV VARNEY: Okay, did you subsequently get to hear of this amnesty task team that the Forum had established?

MR RAMAITE: Ja, I heard about it, but I really have no knowledge of what it was, what it consisted of.

ADV VARNEY: Okay, and if we turn to the next page of your statement, that is page 11. You already indicated in your evidence-in-chief that when you raised your concerns around lawfulness and constitutionality of the guidelines with the Minister, you know, her response was just to insist on the cases being suspended. Was there any attempt on the part of the Minister to engage on the issues around lawfulness and constitutionality?

MR RAMAITE: No, she said, well, we must just wait for the guidelines.

ADV VARNEY: And then if we go to the top of the page, paragraph 33, you point out that you received an instruction from the Minister that investigation and prosecution of TOC-related cases must be put on hold. Can I ask, were you obliged to follow that instruction?

MR RAMAITE: Ja, it is a difficult one. No, I mean, because the Minister has got Ministerial responsibility, but then again, that Ministerial responsibility does not extend to as far as, you know, giving an instruction to a prosecutor either to do something or not to do something. I could have resisted it, but... (intervenes)

COMMISSIONER KGOMO: Could or should?

MR RAMAITE: Sorry.

COMMISSIONER KGOMO: Could or should.

MR RAMAITE: Ja, well, even should, Commissioner, ja. I should. And I can only say that perhaps with hindsight, but it is difficult for me to even tell. I mean, if I was faced with a similar situation, how would I deal with it? So those are the dynamics.

ADV VARNEY: And just following up on the Commissioner's question, assuming you had refused and you told the Minister that you would not follow the instruction, what do you think would have happened or could have happened?

MR RAMAITE: It is difficult for me to say. I do not know. Possibly I would have been fired or I would have been removed. You know, I mean, anything could have happened. But I really do not want to speculate about what could have happened and what happened subsequently and what did not happen subsequently. I do not think that is really my terrain with respect.

ADV VARNEY: And on the issue of the TRC cases, post this exchange in November 2004, did you have any further engagements with Minister Mabandla on the TRC cases?

MR RAMAITE: No. I did not.

ADV VARNEY: Let us move on to your statement. Paragraph 40 on page 12. You mentioned that:

> "In October 2006, the NDPP assigned you to chair a task team to review the TRC-related cases."
>
> And you also mentioned that:
>
> "It consisted of various other officeholders."

And you have already been asked questions about what the NIA was doing on that task team. So I will not repeat that question. There is a report from the Amnesty Task Team about the setting up of this next task team. I think they call it the Interdepartmental Task Team. Commissioners, that is reflected in bundle one at page 69 from paragraph 155. And actually, the report, the secret report of the Amnesty Task Team is attached to the Calata affidavit at FA24. And at page 520, at paragraph 3.21, they list those. Not the names unfortunately, but the officeholders who are meant to comprise the Interdepartmental Task Team. And besides the ones you have already mentioned, there was also meant to be representatives from correctional services.

MR RAMAITE: Yes.

ADV VARNEY: And a representative from the office of the president.

MR RAMAITE: Yes.

ADV VARNEY: So besides the individuals that you have mentioned, do you recall that there were others present as well from the executive?

MR RAMAITE: Yes, I agree with you that there was also correctional services and someone from the presidency. That is correct.

ADV VARNEY: And one of the issues which you have discussed at length, so I am not going to repeat what has been put to you in your evidence-in-chief. But one of the big issues was the need for investigative capacity, which you then raise in paragraph 41. Now on the question of the need for investigators, were you aware that advocates Ackerman and McAdam had in previous years, in fact as far back as 2003, attempted to procure investigators firstly from the Scorpions, the DSO.

MR RAMAITE: Yes.

ADV VARNEY: By approaching Advocate Jeff Ledwaba, and then when Advocate Ledwaba refused to provide them investigators, they went to the SAPS. They approached the head of detective services, Commissioner de Beer.

MR RAMAITE: Yes.

ADV VARNEY: Were you aware... (intervenes)

MR RAMAITE: Yes, I was aware of that.

ADV VARNEY: So you were aware that as early as 2003, both the DSO and the SAPS had already declined to give investigators?

MR RAMAITE: Yes, that is correct.

ADV VARNEY: Commissioners, that is set out in bundle one, at page 59, paragraph 134 and also at page 60, paragraph 137. If I can just put what Commissioner de Beer said to Advocates Ackerman and McAdam. His response was that:

"They would only take on the cases if the President directed them to do so in writing."

Did you hear that?

MR RAMAITE: No, I did not hear that.

ADV VARNEY: Okay. And as far as we know, that instruction in writing from the President never came?

MR RAMAITE: I did not know.

ADV VARNEY: You are not aware of that.

MR RAMAITE: No.

ADV VARNEY: Further down that page, you make reference to Police Deputy Commissioner Jacobs. Am I right in saying that he was the head of Legal Services at the SAPS?

MR RAMAITE: Yes in the police ja in SAPS that is correct.

ADV VARNEY: Yes, and you have mentioned in your evidence-in-chief that it was not just the Chikane matter that did not have investigators, it was the other TRC cases. Can we turn to paragraph 44, and this is where Deputy Commissioner Jacobs says that:

"The function of the task team was to make a final recommendation to the Committee of Directors General, in turn would make a recommendation on who to prosecute and who not to."

So, was the understanding that the NPA could not act without a recommendation from that DG's forum?

MR RAMAITE: That was the understanding, yes.

ADV VARNEY: In your evidence-in-chief, you stated that you had a concern that the task team, I think here we are talking about the Interdepartmental Task Team, the one that you had been sitting on, that you had a concern around its effectiveness. I would like to put to you a short quote from Advocate McAdam, he was also sitting on that task team. Commissioners, the quote is from Advocate McAdam's affidavit, it is also reproduced in the Calata affidavit. That is at page, it is bundle one at page 98, paragraph 229. So, Advocate McAdam, he mentioned that:

> "The representatives on this Interdepartmental Task Team included Ackerman and yourself. And that on occasions he stood in for Ackerman."

And this is what he said about that task team.

CHAIRPERSON: Come closer to your mic.

ADV VARNEY: Oh apologies, Chair.

COMMISSIONER KGOMO: You are talking to yourself.

ADV VARNEY: Which I often do, Commissioner.

> "The task team was predominantly comprised of members of the intelligence community, who were more intent on cross-examining me as to why matters should be investigated, rather than addressing the issue of all the outstanding cases."

So, since you were present at some of those meetings, what is your view on what Advocate McAdam had to say about that task team?

MR RAMAITE: Ja, other than, I think, a gentleman called Mr Jafta, I cannot remember or recall who else from the NIA were there. But he is certainly correct when he said that people from NIA, and I cannot remember whether it was Jafta or one of the others who were there, were intent on actually questioning him, rather than on addressing the issue of providing investigative capacity.

COMMISSIONER GABRIEL: And NIA is National Intelligence Agency?

MR RAMAITE: National Intelligence Agency, that is correct.

ADV VARNEY: I would just like to point out a potential error in your evidence-in-chief. Rather, to be fair, I do not think it was your error. It was put to you by my learned friend for the evidence leaders that soon after the suspension from office of Advocate Pikoli, Advocate Ackerman was removed from office. As I understand, he was not removed from office, he was just relieved of his duties?

MR RAMAITE: Yes, he was not removed from office.

CHAIRPERSON: That is his evidence.

ADV VARNEY: My apologies Chair?

CHAIRPERSON: That is his evidence, that he was relieved of his duties, not that he was removed from office.

ADV VARNEY: Yes, indeed, that was his evidence.

CHAIRPERSON: Yes.

ADV VARNEY: Relieved of his duties just in respect of the TRC cases. And as you then pointed out, he was able to pursue other cases at the PCLU that were unrelated to the TRC cases.

MR RAMAITE: Yes, that is correct.

COMMISSIONER KGOMO: Yes because Mr Ackerman only retired on the 31st of, what is it, I think 31st. Ja it does not matter.

ADV VARNEY: I think it was 2013, Commissioner.

COMMISSIONER KGOMO: 31 March 2013.

MR RAMAITE: Ja, 31 March 2013, yes.

ADV VARNEY: Let me just see if there is any other matters we need to clarify. Yes, if I can just return to your evidence in relation to the exchanges you had in November of 2004 in relation to stopping the arrest of the suspects in the Frank Chikane attempted murder matter. So it was put to you by my learned friend that you had advised Advocate Ackerman that you had been instructed by Minister Mabandla to take that course of action, whereas in Advocate Ackerman's affidavit, he simply says, "It can be safely assumed that that instruction came from a political level". So can we just revisit the timeline, because as I understood your evidence, apart from what happened on the day in question, there were subsequent, or let me ask you, were there subsequent meetings that you and Ackerman had to discuss that matter and the way forward?

MR RAMAITE: After my telephone call from the Minister and my subsequent discussion with Ackerman, there was no further discussion relating to the TRC matters.

ADV VARNEY: I see, and so did all that happen on one singular day?

MR RAMAITE: Yes, it all happened on the same day.

ADV VARNEY: Okay, and you have already mentioned that NDPP Pikoli had asked you to attend these task team meetings to deal with the TRC cases. Do you recall the underlying reason why he wanted you there?

MR RAMAITE: Ja, well, first of all, I was the Head of the National Special Services Division, which was actually responsible for the PCLU. And in that capacity, I had been involved at a supervisory level in relation to the TRC cases.

ADV VARNEY: So, in Mr Pikoli's affidavit, he makes reference, and we will find the references in due course, but just to save time, he alleges, at least, that there was some animosity between the other representatives there. Particularly the police and others, in relation to Advocate Ackerman.

MR RAMAITE: That is correct. That is one of the reasons. I say that is one of the reasons because Advocate Ackerman was more operational. The purpose of that meeting was to try and resolve issues at a more managerial level. But then we needed Ackerman to make inputs because he was the operational person.

ADV VARNEY: Indeed. Then NDP Pikoli goes so far as to say that, "There were even objections to his presence".

MR RAMAITE: Yes, that is correct.

ADV VARNEY: At that meeting, and as I understand Advocate Pikoli's evidence, he felt that your presence would help to get things moving.

MR RAMAITE: Yes, that is correct.

ADV VARNEY: There is also reference to interactions around trying to get the police to take up these cases. And perhaps I can draw the attention of the Commissioners to paragraph page 114 of the Calata affidavit, that is bundle one, paragraph 277. And this is also a reference to that letter that my learned friend for the evidence leaders put to you, that's your letter to Tembi Nkadimeng. That is attached to the Calata affidavit FA26. But in that letter, you pointed out that since the Ginwala Commission had kicked off, and you recall that that was the commission appointed by President Mbeki... (intervenes)

MR RAMAITE: Yes.

ADV VARNEY: Look into the suitability of Advocate Pikoli remaining in office, you pointed out in that letter that:

> "The SAPS declined to further investigate the matters pending the conclusion of the Ginwala Commission."
>
> Do you recall that?

MR RAMAITE: Yes.

ADV VARNEY: And what did you think of the SAPS saying, well, we are not going to investigate until this commission has finished? Did you see a connection between the two?

MR RAMAITE: Yes, I do not have direct evidence of that, but I think it really became clear that at the end of it, it turned into an issue revolving around Mr Pikoli.

ADV VARNEY: Right, but in your view, just because a Commission of Inquiry was taking place into Advocate Pikoli's position as NDPP, in your view, the SAPS saying they had to wait until the end of the

commission, was that a justifiable reason not to investigate?

MR RAMAITE: It was not justifiable at all.

ADV VARNEY: Do you recall a situation arising where the SAPS put up a memorandum claiming that the PCIU under Advocate Ackerman was about to proceed with cases against the ANC leadership?

CHAIRPERSON: Mr Varney.

ADV VARNEY: Ja.

CHAIRPERSON: That would be a clarificatory question in respect of which aspect of his evidence.

ADV VARNEY: Yes, Chairperson, that has not been raised previously.

CHAIRPERSON: Yes.

ADV VARNEY: So it is not, strictly speaking.

CHAIRPERSON: Yes.

ADV VARNEY: An aspect of clarification.

CHAIRPERSON: Yes, I will [indistinct] out.

ADV VARNEY: If the Chair wishes me not to put it I will refrain.

CHAIRPERSON: I would rule it out.

ADV VARNEY: In that case, I will drop that question.

CHAIRPERSON: Yes.

ADV VARNEY: And there is also another question, Chair, relating to the attempt by Advocate Ackerman to secure investigators through meeting with Deputy Commissioner Raymond Lalla. But that was not canvassed in the evidence-in-chief.

CHAIRPERSON: Yes, if it was not canvassed, then it cannot be a clarificatory question.

ADV VARNEY: As the Commission pleases.

CHAIRPERSON: Thank you.

ADV VARNEY: Thank you, Chair. Those are our questions of clarification.

CHAIRPERSON: Thank you. Ms Rantho.

ADV RANTHO: Good afternoon, Commissioners. Thank you so much. Commissioner, firstly, before I go to only two questions of clarification. We wish to record our discomfort, and we were at pace to restrain ourselves from objecting against the line of questioning by Mr Varney. But we do want to record that we felt that it borders on the line of cross-examination. And I can make just two examples insofar as the police is concerned. Mr Varney put a version about Mr General Jacobs being a legal official. It was never [indistinct] put before the witness. Either in his statement or his [indistinct]. And the list is endless Commissioners and we just thought we wanted to clearly record our discomfort in that line of questioning.

Going just on two questions of clarification to Dr Ramaite. Good afternoon Dr Ramaite.

MR RAMAITE: Good afternoon.

ADV RANTHO: The first one relates to what you informed the Commissioners about General Jacobs telling you that the National Commissioner instructed him that there should not be continuation insofar as the Referent Chikane investigation was concerning.

Remember when you said, "You discussed that matter with Advocate Pikoli and then the two of you would have then said there should be a meeting". That was your testimony remember that?

MR RAMAITE: Yes.

ADV RANTHO: I wanted to understand that meeting would be with who and by whom and arranged by who or whether it took place? What meeting are we talking about? Because I only got your testimony to say that you discussed the matter with Advocate Pikoli and you suggested that there should be a meeting. So I needed to know whether that meeting took place and if so it was a meeting between who and who?

MR RAMAITE: I do not know whether that meeting took place. But my agreement with Mr Pikoli and his commitment was that he will take the issue up with the National Commissioner in order to resolve the [indistinct]... (intervenes)

ADV RANTHO: So can you tell the Commissioner if there was indeed a meeting... (intervenes)

MR RAMAITE: I, Mr Pikoli himself can tell.

ADV RANTHO: Okay. Thank you.

MR RAMAITE: I cannot.

ADV RANTHO: And then just one last question to you. You also you informed the Commission that following, I think it was a meeting, the last meeting of the ITT and then a specific question if I am not mistaken was from Commissioner Kgomo about whether there was a link between the actual collapse or let us say the lack of [indistinct] of

the part of the police to pursue cases, the investigation of cases related to TRC other than the Chikane one. And I remember you telling the Commission that following that whole discussion about Referent Chikane, the [indistinct] I think you just said the whole thing collapse sort of [indistinct]. And I wanted to understand, what is it that turn into chaos? I am trying to understand exactly perhaps what you meant by that.

MR RAMAITE: With respect I do not recall saying that the whole thing degenerated into chaos. But what I wanted to portray was that the focus shifted from the actual intention that is to agree on the provision of investigative capacity then turned into a focus on the Chikane matter.

ADV RANTHO: Ja.

MR RAMAITE: That is what I intended to portray.

ADV RANTHO: Okay. Ja, because I needed to understand that you say you never said that but I think the transcripts will tell but I remember you saying that the whole thing degenerated into chaos but perhaps it helps that you now clarify as to what you meant and that should suffice. From my side, thank you Commissioner.

CHAIRPERSON: Thank you.

ADV RANTHO: That is all from my side.

CHAIRPERSON: Mr Gwala.

ADV GWALA: Thank you and good afternoon Commissioners. I also have two questions I hope to finish in the next three minutes. Good afternoon Dr Ramaite.

MR RAMAITE: Good afternoon.

COMMISSIONER KGOMO: [Indistinct] a long time ago, you do not say two questions you say questions on two aspects. Because if you ask the third question... (intervenes) I will say you cannot count.

ADV GWALA: I will ask for leave for that. I have two questions that I want to ask you. They relate to paragraphs 18 and 19. That is the first question. On the second question it is going to relate to paragraph 40 of your statement. I am not sure if you at that page now.

MR RAMAITE: You say, sorry paragraph 18 and 19.

ADV GWALA: Yes that is the first... (intervenes)

MR RAMAITE: That is from page six.

ADV GWALA: Yes, that would be page six thank you. In those paragraphs you refer to certain dockets relating to TRC cases that were transferred to first the Office of the MDPP. I am sure you understand the gist of what you say in paragraph 18 and 19. And at the end of those paragraphs you say:

"No prosecutions were instituted during that period."

But I sit on the [indistinct] if you may, do you know if any of those dockets were ready for prosecution at that time? Any, not all of them just any if there were any that were ready for prosecution.

MR RAMAITE: Ja, I mean I will not know if any were ready because at that stage we still had to do an assessment of the status of cases. But maybe Advocate Ackerman could provide you know... (intervenes)

ADV GWALA: Sure.

MR RAMAITE: More information but from where I was standing we were still busy with the process of ascertaining the status of the, the status of the dockets.

ADV GWALA: Okay no that is fine. I understand that. Regarding paragraph 40. In summary there you say:

> "You were assigned to chair a task team that was to review TRC related cases and to agree on providing investigating capacity."

I am only interested in the review exercise. What was the aim of that reviewing exercise?

MR RAMAITE: Well remember that up to that stage it was only the PCLU that was dealing with the cases. So we wanted to review them together. So in other words to go through them and to determine which [indistinct] further investigation and the nature and the extent of the investigation. And that would have provided an indication as to the investigative capacity that was required.

ADV GWALA: So you were reviewing the cases, am I understanding you correctly... (intervenes)

MR RAMAITE: I will... (intervenes)

ADV GWALA: You were reviewing the cases to determine whether they are ready, some are ready for prosecution.

MR RAMAITE: Yes. Council I am not talking about judiciary review because we do not have that powers... (intervenes)

ADV GWALA: No, no.... (intervenes)

MR RAMAITE: So.

ADV GWALA: Let us use audit. You were just auditing... (intervenes)

MR RAMAITE: Yes.

ADV GWALA: Going through the files to check if any of them is ready for prosecution.

MR RAMAITE: That is correct.

ADV GWALA: And you would then take a decision.

MR RAMAITE: That is correct.

ADV GWALA: According to that review. If you want to prosecute you will decide this one we go ahead this one there is no evidence we are not going ahead.

MR RAMAITE: Or still requires further investigation.

ADV GWALA: Okay thank you.

MR RAMAITE: That is correct.

ADV GWALA: Thank you Commissioners.

CHAIRPERSON: Thank you Mr Gwala.

ADV GWALA: Thank you Chairperson.

CHAIRPERSON: Am I missing anyone who needs to be placed on record. Mr Mashugu I see you.

ADV TSAGAE: Good afternoon Commissioner.

CHAIRPERSON: Yes.

ADV TSAGAE: Thank you it is Tsagae initial T on behalf the Minister of Justice.

CHAIRPERSON: Yes.

ADV TSAGAE: We do not have any questions for clarifications.

CHAIRPERSON: Thank you Ma'am.

ADV MASUKU: Chair and the Commissioners I can only be placed on the record. We, I act for Advocate Menzi Simelani... (intervenes)

CHAIRPERSON: Yes. Thank you.

ADV MASUKU: We have no questions.

CHAIRPERSON: Thank you. Mr Soni.

ADV SONI: We have no further questions for Dr Ramaite.

CHAIRPERSON: Yes. Mr Semenya.

ADV SEMENYA: Chair, Commissioners can I ask that we have a short stand down just so as to ascertain where we are with the next proceedings?

CHAIRPERSON: Yes.

ADV SEMENYA: Just a short... (intervenes)

CHAIRPERSON: Ja, for how long?

ADV SEMENYA: 10 minutes will suffice.

CHAIRPERSON: To be given an estimate in terms of minutes.

ADV SEMENYA: At most... (intervenes)

CHAIRPERSON: We will adjourn for 10 minutes.

INQUIRY ADJOURNS FOR 10 MINUTES

INQUIRY RESUMES

CHAIRPERSON: Dr Ramaite, we wish to express our gratitude for you to having been able to attend these proceedings to come and give evidence. We thank you for that sir. You are excused now as a witness. You maybe recalled to be cross-examined if an application to so cross-examine you is received in due course.

MR RAMAITE: Thank you Chairperson and Commissioners.

ADV SEMENYA: Chair, we had thought we would have better clarity about what we do tomorrow.

CHAIRPERSON: Yes.

ADV SEMENYA: The Afriforum quite correctly are not ready for tomorrow but we have scheduled them for Wednesday. [Indistinct] by people who are not competent witnesses in this proceedings indicating their intention to testify. And it is our considered view that they are not competent evidence to be led in respect of those. In the circumstances we request that the Commission be postponed to Wednesday... (intervenes)

CHAIRPERSON: Yes.

ADV SEMENYA: So we can start with the Afriforum.

CHAIRPERSON: Yes.

ADV SEMENYA: Witnesses.

CHAIRPERSON: Yes. The witness that will be for Afriforum is Mr Leisk.

ADV SEMENYA: Correct.

CHAIRPERSON: Yes.

ADV SEMENYA: And other two.

CHAIRPERSON: Mr van der Merwe and Mr Kriel.

ADV SEMENYA: Correct.

CHAIRPERSON: Yes. These proceedings are adjourned until Wednesday at 10:00.

ADV SEMENYA: As the Commission pleases.

INQUIRY ADJOURNS TO WEDNESDAY 25 FEBRUARY AT 10:00

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CERTIFICATE OF VERACITY

We, the undersigned, hereby certify that **as far as it is audible**, the aforegoing is a true and correct transcript of the digitally recorded proceedings in the matter of:

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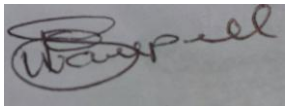

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MzanziSA Business Solutions
Arbour Square
Cnr Melle & Juta Street
Ground Floor, Office 3
Braamfontein, 2001
TEL: 011 339 1289
E-mail: transcription@mzanzisa.com
E-mail: mzanzisa1@gmail.com