

**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 Semanya (SC)
Adv Vas Soni (SC)
Adv Fana Nalane (SC)
Adv Nompumelelo Seme
Ms Baitseng Rangata
Adv Phelo Mahlati-Mbanga

REPRESENTATIVES

Adv Ngwako Maenetje (SC) for Former Minister Brigitte Mabandla
Dr Nyoko Muvangua (for Former Minister Brigitte Mabandla)
Adv Phumzile Sokhele (for Former Brigitte Mabandla)
Adv Khulekani Moyo (for Former Brigitte Mabandla)
Ms Mpumi Tshabalala (for Former Brigitte Mabandla)
Adv KD Moroka (SC) – DOJ Representative
Adv Anisa Kessery-DOJ Representative
Adv Varney (SC) – The Calata Group
Adv D Pillay – The Calata Group
Ms A Thakor – The Calata Group
Mr Sipho Tlhaole – The Calata Group
Adv Motlalepule Rantho (for SAPS)
Adv Irene Dikgale (for SAPS)
Adv Gwala-NPA Representative
Adv Yanela Ntloko- NPA representative
Adv B Lukhele-NPA Representative
Adv Bruinders (SC) for President Cyril Ramaphosa
Adv Irene de Vos (for President Cyril Ramaphosa)
Adv Nwabisa Mtshizana (for Ex-NDPP's Officials)

21 OCTOBER 2026

DAY 100

PAGES 1 – 78



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PROCEEDINGS ON 21 OCTOBER 2026

CHAIRPERSON: Good morning to you all. Mr Semenya?

ADV SEMENYA: Good morning, Chair, and to the Commissioners as well. This morning, we have former Minister Mabandla, who will be led by my colleague and team advocate, Maenetje.

CHAIRPERSON: Thank you. Good morning Mr Maenetjie.

MR MAENETJE: Good morning Chair.

CHAIRPERSON: You confirm that you will be leading former Minister Mabandla?

10 MR MAENETJE: Today, I am only assisting Dr Muvangua.

CHAIRPERSON: It is Ms Muvangua who is going to be leading her?

MR MAYENECHE: Indeed, Chair.

CHAIRPERSON: Thank you. Good morning, Ms Muvangua.

DR MUVANGUA: Good morning, Chair.

CHAIRPERSON: How are you?

DR MUVANGUA: I am fine.

CHAIRPERSON: Fine?

DR MUVANGUA: Good morning, Commissioners.

CHAIRPERSON: Thank you.

20 DR MUVANGUA: Chair, I must put on record, because it is really important, that today, this morning, I am assisted by advocate Mayeneche.

CHAIRPERSON: Yes, yes.

COMMISSIONER GABRIEL: And did I hear him introduce you as "Doctor"?

DR MUVANGUA: He did.

COMMISSIONER GABRIEL: Are you?

DR MUVANGUA: Yes, but not of the medical variety.

COMMISSIONER GABRIEL: Okay.

CHAIRPERSON: Yes. Would you want to be referred to as doctor or miss?

DR MUVANGUA: Whichever is convenient. I am not fussy. Thank you.

CHAIRPERSON: I would like you to make a preference.

10 COMMISSIONER GABRIEL: Me?

CHAIRPERSON: Yes.

COMMISSIONER GABRIEL: I am told that I must go with the "Doctor".

CHAIRPERSON: Thank you. Thank you. Good morning, former Minister Mabandla.

FORMER MINISTER MABANDLA: Good morning, Chair.

CHAIRPERSON: How are you, ma'am?

FORMER MINISTER MABANDLA: I am fine, thank you.

20 CHAIRPERSON: Fine. Are you going to give your evidence under oath or affirmation?

FORMER MINISTER MABANDLA: Under oath.

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

FORMER MINISTER MABANDLA: So help me God.

CHAIRPERSON: Thank you, madam. Dr Muvangua?

DR MUVANGUA: Thank you, Chair. Good morning, Ms Mabandla.

FORMER MINISTER MABANDLA: Good morning.

DR MUVANGUA: Just before we start your evidence, there is a few housekeeping matters, Chair, that I would like to draw to the Commission's attention. There is really one, which is that we filed a supplementary statement late last night. It would have been emailed to the parties this morning.

CHAIRPERSON: Yes.

- 10 DR MUVANGUA: The pagination of that statement is 132A. That might cause confusion because the actual statement does not end at 132, but ends elsewhere, Ms Mabandla's original bundle. That should cause no difficulty immediately because when I refer to the supplementary statement, I will use the numbering that it was given with the understanding that it slots right in the middle of her original bundle.

CHAIRPERSON: Yes.

DR MUVANGUA: Now, Ms Mabandla, could you confirm that you filed a sworn statement before the Commission?

- 20 FORMER MINISTER MABANDLA: I do confirm.

DR MUVANGUA: Are you able to turn to page 132 of your bundle?

FORMER MINISTER MABANDLA: Yes.

DR MUVANGUA: Right. Before we proceed, are there any corrections that you would like to make right now, or would you do that as we go along.?

FORMER MINISTER MABANDLA: None for now.

DR MUVANGUA: None for now?

FORMER MINISTER MABANDLA: Ja.

DR MUVANGUA: Understanding, of course, that there are corrections that you are going to need to make as we go along. Is that correct?

FORMER MINISTER MABANDLA: Yes.

DR MUVANGUA: So, subject to those corrections that we will be making on the go, do you confirm, then, that this is your statement?

10 FORMER MINISTER MABANDLA: I do confirm.

DR MUVANGUA: And subject to those corrections, you confirm that it is true and correct?

FORMER MINISTER MABANDLA: Absolutely confirm, yes.

DR MUVANGUA: Right. If you could please turn to page 133 of your statement, and there you talk about your personal background. Would you please be able to read into the record paragraphs 4 to 7?

FORMER MINISTER MABANDLA:

20 "I was a student activist in the early 1970s. During this time, I was banned and detained and as a member of the South African Student Organisation and the Black People's Convention. After my release from detention, I went into exile in 1975. From 1986 to 1990, while in exile, I worked in the NCs Legal and Constitutional Affairs Department in Lusaka. On my return to

South Africa, I was part of the negotiations to end apartheid. During this period, I was also part of the establishment of the Community Law Centre at the University of the Western Cape under the leadership of the late former Minister of Justice, Dullah Omar. I headed the Women and Children's Research Unit while there.

10 In May 1994, I became a member of Parliament representing the ANC. I was a member of the Constituent Assembly and sat in a number of committees. One of the committees I sat in was involved in the drafting of the TRC legislation under the chairmanship of Advocate Johnnie de Lange.

COMMISSIONER KGOMO: Yes, madam. For the future, please just refer to the paragraphs for purposes of the record. Just refer to the paragraphs for purposes of the record.

FORMER MINISTER MABANDLA: Thank you, Commissioner.

COMMISSIONER KGOMO: Thank you.

20 DR MUVANGUA: So, the next... So, what the Commissioner is asking is, every time you move from paragraph 4 to 5, you say 5 and then you read it.

FORMER MINISTER MABANDLA: Okay.

DR MUVANGUA: 6, and then you read it.

FORMER MINISTER MABANDLA: Thank you.

DR MUVANGUA: Now, in the next segment of your statement, you set out your history in the executive. Would you please read from paragraphs 8 to 9 of your statement? And that would be at pages 133 to 134 of the bundle.

FORMER MINISTER MABANDLA: Yes.

DR MUVANGUA: Where a particular position that you occupied is mischaracterised, if you could just clarify that as you read along.

FORMER MINISTER MABANDLA: I will do so.

10 “8.1 From April 1995 to February 2003, I was
the Deputy Minister of Arts, Culture, Science and
Technology under President Nelson Mandela and
Thabo Mbeki, respectively.”

May I say this is not a cabinet position, it is not an executive position, Chairperson.

CHAIRPERSON: Yes.

DR MUVANGUA: 8.2?

FORMER MINISTER MABANDLA:

20 8.2 From February 2003 to April 2004, I was
Minister of Housing under President Mbeki.

8.3 From 29 April 2004 until 25 September, I
was Minister of Justice and Constitutional
Development under President Mbeki.

8.4 From September 2008 to May 2009, I was
Minister of Public Enterprises under President
Kgalema Motlanthe.

Of course, that is my activity in the executive. But then, also just to explain further, because I was in public service here as well, at point

“8.5 From January 2020 to 2023, I was the South African Ambassador to Sweden, Finland, Latvia and Estonia.”

DR MUVANGUA: Between paragraphs 8.4 and paragraphs 8.5 is a period of time. Are you able to tell the Commission what you did, if you remember, between 2009 and 2020?

10 FORMER MINISTER MABANDLA: Between 2009...

DR MUVANGUA: Yes, and 2020.

FORMER MINISTER MABANDLA: And 2020. I acted in various capacity assisting. I was at one point advisor to the late Minister of Water Affairs, Minister Molema, Water and Environmental Affairs. I was also the chairperson of the Eminent Persons Commission of the UN. And I was also chairperson of the Council for the Awarding of Honours to distinguished persons in the country, under the presidency of the current president, Ramaphosa.

DR MUVANGUA: Minister Mabandla, are you able to read paragraph
20 9, please?

FORMER MINISTER MABANDLA:

“9. The allegations against me relate to my role as the Minister of Justice. My tenure ended more than 18 years ago, in 2008. This is a long time ago, and as a result, I do not recall all the

events. I no longer have access to documents and records, which may have assisted me to recall specific events.”

DR MUVANGUA: Is there anything you would like to add to paragraph 9?

FORMER MINISTER MABANDLA: Yes. To say, upon being notified that I am required to appear before this committee, I made an effort...

COMMISSIONER KGOMO: Commission. Not committee.

FORMER MINISTER MABANDLA: Commission. My apology. Thank
10 you, Commissioner Kgomo. I made an effort to get access to documents in the department, including my diary, when I was Minister of Justice. I could not get the documents that I thought would be useful to me. My Counsel also made an effort, I think.

DR MUVANGUA: All right. We are going to move now on to the next segment of your statement, which relates to your involvement in the TRC recommendations. These are set out in paragraphs 10 and 11. So I will ask you to read into the record paragraph 10, which is at page 134, and then I will pause to ask you a couple of questions, and then I will signal for you to read paragraph 11 into the record, and
20 then again I will pause to ask you a couple of questions. So will you not please read paragraph 10 into the record, please?

FORMER MINISTER MABANDLA:

“10. While the TRC process was ongoing, there were calls for the construction of symbols and monuments to honour the lives lost during

apartheid. As Deputy Minister of Arts and Culture, Science and Technology, I was part of the conceptualisation and building of symbols, monuments. Freedom Park is one of those monuments that were conceptualised at the time.”

DR MUVANGUA: Carry on reading. You finished paragraph 10. You are not done.

FORMER MINISTER MABANDLA: Yes.

10 “I also would like to point out that provinces also were encouraged to build cenotaphs where possible. I would like to add that this project of memorialisation was very important. I think it had a healing impact on those who were affected, because many families that had lost loved ones took an interest in the memorialisation.”

My apology, Chair.

DR MUVANGUA: I note that when you read, you said the Department of Arts, Culture, Science, and Technology. It seems to me that those two words were omitted from the accurate description
20 of the department. Is that correct?

FORMER MINISTER MABANDLA: Yes, it is correct.

DR MUVANGUA: All right. You mentioned there that you were embarked on the project of memorialisation. Yes, word is a tongue twister. Are you able to tell the Commissioners what other symbols of memorialisation the department embarked on, conceptualised under

your leadership?

FORMER MINISTER MABANDLA: It led to the review of heritage policy in South Africa. It was actually a massive nation-building project, because it allowed for the inclusion of those people who were left out of the history books of South Africa. We elevated the importance of some sections of our society, such as the Khoisan people, who had never been acknowledged.

In fact, our emblem, our coat of arms, draws from the history, the true history of the people of South Africa. So I think the
10 revision, the improvement of heritage in South Africa, the inclusion of all the people of South Africa in the narrative was very important. And it has led to affirming the identities of all our people.

DR MUVANGUA: You spoke of monuments. Are there, if you recall, examples of monuments that come to mind that you are able to tell the Commission about?

FORMER MINISTER MABANDLA: Of course. Experts and real historians such as Dr Wally Serote were involved in reality, in the final definition of our heritage. Dr Wally Serote played a very important role, for example, in the many years that the Freedom Park was
20 moved from concept to the concrete setting that we have.

COMMISSIONER GABRIEL: And you say, Ms Mabandla, that this was part of implementing the TRC recommendations.

FORMER MINISTER MABANDLA: Yes. If we recall what President Mbeki said in his speech, about the true purpose of the Truth and Reconciliation Commission, that conceptually, it really was to build, it

was working towards building a new South Africa. Of course, without allowing impunity, we will come to that. I think I should make that caution first.

COMMISSIONER GABRIEL: Yes, thank you.

FORMER MINISTER MABANDLA: Thank you, Commissioner.

DR MUVANGUA: Would you read into the record paragraph 11, starts at page 134 of your document?

FORMER MINISTER MABANDLA:

10 “11. The Department of Justice was one of the
 leading departments responsible for implementing
 some of the TRC recommendations.
 Reparations, monetary and non-monetary, was
 one of the recommendations. An urgent matter
 when I joined the department as minister was the
 need to establish a TRC unit to facilitate inter-alia
 reparations. The unit would also work with the
 NPA and the South African Police on missing
 persons and exhumations. The TRC unit was
 established during my tenure.”

20 DR MUVANGUA: I am going to ask you a couple of questions there.
 On the question of reparations, where were the reparations payments
 administered from?

FORMER MINISTER MABANDLA: I must say that, and
 Commissioners were part of the TRC process, will recall, that there
 was the President's Fund at the beginning. You know, for me, I think

it is important, Chair, that we recognise the consciousness of the leadership at the time, because those were early days. Government had not as yet fully configured the costing of government in South Africa.

DR MUVANGUA: So, they were administered from... (intervenes)

FORMER MINISTER MABANDLA: That is at the beginning.

DR MUVANGUA: At the beginning?

FORMER MINISTER MABANDLA: So, during my term of office, in 2005, we implemented the TRC recommendation and we set up a unit
10 in the department. And Dr de Vie, or the first person to head the unit, was Ambassador Sikwe, and followed, of course, when he passed, by Dr de Vie.

COMMISSIONER KGOMO: Dr de Wee.

FORMER MINISTER MABANDLA: Pardon?

COMMISSIONER KGOMO: "De Wee", Dr de Wee.

FORMER MINISTER MABANDLA: I must say De Wee. Thank you, Commissioner Kgomo. Dr.de Vie. The purpose, the importance of setting up that, apart from working out and being in consultation with other relevant departments on the actual budget, public
20 administration, if I may say, as well as Treasury, the most important task, I think, was for them to create a home for the victims.

They were supposed to implement the kind of policies that would allow for interaction between government and the victims. They were also to work with other departments to implement recommended programmes such as assistance, education

assistance, to young persons of the children of victims. They were also supposed to assist with the question of missing persons, working with the NPA and the Police.

They were supposed to facilitate such activities that would lead to exhumations and/or identifying where remains of people would have been.

DR MUVANGUA: Right. The next segment of your statement deals with the summons. In other words, you are here because you were invited by the Commission to come here. The summary of the
10 summons is set out in paragraphs 13, 14, and 16 of your statement. If you could please read into the record, read paragraph 13, which is at page 135.

FORMER MINISTER MABANDLA:

“13. On 13 August 2026, the Commission issued a summons to me to appear before it for purposes of giving evidence before the Commission on all matters relating to the Commission's terms of reference, of which you have knowledge, and in addition being
20 questioned about matters arising from the relevant parts of the affidavit/statements and the transcripts of the evidence listed in Annexure A to the summons.”

DR MUVANGUA: You can read paragraph 14. Just do not forget to signal each time.

FORMER MINISTER MABANDLA:

“14. I am aware that the Commission was established on the back of an application by families and victims of apartheid-era crimes in the Gauteng Division of the High Court. In that application, the applicants seek declaratory orders and constitutional damages for the failure to investigate or to prosecute cases identified in the Calata matter... (intervenes)”

10 CHAIRPERSON: No, identified by the Truth and Reconciliation Commission.

FORMER MINISTER MABANDLA: Sorry. Sorry. Thank you, Chair.

“by the Truth and Reconciliation Commission and referred to the National Prosecutorial Authority for Investigation and Prosecution.”

DR MUVANGUA: Please read paragraph 15 through 16, page 136.

FORMER MINISTER MABANDLA:

20 “15. I note that the summons does not require me to make the statement, but I nevertheless do so in the hope that it will be of assistance to the Commission.

16. The summons does not set out a formal list of questions for me to respond to.”

DR MUVANGUA: That is paragraph 16.

FORMER MINISTER MABANDLA: Yes, paragraph 16. My

apologies, Chair.

“I also note that the evidence in Annexure A comprises:

16.1 An affidavit deposed by Dr Mashua Silas Ramaite SC, Dr Ramaite, dated 26 November 2025, and

10 16.2 Extracts from a transcript of the oral evidence given by Mr Ramaite, by Dr Ramaite, on 23 February 2026. Dr Ramaideh testified that on 11 November 2004, while arrests and prosecutions in the attempted murder of Reverend Chikane were imminent, I called him and instructed him that all TRC cases must be placed on hold, until the development and adoption of prosecutorial guidelines. Dr Ramaite testifies that he expressed concern to me that the instruction interfered with prosecutorial independence. However, so his testimony went, I insisted that the TRC cases be put on hold
20 pending the adoption of the guidelines. He testified further that based on that instruction, he in turn instructed Advocate Ackerman SC, that is Ackerman SC, that the investigation and prosecution of all TRC cases must be put on hold pending the development and adoption of the

guidelines. No further prosecution of TRC cases took place, he said.

16.3 Extracts from a transcript of the oral evidence given by Ackerman SC, on 5 March 2026, Ackerman SC testifies that on the morning of the arrests, he received a call from Mr Wagenaar, the perpetrator's attorney in the Reverend Chikane's murder, who informed him that I would contact him, that is Ackerman SC, to
10 instruct him that the case against the accused in the Chikane attempted murder case should be placed on hold.

He testifies further that shortly thereafter he received a call from an official in my office who informed me that a decision had been taken to put the case on hold. He testified that he does not know who this official was, but that he informed him, the official, that I did not have the power and the authority to give such an
20 instruction. Only the National Director of Public Prosecutions could give him such an instruction.

A few minutes later, Dr Ramaite called him to his office and informed him that he had received a call from me instructing him not to proceed with the Chikane attempted murder case and to put all

investigations and prosecutions of the TRC cases
on hold.”

DR MUVANGUA: Thank you. The next segment of your statement deals with the actual allegations against you. As you say, they are discerned from Annexure A to the summons. If you could please read from paragraph 17, which is at page 137, through to paragraph 19 of your statement, please.

FORMER MINISTER MABANDLA:

10 17. As discerned from Annexure A to the
 summons, I am alleged to have,

17.1 Instructed Dr Ramaite that all TRC cases
 must be placed on hold until the development and
 adoption of prosecutorial guidelines.

17.2 Disregarded Dr Ramaite's concern to me
 that the instruction interfered with prosecutorial
 independence.

18. It is alleged that based on the instructions,
 no further prosecution of TRC cases took place.

20 19. I will address each of these allegations in
 turn below after I locate the briefing on TRC
 matters, on my appointment as minister and the
 amended prosecution policy.”

DR MUVANGUA: The next segment of your document is called ‘Orientation regarding the TRC cases’. And this you deal with in paragraphs 20 to 24. If you could please read those into the record.

from page 138.

FORMER MINISTER MABANDLA:

10 “20. Shortly after my appointment, I met with
the National Director of Public Prosecutions
Mr Bulelani Ngcuka for him to orientate me on the
work of the NPA. Mr Ngcuka appraised me on
the NPA's work generally and the challenges that
it was facing at the time. One of the challenges
that he raised was the need for more funding to
enable the NPA to do its work.

21. On TRC cases, he advised me of the
establishment of the Priority Crimes Litigation
Unit, the PCLU. The PCLU was a specialised
unit within the NPA that was established in 2003
to manage investigations and prosecutions
relating to priority crimes of national and
international concern. The TRC cases had been
classified as priority crimes by Mr Ngcuka to be
dealt with by the PCLU. During this meeting, he
20 introduced me to Advocate Ackerman SC, who
had been appointed by presidential proclamation
to head the PCLU.

22. When Advocate Ackerman was introduced
to me, he stated that he would be impartial and
he would prosecute ANC and apartheid officials

alike. I told him that he should do his work as he saw fit.”

That is paragraph 22.

DR MUVANGUA: I just have a question for you there. Do you know why Advocate Ackerman would have felt the need to say that to you?

FORMER MINISTER MABANDLA: No.

DR MUVANGUA: To say that he would prosecute both the ANC and the apartheid... if you could just read that again please. You said when, I will read it, do not worry. You said:

10 “When Advocate Ackerman was introduced to me, he stated that he would be impartial and would prosecute ANC and apartheid officials alike.”

Why did he say that to you?

FORMER MINISTER MABANDLA: I do not know why he said so.

COMMISSIONER GABRIEL: Sorry, Doctor, Ms Mabandla, do you have a distinct recollection of those words?

FORMER MINISTER MABANDLA: Absolutely.

COMMISSIONER GABRIEL: After all these years?

20 FORMER MINISTER MABANDLA: I rechecked them. I did consult because I informed Mr Ngcuka, my former NDPP, that I am preparing my affidavit and I recalled these words. Does he remember them? He said it is true, he does remember them. But to answer the question, I really do not know why he said that.

DR MUVANGUA: You then said that I told him that he should do his

work as he saw fit. What do you mean by that?

FORMER MINISTER MABANDLA: I meant that he is the professional person there. He should act in accordance with the law.

DR MUVANGUA: You can carry on to paragraph 23, please?

FORMER MINISTER MABANDLA:

10 23. In his witness statement before the Commission, Mr Ngcuka explains that after assessing, inter alia, the sufficiency of the evidence and prospects of a constitutionally compliant prosecution, the PCLU identified about 21 cases warranting further investigating.

 24. Mr Ngcuka resigned as NDPP in July of 2004. Dr Ramaite, who was then the deputy and national director of public prosecutions, responsible for the PCLU, was appointed as the acting NDPP until the end of January 2005. I do not recall whether Dr Ramaite briefed me regarding the TRC. In other words, updated me. I do not remember whether there was a follow-up
20 after Mr Ngcuka.”

DR MUVANGUA: To the extent that you would be given updates generally, not necessarily on these cases, what form would such updates take from the NPA to the minister?

FORMER MINISTER MABANDLA: Just normal briefings, just updates to say where they are without going into detail. As it

happened, that was my experience with Mr Ngcuka when he was NDPP.

COMMISSIONER KGOMO: Is it now oral briefings or... (intervenes)

FORMER MINISTER MABANDLA: Oral briefings.

COMMISSIONER KGOMO: Not the memorandum? Not by way of a memorandum?

FORMER MINISTER MABANDLA: That is a very good question, Commissioner. There is this fine line between the extent to which you can actually demand, but you need to have to be abreast, to be
10 updated in order to interact with parliament and also in order to interact with colleagues in the JCPS cluster, to brief them on important developments.

COMMISSIONER KGOMO: And would you make your own notes? I mean, just... (intervenes)

FORMER MINISTER MABANDLA: Of course.

COMMISSIONER KGOMO: So that you can refresh your memory from the discussions or interaction?

FORMER MINISTER MABANDLA: Yes, indeed. That is how it happens. When you are briefed, you take notes so that you can
20 make informed presentations to colleagues at the right platform.

COMMISSIONER KGOMO: Yes, thank you.

DR MUVANGUA: I just want to understand the explanation carefully to Commissioner Kgomo's question. When you were getting the briefings from Mr Ngcuka, what form did they take? Was it oral, was it written, or was it something else?

FORMER MINISTER MABANDLA: It was oral.

DR MUVANGUA: Did he come to your office for this, or how did that work out?

FORMER MINISTER MABANDLA: Yes, they made an appointment and came to the office. They made an appointment, and he did inform me that he would be coming to come and brief me about the work of the NPA, and so he did. But I do think I should supplement my answer by saying what is the usual process, interaction with the NDPP's office.

10 When there are important issues that have to be raised, the NDPP would submit a memorandum. I cannot recall at this point what examples I can put across of memoranda that had come from NDPP's. But I do know that we would have had extensive consultations, the DG, the Deputy Minister, when we are preparing our annual report. Those were platforms where you could actually engage on issues with the intention, of course, of preparing for interaction and submissions to the Treasury should there be a need for funds for special projects.

DR MUVANGUA: In response to Commissioner Kgomo's question,
20 you said you would have kept a note of whatever you are being apprised of by, for example, Mr Ngcuka. Where would you have kept such a note?

FORMER MINISTER MABANDLA: In my diary.

DR MUVANGUA: In your diary?

FORMER MINISTER MABANDLA: Yes, as we talk, I would be taking

notes, as is usually the case when there are formal consultations, because it was a formal consultation. I was a new minister, and he was there to brief me. Of course, through the usual routes, there would be technical documents that would come through that will require my attention, maybe before we proceed to the DG, who then was our Treasury connector, a person who worked closely with other DGs and with the treasury for extra fundings that may be required by the different sections of the department, including the NPA.

DR MUVANGUA: Yes. These diaries, what did you do with them
10 when you vacated office? What did you do with your diaries when you ceased being minister of, for example, the Department of Justice? Where are the diaries?

FORMER MINISTER MABANDLA: So, diaries are usually in every ministerial office, and they are for noting, for daily work, for assignments, for appointments.

DR MUVANGUA: Yes, but what did you do with yours when you left office?

FORMER MINISTER MABANDLA: I left them in the office.

DR MUVANGUA: I beg your pardon?

20 FORMER MINISTER MABANDLA: I left them in the office for continuity and archiving.

DR MUVANGUA: Okay. Now, you made ... (intervenes)

COMMISSIONER GABRIEL: Sorry, Doctor.

DR MUVANGUA: Yes.

COMMISSIONER GABRIEL: And those are the ones you say you

asked the Department of Justice for, but they could not help you?

Your diaries?

FORMER MINISTER MABANDLA: Yes, I do not... Commissioner, I would not put it like they were reluctant. They were very helpful, but they could not find my diary.

COMMISSIONER GABRIEL: Okay, thank you.

FORMER MINISTER MABANDLA: My table diary, if I may say.

DR MUVANGUA: If I am permitted, Ms Mabandla said two things at the outset when she was commenting on paragraph 9 of her
10 statement. She said that, if I understood it correctly, and I do not
wanna conflate, she herself tried to get documentation from the
department, and her lawyers also tried to get documentation from the
department, just to clarify that.

Now, Ms Mabandla, excuse me, you spoke of communicating with the NDPP on important issues. What form did such communication typically take on these important issues?

FORMER MINISTER MABANDLA: I just want to make an example that is different. When there is interaction on ordinary daily working activities and programmes, so in that sense, you would have those
20 kind of frequent meetings to discuss matters of that kind. For example, if there is going to be a parliamentary presentation, there would be a meeting preceding that, where we would discuss, first, what is going to be taken to parliament? What are the issues that are going to be tabled before parliament? What is our approach? And if there were questions that were prepared by parliament for the

minister's attention before, we would address that.

I would be assisted by specialists in different units. The Department of Justice employs professional persons, fully qualified in the work that they do. And so you would be assisted to answer the questions that parliament is putting to you as minister. Is that a good example, Chair?

DR MUVANGUA: I understood the illustration, but I think the client, the customer is the panel. So it might be good to canvas that with them, whether that is satisfactory. Oh, you understood it?

10 CHAIRPERSON: Yes.

DR MUVANGUA: I beg your pardon, my assistant is writing a note. Thank you, Chair. And Ms Mabandla?

FORMER MINISTER MABANDLA: Yes.

DR MUVANGUA: I will come back to this question. Let us move along.

COMMISSIONER KGOMO: The next- Your assistant is confusing you.

DR MUVANGUA: No, no, no, my assistant is not. He is very helpful. I will have you know that, Commissioner. I am indebted to my
20 assistant. In the next segment of your statement, you deal with the amended prosecution policy. And that you do in paragraphs 25 to 27 of your statement. If you could please read into the record paragraphs 25 and going of that, and I will stop you where I have questions. They start at page 139.

FORMER MINISTER MABANDLA:

25. Dr Ramaite spoke about prosecutorial guidelines in his evidence.

COMMISSIONER KGOMO: Yes, let us say the amended prosecution policy. And then it goes section 1795, sub 5, sub A and B of the Constitution. Then you can proceed to 25.

FORMER MINISTER MABANDLA: Thank you, Commissioner Kgomo. Section 1795 (A) and (B) of the constitution.

25. Dr Ramaite spoke about the prosecutorial guidelines in his evidence.

10 26. I assume that he meant the amended prosecution policy, which introduced prosecution policy and directives to deal with prosecution of cases arising from conflicts of the past, which were committed before the 11th of May, 1994. Amended prosecution policy.

20 27. The amended prosecution policy was introduced with the provisions of section 1795 (A) and (B) of the Constitution in mind. These provisions state that the NPA, with the concurrence of the minister of justice and after consulting with the directors of public prosecutions, must determine a prosecution policy, which must be observed in the prosecution. This Constitutional duty is further entrenched in section 21 of the National

Prosecuting Authority Act 32 (1998) NPA Act.”

DR MUVANGUA: Ms Mabandla, I am gonna stop you there because I have a few questions there. So you just read paragraph 27. I want to understand from you what you understood your role to be as minister. In other words, what did you understand the role of the minister in light of the provisions of section 179 of the Constitution as you just read them, as read together with the NPA Act?

FORMER MINISTER MABANDLA: I think it really means that in accordance with the law, the responsibility to prosecute and even to
10 design prosecutorial policy should be initiated by the prosecutor. The minister is there for concurrence. I understood it in that way.

DR MUVANGUA: And so you said you understood your role to be of agreeing, concurrence, is that correct?

FORMER MINISTER MABANDLA: Yes, that is how I understood my role.

DR MUVANGUA: But you had to apply your mind. on the proposed policy.

FORMER MINISTER MABANDLA: Yes, you had to apply your mind on the proposed policy.

20 DR MUVANGUA: Yes.

FORMER MINISTER MABANDLA: Yes, but really, the real cog is the prosecutor.

DR MUVANGUA: Yes.

FORMER MINISTER MABANDLA: Yes.

COMMISSIONER GABRIEL: Can I ask a clarification question?

Could you disagree with the amended prosecution policy and therefore not concur? After applying your mind.

FORMER MINISTER MABANDLA: You would seek clarification.

DR MUVANGUA: Sorry, I must apologise to you. I did not hear the question.

COMMISSIONER GABRIEL: Oh, are my mics not on?

DR MUVANGUA: Your mic is 100% on, I just did not hear it.

COMMISSIONER GABRIEL: Something's going wrong, Doctor.

COMMISSIONER KGOMO: Do not switch off your microphone, the
10 second microphone is off.

DR MUVANGUA: That is probably the problem.

COMMISSIONER GABRIEL: So you spoke about the need to concur.

FORMER MINISTER MABANDLA: Yes.

COMMISSIONER GABRIEL: With prosecution policy. After applying your mind, if you did not like the amendments, could you have disagreed? In other words, not concur?

FORMER MINISTER MABANDLA: You know, the environment is that of cooperation. And the experts are there. For example, with a prosecutorial policy, in truth, they were the best of our brains that
20 were working on this. I would ask questions, of course, for clarification, so that I can be able to defend the policy. But they were the drafters. They were the thinkers. They were in consultation amongst themselves as experts, as they were required, you know, by the law, but also by circumstances, the current circumstances, what they were curing, you know. What was the challenge? They had to

address the challenge.

CHAIRPERSON: Yes. Doctor?

DR MUVANGUA: Yes, thank you, Chair. So you spoke of expertise, but how did it actually work in your office when you were invited to, when it was your moment of concurring or otherwise to policy? How did that play out in your department? Did you?

FORMER MINISTER MABANDLA: Okay. I will explain that this particular policy as it were unfolded, but I do want to explain how we really worked. My office, in my office, I had recruited, I had
10 professional persons. My personal advisor immediately in the office was an advocate, a young advocate. All of the people in the offices were assigned to the duties for which they qualified. And that was the requirement of the Public Service Directives. So you had to do that kind of thing.

So what would happen is that if we are having a big event, a big occasion, the conversation will start with me and my office staff. And each of them, I am just saying, just normally how we worked would make inputs. And that is the small, that is not the big departments now. I am talking about the workings in an office. The
20 diary person will be directing me to what is of importance and that kind of thing.

I know that is not quite the question you are asking. You are asking the bigger question. But we had a department, a diary. A minister has a diary for the department. So you will be appraised of the work that is done by specialist units within the Department of

Justice. And there would be a calendar for that. And they will be coming to give you proper briefings about what they are doing. And they will even forecast. They will be so confident that they know their terrain. So they will be briefing you.

Now, when we come to the question directly that you are asking about the prosecutorial policy, the prosecutor, when I came into the Justice Department, the Justice Cluster, I assume that what is called the task team was drawn from the Justice Cluster. My, at the time, Advocate Pikoli was the DG. I found him as the DG of Justice at
10 the time. And they had begun the process of working out the guidelines. So when I came into the department, I was properly briefed. There was a time when I was properly briefed.

Now, my memory disappoints me because I am so old, and it is many years ago. I would be able to give you the details of those particular meetings relating to the prosecutorial policy. I cannot recall them. I was looking for notes that were probably in the department that could have reminded me of exactly what happened when the timetable.

CHAIRPERSON: Minister Mabandla. If I may come to your
20 assistance.

FORMER MINISTER MABANDLA: Yes, Chair.

CHAIRPERSON: In agreeing with the amended prosecutorial policy that would have been tabled by the National Director, you would rely on the professional assistance of the people who supported your office.

FORMER MINISTER MABANDLA: Absolutely, Chair.

CHAIRPERSON: And they would be the ones to advise you on whether to agree or not with the policy.

FORMER MINISTER MABANDLA: Absolutely, Chair.

CHAIRPERSON: Yes.

DR MUVANGUA: Thank you, Chair. I am mindful of the o'clock.

CHAIRPERSON: Yes.

10 DR MUVANGUA: I wonder if I could get an indulgence, just to close off this section, just two more paragraphs that Ms Mabandla could read into the record.

CHAIRPERSON: Yes.

DR MUVANGUA: And then with your leave, we could adjourn for tea.

CHAIRPERSON: Yes.

DR MUVANGUA: Ms Mabandla, if you could please read paragraph 28 and 29 into the record.

FORMER MINISTER MABANDLA:

20 28. It is generally accepted that the policy was introduced in light of President Mbeki's statement to Parliament and the nation on the occasion of the tabling of the report of the Truth and Reconciliation Commission on 15 April 2003. In his speech, President Mbeki, inter alia,

28.1 Made it clear that there would be no general amnesty.

28.2 Emphasised the fact that many people

who participated in the past conflicts did not take part in the TRC process.

28.3 Instructed that further processes should be left in the hands of the NPA for it to prosecute cases worthy of prosecution.

10 28.4 As part of this process and in the national interest, the NPA, working with the intelligence agencies, will leave its doors open for those who are prepared to divulge information at their disposal and to cooperate in unearthing the truth for them to enter into arrangements that are standard in the normal execution of justice and which are accommodated in legislation.

28.5 In each case where any legal arrangements are entered into between the NPA and particular perpetrators, as proposed, the involvement of the victims will be crucial in determining the appropriate cause of action.

20 29. The amended prosecution policy was intended to give effect to President Mbeki's proposals.

CHAIRPERSON: If I may just interpose there, Dr Muvangua? Former Minister Mabandla, the amended policy was intended to give effect to President Mbeki's speech of 15 April, 2003. Does it mean that the policy only related to persons who had not participated in the

TRC process?

FORMER MINISTER MABANDLA: My understanding, Chair, at the time, was that there were a lot of people that were left out. It was the time when there were still ripples of incidents. No, I should not call them ripples, in places like KZN, that many of the people on the ground who had been involved in the conflict had not approached the TRC. And some were in political formations, but they had not done so, they had not. Chair, I do want to share with you. My shock when I went to Parliament to talk about prosecution and what is to be done
10 about the unfinished business, and I am not talking about the TRC. You see, there was a clear understanding that prosecutions that had been worked at, and that is why Mr Ngcuka, would come to me and tell me that this is it, we are getting ready for prosecutions. Because that was the decision in government, generally, that that should happen.

But there was the unfinished business of people who were in Parliament, whose organisations were in Parliament, but had not gone to the TRC. And I had been, I was pulled left, right, and centre. I was looking for information of that kind, by the way, partly when I
20 was approaching the department, because there had been a lot of submissions that were made to me to say, why are you, you cannot leave us out, you cannot do this and all of that. So that is how I understood the guidelines to prosecutions.

CHAIRPERSON: Yes. Dr Mvangwa?

DR MUVANGUA: Yes, I took too much of the Commission's time,

and for which I apologise. I wonder if this might be an opportune moment to take the tea adjournment?

CHAIRPERSON: Yes, we will take a tea adjournment, and reconvene in 15 minutes time. The time now is 11:08. Dr Muvangua.

DR MUVANGUA: Yes, Chair.

CHAIRPERSON: You are a good mathematician. At what time are we supposed to reconvene?

DR MUVANGUA: I do not want to implicate my lack of mathematic skills, Chair. But we will be back in 15 minutes from the o'clock.

10 CHAIRPERSON: 11:25 would be an appropriate time to reconvene. We are adjourned.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Dr Muvangua?

DR MUVANGUA: Thank you, Chair. I promise to move along to the next segment, but before I do that, there are just two things I need to clear up. The first is, should be without controversy, paragraph 27 of the statement. The heading, Commissioner Kgomo, is "Section 179(5)(a) and (b) of the Constitution". Paragraph 27 quite literally
20 summarises the law, and there is an error in the summary. The summary refers to the NPA. The correct reference should be to the NDPP.

CHAIRPERSON: Yes.

DR MUVANGUA: The second thing I wanted to clarify must be done through the witness, Ms Mabandla.

EXAMINATION BY DR MUVANGUA (CONTINUED): Ms Mabandla,

we had a conversation earlier about, in paragraph 24, you said that you did not recall, you said the following:

“I do not recall whether Dr Ramaite briefed me
regarding the TRC cases.”

That sentence led to a conversation between you and I and the Commissioners, where you said, for example, how Mr Ngcuka would have given you briefings on what is happening in the NPA space. You also said that when it came to, typically this would take the form
10 of meetings with yourselves where you keep a note and so on. You also said, and if I misunderstood your evidence, you will please correct me, that the NPA would sometimes write memoranda to your office when it pertained to important issues and so on. How did your office communicate important issues to the NPA? Was it also through memoranda or was it something else?

FORMER MINISTER MABANDLA: They had no standing in that, Chair. They would not communicate, they had no reason to communicate. They were officials of the Department of Justice as a whole.

20 DR MUVANGUA: No, no, so I must apologise. I meant if you needed to communicate an important issue to the NPA, did you ever need to communicate important anything to the NPA, to the NDPP?

COMMISSIONER GABRIEL: Let us say you wanted to send a message to the NDPP or the NPA, how would you do that?

FORMER MINISTER MABANDLA: I would talk to my diary person to

make an appointment and have the consultation because it would not, I think there are two ways of doing it. There would be policy matters or outstanding matters or routine matters that are addressed either through Parliament or the executive in general or whatever.

In that case, I would have a proper formal meeting that is diarised for that kind of consultation. But let me explain, Chair, that you know, I had known the NDPPs that I had prior. I had worked and known Mr Bulelani Ngcuka many years back. He was in the NC's constitutional committee in the early years, in the 80s, and when I
10 was at UWC, when we were working now, preparing, doing work around the Constitution, he was part of that team.

So it would have been easier for me to call him because it was somebody I was familiar with.

CHAIRPERSON: Yes.

FORMER MINISTER MABANDLA: And with Adv Pikoli as well. I know Adv Pikoli from Lusaka. In the later years before we returned into the country, he is one of the people who actually joined the Department of Legal Services of the ANC.

COMMISSIONER GABRIEL: So you knew them well enough to just
20 pick up the phone?

FORMER MINISTER MABANDLA: Yes, to call. Absolutely.

COMMISSIONER GABRIEL: Thank you.

CHAIRPERSON: So there was no need for you to send a memorandum?

FORMER MINISTER MABANDLA: If there is a small query of

something and I wanted a conversation, or there was a matter that was before Parliament, and I wanted to improve on my submission, and I needed input from them, I would do that, easily call them to my office.

By the way, government, it is very strict to be – in the JCPS cluster, security is paramount. So you can be very careless with the way you communicate important things. Just as an addition to that question and extension, to explain it further.

COMMISSIONER KGOMO: Yes, for my purposes, would they know,
10 for instance, why you were calling them before they came so that they could come prepared, if necessary?

FORMER MINISTER MABANDLA: I do not, you know, in those years there were no, I do not remember having a cell phone. I think I was given a Nokia as a gift. I was not, I was not, I was not at a station where there were phone calls where you could take as a secretary. They were assigned persons for specific functions.

So it is traceable, because I would have to act through an official in my office. It would have been absolutely abnormal if you, if as a minister, you know, sending messages like that.

20 COMMISSIONER KGOMO: Yes.

CHAIRPERSON: Yes.

FORMER MINISTER MABANDLA: Thank you, Chair.

CHAIRPERSON: Dr Muvangua?

DR MUVANGUA: Yes, thank you so much, Chair, for the indulgence.

CHAIRPERSON: I am not sure if your question has been answered.

DR MUVANGUA: I think she did.

CHAIRPERSON: Yes. Thank you.

DR MUVANGUA: She did.

COMMISSIONER GABRIEL: So do you want to move on to where you were?

DR MUVANGUA: I do. I get the sense, Chair, that you might not, you might need, you might not have been ...(intervenes)

CHAIRPERSON: No, I am quite happy with the response.

DR MUVANGUA: Okay. All right. So this next segment, Ms
10 Mabandla, of your statement deals with ...(intervenes)

CHAIRPERSON: Before you do that, is it not so, former Minister Mabandla, that if you would want to set up a meeting, someone from your office would arrange that meeting and would probably tell them what the purpose of the meeting is?

FORMER MINISTER MABANDLA: Absolutely true, Chairperson.

CHAIRPERSON: Yes. Thank you.

DR MUVANGUA: Thank you so much, Chair. The next segment of your statement deals with the development and the promulgation of the "amended policy". That you will find is in paragraphs 30 to 37 of
20 the statement, and it starts at page 140. As per usual, I would invite you to read the paragraphs. Each time, call out the paragraph that you are reading. And if I have questions, I will just stop and ask my question. All right.

So would you please read paragraph 30 and going into the record? Do not forget to read the heading for Commissioner.

FORMER MINISTER MABANDLA: Chairperson,

“The development and promulgation of the amended policy.

30. I do not recall much about the process that preceded the adoption of the amended policy. However, I recall that when I started as Minister in 2004, the amended policy had not yet been passed, but it was in the process of being developed. Adv Vusi Pikoli was the Director-General of the Department of Justice. I have had regard to Ackermann SC and Adv Pikoli's respective affidavits, deposited to in the high court in the matter of *Nkadimeng and others v The National Director of Public Prosecutions and others* (32709/07) [2008] ZAGPHC 422 (12 December 2008). In his affidavit, Adv Pikoli explains that in his capacity as the Director-General in the Department of Justice, he was previously involved in the formulation of a policy to deal with the TRC cases. He explains that on the 23 February 2004, he chaired a Director-General's forum, which appointed a task team to report on a mechanism “to give effect to the President's

10

20

objectives". It is unclear whether the policy he refers to is the Amended Prosecution Policy."

DR MUVANGUA: Sorry, I am just going to stop you there. There is an error, Chair, in paragraph 32, and again, this I hope is without controversy, that I should correct it. The correct *Nkadimeng* case is that of case number (36554/15), and not the 2008 one. Thank you. You may proceed to read from paragraph 33 at page 141, please.

FORMER MINISTER MABANDLA:

10 "33. In a statement issued by Adv Pikoli on the 24 January 2006, he explained that after the President's 2003 statement in Parliament on the receipt of the final volume of the TRC report, and realising the importance of the NPA to deal with these matters on a uniform basis in terms of specifically defined criteria, the NPA:

20 33.1 started a consultation process to determine uniform prosecuting policy to deal with criminal matters arising from conflicts of the past.

33.2 consulted with other law enforcement agencies, relevant departments, the Minister of Justice and Constitutional Development, the Director of Public

Prosecutions, and unit heads within
the NPA.”

DR MUVANGUA: I wanted to just get clarity from you there. 33.2.
Is that how policy and legislation were processed, or is that a different
system followed in government?

FORMER MINISTER MABANDLA: Chair, the ordinary practice in
government is that within a department, relevant sections or units of
the department will be consulted on the policy as it affects their work.
So, in this case, it made perfect sense that the JCPS cluster would
10 have been part of the consultation, and our units, the drafting, the
legislation and drafting unit that Adv De Lange, as Deputy Minister
was heading and in charge of that people with a kind of speciality of
drafting and writing, would have been involved in this.

And correctly, consultation with the DPs, because they are the
implementers eventually of the policy and this was ...(intervenes)

COMMISSIONER KGOMO: There were two De Lange's, which De
Lange?

CHAIRPERSON: Deputy Minister.

FORMER MINISTER MABANDLA: The Deputy Minister, Adv De
20 Lange.

COMMISSIONER KGOMO: Okay.

FORMER MINISTER MABANDLA: Yes.

DR MUVANGUA: Would you please carry on with paragraph...

FORMER MINISTER MABANDLA: Paragraph 34.

DR MUVANGUA: Please, I beg your pardon. My assistant is

assisting. There was reference made to Adv Pikoli's statement, and there is a reference there, footnote dropped there, footnote three, at the foot of the page. We actually have copies of that statement and beg the Chair's leave to hand them up?

CHAIRPERSON: Yes, you may.

DR MUVANGUA: Thank you.

CHAIRPERSON: Shall we assign an exhibit number to this?

DR MUVANGUA: Yes, please.

CHAIRPERSON: Yes. What number?

10 DR MUVANGUA: I think we should rely on the Secretariat. Oh, okay. I am told it is the number after the supplementary, so why do we not call it 184BH. Thank you. For right now, we will not do anything with the exhibit, but we just needed to have it placed on record.

CHAIRPERSON: Yes.

DR MUVANGUA: We may return to it in a moment. Right. Ms Mabandla, if you could please read paragraph 34 of your statement at page 142.

FORMER MINISTER MABANDLA:

20 "34. During the middle of 2005, a draft Amended
Prosecution Policy was submitted"
...(intervenes)

DR MUVANGUA: No, no. Would you please just read the whole paragraph from the beginning?

FORMER MINISTER MABANDLA: Oh. My apologies, Chairperson.

“34. He stated further that:

‘During the middle of 2005, a draft Amended Prosecution Policy was submitted to the Minister for her approval as required by the provisions of the Constitution and the NPA Act. The Amended Prosecution Policy was submitted to Cabinet for its information and towards the end of the last year, the policy was tabled in Parliament by the National Director and the Minister. This Amended Prosecution Policy came into effect on the 1 December 2005.’”

DR MUVANGUA: Do you agree with what is written here, what you just read in paragraph 34?

FORMER MINISTER MABANDLA: Chairperson, I do agree.

DR MUVANGUA: Would you please then carry on reading?

FORMER MINISTER MABANDLA:

“As to the rationale”

Oh, 35, at 35.

20 “35. As to the rationale for the amended policy, he stated that, it served the important purpose to centralise the TRC cases in the office of the National Director for the following reasons. To ensure that”

That is 351, sorry.

DR MUVANGUA: Sorry, can I just pause you there? Because I would like to invite the Commissioners to follow, because you are summarising the statement. Is it not?

FORMER MINISTER MABANDLA: Yes.

DR MUVANGUA: If you could just... Give me a moment, please, Chair. So what I am doing, trying to do, is paragraph 35 is based on this statement ...(intervenes)

COMMISSIONER GABRIEL: That you handed up.

DR MUVANGUA: That I just handed up.

10 CHAIRPERSON: Yes.

DR MUVANGUA: And so as not to take up more time, I would have... It is on the second page, the pages are numbered, but this part of it, is where she lifts that summary from.

CHAIRPERSON: Yes. We see that.

DR MUVANGUA: Yes. Thank you, Chair.

CHAIRPERSON: Yes.

DR MUVANGUA: So but I will invite Ms Mabandla to, at any rate, read from her affidavit.

CHAIRPERSON: Yes.

20 DR MUVANGUA: Understanding that she lifts up from that statement that I handed up as an exhibit.

CHAIRPERSON: Ja.

DR MUVANGUA: Right. Please continue.

FORMER MINISTER MABANDLA:

“35. As to the rationale for the amended policy,

he stated that, it served the important purpose to centralise the TRC cases in the office of the National Director for the following reasons.

35.1 to ensure that there is consistency in decision-making;

35.2 the complexities implicit in these cases;

10 35.3 the PCLU is based within the Office of the National Director, and shall be responsible for overseeing the investigations and instituting prosecutions; and

35.4 senior designated officials of various departments and other components of the NPA will assist the PCLU in the execution of its duties.

20 36. I accept Adv Pikoli's account that the amended prosecuting policy was developed as part of a collaborative work by various departments, including the Department of Justice."

DR MUVANGUA: And over the page is paragraph 37, if you could please read that, page 143.

FORMER MINISTER MABANDLA:

“37. I also accept the reasons, as set out by him, for why it was necessary to develop the policy.

38. It is common cause that the Amended Prosecution Policy was reviewed and set aside in the *Nkadimeng* judgment. The Commission's Chief Evidence Leader, Mr Semenya SC, represented the government in that case.”

10 DR MUVANGUA: All right, I just have a few questions for you in this regard. You testified earlier on your role as Minister, when you made reference to the Constitution and the NPA Act. That role was one of concurrence as the language of the law. When it came to this specific policy, what process was followed in agreeing to it?

In other words, let me break it down for you. Who submitted the policy to you as Minister for concurrence?

FORMER MINISTER MABANDLA: Chair, I cannot recall specifically who did, but I presume, and I think I am correct because I am informed by the way matters that are going to be tabled before
20 Cabinet, the route they take. What would have happened is that the NDPP would have forwarded – they were working together anyway – would have forwarded the policy document to the DG to process through the usual channel.

It would have come to me, I would have put my signature in concurrence and if it was to be tabled in Cabinet, I would have been

the Minister that tables it on behalf of my Department of Justice.

DR MUVANGUA: You said the NDPP. Who was the NDPP in this particular period?

FORMER MINISTER MABANDLA: So, in my narration here, I trace the origins of this policy to the time when I was not in the Department, that it was drafted by a task team, so I was informed of assigned officials from different Departments and during my time as Minister, I found it within the NDPP now, when Adv Pikoli was now heading the NDPP and it is with him that I had discussions about the initial drafts
10 before we went to Cabinet, with him and the other officials that had been drafting in the Department.

DR MUVANGUA: All right, so my question was, who was the NDPP? What is the name of that person?

COMMISSIONER KGOMO: Doctor...

DR MUVANGUA: My apologies.

COMMISSIONER KGOMO: If you know, you can just state it. It is not controversial.

DR MUVANGUA: Oh yes, I give evidence from the bar. It is common cause it would have been Adv Pikoli.

20 COMMISSIONER KGOMO: Yes.

DR MUVANGUA: Is that correct?

FORMER MINISTER MABANDLA: Yes, it is correct. My NDPP was Adv Pikoli.

DR MUVANGUA: Thanks, I am indebted to you, Commissioner Kgomo.

CHAIRPERSON: Yes, and we have got to rely on the statement, on the document you have just handed to us now, which says that it is Adv Pikoli.

DR MUVANGUA: That is quite correct.

CHAIRPERSON: Yes.

DR MUVANGUA: Yes, that is quite correct. I am in your debt. Ms Mabandla, the next segment of your statement deals with your responses to the particular allegations against yourself. That, in the statement that you are looking at, is set out in paragraphs 39 to 45,
10 being pages 143 to 144.

I mentioned earlier, Chair, that Ms Mabandla prepared a supplementary affidavit, which was emailed to the Commission Secretariat at overnight.

CHAIRPERSON: Yes. That was quite late, Dr Muvangua, to have given us a supplementary affidavit of a witness who was going to give evidence the next day.

DR MUVANGUA: Yes, I accept that, and my apologies for that.

CHAIRPERSON: Yes.

DR MUVANGUA: The team apologises for the inconvenience
20 caused thereby.

CHAIRPERSON: Ja.

DR MUVANGUA: The circumstances that led to that, appear from the supplementary document itself.

CHAIRPERSON: Yes.

DR MUVANGUA: And to alleviate somewhat the inconvenience, I

will invite Ms Mabandla to read from various paragraphs of the supplementary affidavit, which explain why the change of gear from the document that we have been working through to now the supplementary affidavit, if that would be convenient.

CHAIRPERSON: Yes.

DR MUVANGUA: Now, the supplementary affidavit has been re-numbered, because I complained earlier. The correct pagination now is such that it commences from 184A, so it continues from the end of her original statement, of her original statement bundle.

10 COMMISSIONER KGOMO: And are you also going to deal with what we have to do with the paragraph 39 to the end of the statement?

DR MUVANGUA: Yes, this is all set out in the supplementary statement.

COMMISSIONER KGOMO: Yes. Okay. Carry on.

DR MUVANGUA: Perhaps... And thank you for that prompt, actually, because if you could please just read paragraph 39, only 39, at page 143. The heading, do not forget the heading.

FORMER MINISTER MABANDLA: The heading is:

20 "Response to the alleged phone call and instruction to Dr Ramaite

39. Dr Ramaite testified that I called him on the 11 November 2004 and instructed him that the prosecution of TRC cases are on hold, pending the development of guidelines."

DR MUVANGUA: Yes. Now, if I could please invite you to turn to your supplementary ...(intervenes)

CHAIRPERSON: No, before you do that, the supplementary affidavit deals with paragraph 41 of the main agreement. So read paragraph 40.

DR MUVANGUA: No, it deals from 40 onwards, Chair.

CHAIRPERSON: It deals with, where in the supplementary affidavit is it?

DR MUVANGUA: Oh, no, it does, it does. You are right, Chair.

10 CHAIRPERSON: I am correct. It is from 41.

DR MUVANGUA: So the difficulty is that there is an actual typo in paragraph 4 of the supplementary. 41 should refer to 40.

CHAIRPERSON: 40?

DR MUVANGUA: Yes.

CHAIRPERSON: Okay.

DR MUVANGUA: Yes, so then it is consistent when one has regard to paragraph 6 of the supplementary affidavit.

CHAIRPERSON: Yes, yes.

20 DR MUVANGUA: Now, if you could please turn to page 184A, which is the supplementary statement. I will invite you to turn over the page to read from paragraph 4. I will prompt you each time. Oh, I am told that they do not have a copy of the supplementary affidavit. I just ask for your indulgence for two seconds.

CHAIRPERSON: Yes.

DR MUVANGUA: Thank you, Chair.

happened.”

DR MUVANGUA: Sorry, can I just, just to keep the Commission with us, so this is a quotation lifted from the main statement that I was making to you

CHAIRPERSON: Ja, we are aware.

DR MUVANGUA: Yes, thank you, Chair.

FORMER MINISTER MABANDLA: Chairperson,

“41. As explained earlier interactions between myself and the NDPP is not foreign. I had also had prior interactions with Dr Ramaite.

42 Adv Vusi Pikoli had initiated the process of amending the prosecution policy whilst he was Director-General of the Department of Justice, as indicated above. Someone in Dr Ramaite's position, (that is what I say) would have been aware of the amendments and the rationale behind the prosecution policy amendments.

43. Since I had been briefed about the policy when I became Minister, I would have reminded Dr Ramaite of the pending policy amendments and would have advised him to wait pending the

prosecution amendments.

44. This was no way an act of political interference. As Minister, I shared responsibility in the development of the prosecution policy for the purpose of section 179 of the Constitution.”

DR MUVANGUA: Right. So you indicated in paragraph 4 what the purpose of this document is, would you please then read from paragraph 7, which is at page 184C.

10 FORMER MINISTER MABANDLA:

“7. The correct position is this: I deny that I instructed Dr Ramaite, as alleged. It is unheard of that a Minister would call to discuss a matter of this nature with an official over the phone. The ordinary method of communication is through a memorandum, sent from my office to the NDPP. That is the official way of work in most departments, including the Department of Justice. I also

20 would never have called Dr Ramaite for an instruction concerning the work of the NPA regarding who and when to prosecute.

8. As a Minister in the Security Cluster, the information concerning national safety and security was always treated as sensitive and

sacrosanct. Confidentiality in the security cluster was of paramount importance. Receiving and making phone calls about the work of that cluster was generally avoided because of the possibility of interceptions. For this reason, too, I would never have called Dr Ramaite about work that is a subject matter before the Security Cluster.

- 10 9. I also did not instruct Dr Ramaite to stop prosecuting TRC cases. I had no authority to give such an instruction.
10. I initially prepared a draft statement, which contained this denial. A copy of it, as sent to me by my attorneys, is attached as "BMSupp1."

DR MUVANGUA: And, Chair that supplementary, BMSupp1, is at page 184H.

FORMER MINISTER MABANDLA:

- 20 "11. After receiving and reading it, I was sure in my mind that I had not given such an instruction, but I became doubtful whether such a phone call may have occurred or not. This so because these events happened so long ago and my age is advanced. so I reached out to Adv Makhubela (via

WhatsApp, that was one of the advocates who was working with me in the department on our international relations desk), to try and confirm whether I was in the country on the 11 November 2004. A screenshot of that message is attached as “BMSupp2.””

DR MUVANGUA: That is at page 184U. Carry on please.

FORMER MINISTER MABANDLA:

10 “12 I also reached out to Mr Bulelani Ngcuka to assist me in jogging my memory generally about what he remembered working with me in the NPA, but specifically about the alleged phone call I made and the alleged instruction I gave to Ramaite. I then shared my draft statement with him via email. A copy of the email I sent to him, attaching my draft statement, is attached at “BMSupp3.”

20 13. I then had a meeting with Ngcuka on the 6 October 2026, in the presence of my attorney, Mr Dzedze, where he (Mr Ngcuka) said something along these lines:

“Sisi, you probably made the phone call, and you were well within your rights to call, and it takes the matter nowhere because you told him to wait and not to stop until the policy is

reviewed. You did not tell him to stop. You found the process on-going. The policy was finalised. It went to Cabinet and Parliament. It had to be implemented. It was within your power as Minister. You never said stop.”

14. This appears from the notes taken by my attorney. A copy of his handwritten and notes is attached as “BMSupp4”.

10 15. This continued to trouble me, and I kept telling my legal team that what I set out in paragraphs 40 to 44 of my main statement was not accurate. This issue arose again during the consultation in preparation for my oral appearance on the 21 October 2026. My attorneys went back to rule 3(3) notice, dated 19 September 2025. A copy of which is attached as “BMSupp5”.

16. Paragraph 250 of the rule 3(3) notice reads as follows.”

20 DR MUVANGUA: The rule 3(3) notice is at paragraph, sorry, page 184Y. You may continue to read.

FORMER MINISTER MABANDLA:

“On 3 May 2007, Pikoli and Ackerman appeared before the Justice Portfolio Committee in Parliament. The minutes, a

copy of which is annexed hereto marked FA34, reflect the following discussion in which Pikoli was remarkably frank about what was stopping the prosecutions of the TRC cases.

Discussion. Mr Joubert asked what was causing the delay in prosecutions of the TRC and when these might have been finalised.”

COMMISSIONER KGOMO: Can I suggest, Dr Muvangua, that you
10 read from there and relieve the Minister, if she was going to read this.

DR MUVANGUA: She was, I will happily read it.

COMMISSIONER KGOMO: Yes.

DR MUVANGUA: Thank you.

“Discussion. Mr Joubert asked what was causing the delay in prosecutions of the TRC and when these might be finalised. Adv Anton Ackermann, Special Director: NPA, replied that in October 1998 the TRC had recommended prosecutions. A Human
20 Rights Division was established in the NPA to evaluate the cases and to prosecute. When the DSO was created in January 2001, the Human Rights Division was disbanded and its work was transferred to the DSO. Adv Ackermann, when joining the

NPA, was given a mandate in March 2003 to declare priority crimes. All 400 TRC prosecutions had been immediately declared as priority crimes. In April 2003, the President had stated that there would be no further amnesty processes and ruled that prosecutions would be instituted and that a number of agencies must assist in the prosecutions. Adv Ackermann personally declined to prosecute 92 cases. 16 were identified for investigation and potential prosecution. **On 9 November 2004, Adv Ackermann was stopped when trying to arrest three security policemen and charge them with poisoning of identified people. Dr Ramaite had instructed him not to proceed with the arrest, but rather to formulate guidelines how prosecutions should be conducted.** This formulation took two years. In early 2006, the guidelines were approved. They did not make provision for a committee but stated that in the execution of the prosecution duties other agencies must assist. A Task Team was established, and a number of meetings were

held. Adv Ackermann commented that it was unfortunate that to date no meaningful results had been achieved from these meetings. **The Annual Report of 2006 also noted on page 4 that not much had been achieved, despite all the attempts to take this matter forward. He maintained that the PCLU was not the cause of the delays and suggested that perhaps the National Director of Public Prosecutions should comment further.** Adv Vusi Pikoli, **National Director of Public Prosecutions, added that this was a politically sensitive issue.** The legal process must solve the problem. **Whenever there was an attempt to charge members of the former police service, there was political intervention and effectively the NPA was being held the former generals.** On the other side, the families of the victims were pressing for prosecution. The guidelines were not universally accepted and some NGOs, including the Legal Resources Centre, wished to challenge the constitutionality of the guidelines. There were on-going

discussions as to how best to proceed. The President, in addressing Parliament, indicated clearly that the matters would be dealt with and so this was an on-going matter. The Chairperson stated that she was aware of some efforts from the Department of Justice. She asked that Adv Pikoli provide the Committee with a full report on the events to date in writing, so that the Committee could try to assist, as this clearly went beyond just the one case cited by Adv Ackermann. It was undesirable that these problems should still be delaying matters.’ (Bold added).”

10

I will now hand over to Ms Mabandla to carry on, if I may.

CHAIRPERSON: Yes.

DR MUVANGUA: Please continue from paragraph 17, page 184F.

FORMER MINISTER MABANDLA: Thank you, Chairperson, Commissioners.

20 “17 This quote is taken from rule 3(3) notice, but this passage from the rule 3(3) notice is taken from the Parliamentary Monitoring Group Meeting Report of the Justice and Constitutional Development Constitutional Committee dated the 3 May 2007, during

which various units of the National Prosecuting Authority briefed the Committee on their work done in 2006/2007. In this report annexed as “BMSupp6”, Dr Ramaite, Adv Ackermann SC and Adv Pikoli, provided reported back to Parliament on what the cause was for the delay in the prosecution of TRC cases. Adv Ackermann there told Parliament that:

10 ‘On 9 November 2004, [he] was stopped when trying to arrest three security policemen and charge them with poisoning of identified people. Dr Ramaite had instructed him not to proceed with the arrest, but rather to formulate guidelines how prosecutions should be conducted. This formulation took two years. In early 2006 the guidelines were approved.’

20 18. This shows, amongst other things, that Dr Ramaite had already stopped the arrest of perpetrators and thus the prosecution of TRC cases on the 9 November 2004, prior to the alleged phone call and instruction by me, which I deny, on the 11 November 2004. This was confirmed in the presentation to the

portfolio committee that I have referred to above. Dr Ramaite did not only stop the prosecution of TRC cases, but arrests of perpetrators as well.”

DR MUVANGUA: Chair, that is the end of the supplementary statements, together with its annexures.

CHAIRPERSON: Yes.

DR MUVANGUA: There is one more thing that I would like to canvas with Ms Mabandla, and it is going to be short. Ms Mabandla, there is
10 an aspect that came through the summary of the documentation from the Commission that you read out, and that aspect relates to Adv Ackermann SC. You do not quite directly deal with that in your statements, but I wanted some clarification questions or questions of clarity for you, for the record.

You have read Adv Ackermann's evidence that Mr Wagenaar, the attorney for the accused, told him that you would call. What is your response to that?

FORMER MINISTER MABANDLA: I totally deny, Chair, it is an untruth.

20 DR MUVANGUA: Why do you deny? Do you know Mr Wagenaar?

FORMER MINISTER MABANDLA: I have never even heard the name until I started reading those papers in preparation ... (intervenes)

CHAIRPERSON: But is it fair, Dr Muvangua, to put that question to your witness. I mean how would she have been privy to the

telephone conversation that happened between Mr Wagenaar and Dr Ramaite.

DR MUVANGUA: That is quite right, the question intended is actually whether she knows Mr Wagenaar.

CHAIRPERSON: Yes, ask that question in that fashion.

DR MUVANGUA: Yes, I did.

CHAIRPERSON: Yes.

DR MUVANGUA: Do you know Mr Wagenaar?

FORMER MINISTER MABANDLA: I do not know him. I have never
10 met him, Chairperson.

COMMISSIONER KGOMO: You heard about him?

FORMER MINISTER MABANDLA: No, I never even heard about him. I only came across the name and the story, the information around his name, only when I started reading documents in preparation for coming to the Commission.

CHAIRPERSON: Yes, Dr Muvangua?

DR MUVANGUA: Yes, the last question I have is, the narrative was that, an official from your office told him that a decision had been taken that to put the TRC cases on hold. What is your response to
20 that?

FORMER MINISTER MABANDLA: The officials that were in my office would never have done that. They had specific assignments, they would not have known about matters of the NPA in such detail. They would never have.

DR MUVANGUA: You read Adv Ackermann's evidence, has that

official from your department been identified?

FORMER MINISTER MABANDLA: No official from my department was identified in the story, Chairperson.

DR MUVANGUA: Could I please just have two moments?

CHAIRPERSON: Yes.

DR MUVANGUA: Chair, Commissioners, that concludes Ms Mabandla's evidence-in-chief for now.

CHAIRPERSON: Thank you. Thank you, Dr Muvangua. Ms Moroka?

10 ADV MOROKA: Chairs, I have already complained on numerous occasions that the seniority issue sometimes ...(intervenes)

COMMISSIONER KGOMO: You are talking to yourself, Dr Moroka, Adv Moroka.

ADV MOROKA: I was just complaining, Chair, that is all, but I do not have any questions.

CHAIRPERSON: You do not have clarificatory questions?

ADV MOROKA: I have no questions.

CHAIRPERSON: Yes, Mr Gwala?

20 ADV GWALA: Chairperson, no, we do not have clarification questions for this witness.

CHAIRPERSON: Yes, Mr Bruinders?

ADV BRUINDERS: Thank you.

CHAIRPERSON: If you could raise your voice, Mr Bruinders.

ADV BRUINDERS: Can you hear me, Minister?

FORMER MINISTER MABANDLA: Yes, I can hear.

ADV BRUINDERS: All right. So, Minister, I just want to check something, so, you have just read to us from that report, I think it is the "Parliamentary Monitoring Group Report", which said that Mr Ackermann for the first time had said that - oh, sorry, there he said on 9 November 2003, Ramaite talks to him about stopping prosecutions, 2004. Do you remember you have just read that now?

FORMER MINISTER MABANDLA: Yes.

ADV BRUINDERS: Now, I just want to check this, I understand that the first time that we learned that Ramaite said that you had given
10 him an instruction to stop prosecutions, the first time we learned about that, was in an affidavit by Mr Semenya, 26 November 2025.

COMMISSIONER KGOMO: You are saying "we" on behalf of?

ADV BRUINDERS: My team.

CHAIRPERSON: You say an affidavit by Mr Semenya.

ADV BRUINDERS: Yes.

CHAIRPERSON: By Mr Semenya?

ADV BRUINDERS: Yes, he refers to a consult with Mr Ramaite in his affidavit.

CHAIRPERSON: Yes.

20 ADV BRUINDERS: Do you understand what I have just put to you? The first time that I learned about this, was when in November last year, Mr Semenya refers to Mr Ramaite saying, look, I got an instruction from the Minister. That is when I first, when I learned that there was this allegation.

What I want to ask you is this, do you know of any allegation

by Mr Ramaite that he made before 26 November 2025, where he talks of an instruction by you?

ADV SOKHELA: Chair, the witness did not hear the question. Could Mr Bruinders just repeat it?

ADV BRUINDERS: Are you aware of any allegation by Mr Ramaite that surfaced before November last year, where he says that you had instructed him to stop prosecutions?

FORMER MINISTER MABANDLA: Chair, Chair, Commissioners, the question is whether I had been aware all along that Dr Ramaite had
10 made this accusation and my answer is that no, I really came to know about all this only now, as I read the bundles. Thank you.

COMMISSIONER KGOMO: Dr Muvangua, just switch off your other microphone, please.

ADV BRUINDERS: Nothing further.

CHAIRPERSON: Thank you, Mr Bruinders. Ms Mtshizana is not here. Is anyone online?

ADV MTSHIZANA: I am here, Chair.

CHAIRPERSON: Where are you?

ADV MTSHIZANA: I am online, Chair.

20 CHAIRPERSON: Oh, okay. Yes, Ms Mtshizana?

ADV MTSHIZANA: Thank you, Chairperson, no questions.

CHAIRPERSON: Yes.

ADV MTSHIZANA: Thank you.

CHAIRPERSON: Is there anyone online?

ADV RANTHO: That is correct, Chair. My apologies, I could not

attend in person, I am online. I just have one question for the former Minister, Chairperson, if I may proceed.

CHAIRPERSON: Is that Ms Rantho?

ADV RANTHO: Indeed so, Chairperson.

CHAIRPERSON: Yes.

ADV RANTHO: Good afternoon, Ms Mabandla.

FORMER MINISTER MABANDLA: Good afternoon.

ADV RANTHO: I only have one question for you or actually a question for clarification and that relates to evidence that was led
10 before the Commission to the effect that, at some stage during 2006/2007 that must have been late 2006/2007, some misunderstanding arose between the Director-General or heads of the departments, in relation to the extent of the involvement of the DG's forum in relation to the prosecution of the TRC cases.

It was further – there was further evidence led that a letter was then written to Adv Pikoli by the late National Commissioner Selebi, requesting that there be a meeting of the Director-General to resolve the impasse or misunderstanding that they had at the time. Now, in response to late Commissioner Selebi's letter was Adv
20 Pikoli's indication that he obviously disagreed or he sort of acknowledged that there was indeed misunderstanding, but he undertook to discuss the matter with you.

If I may just refresh Commissioner's memory, the letter of Adv Pikoli appears on page 1762 of the master bundle that is ANNEXURE PCJ16 of General Jacobs affidavit, Commissioners. In essence, what

Adv Pikoli said in that letter was that that issue was one of the things that were in the process of being discussed with the Minister, and at that time it was Minister Mabandla.

Now, my clarification question is, whether the Minister ever engaged with Adv Pikoli on that issue. And if so, I would also like to seek clarity from the Minister as to what was the way forward and agreed upon by either Adv Pikoli, or the Minister, or those that were involved.

FORMER MINISTER MABANDLA: Chairperson, thank you. I would
10 like to perhaps explain a few matters that are known by me. When I joined the Department, when I became Minister of Justice, the Security Cluster, the JCPS Cluster, where officials were working well together, the Chair at the time was the DG of Justice, and that was Adv Pikoli, and the deputy was Commissioner Selebi.

They had been in discussion about a lot of matters relating to security in the broad sense of the word. I was very new and learning, and truly new even to the issues that were under discussions at the time. My impression was that there was a strong bond amongst the cluster of DGs.

20 When Mr Bulelani Ngcuka left the NPA, it seemed appropriate then to have Adv Pikoli in that chair as NDPP, because then in my mind, my expectation was that there would be speed and harmonious work and high impact in exactly the implementation of TRC prosecutions.

So the question of their arguments with Selebi, here is what I

know about tensions between Pikoli and Selebi. During my time there, the Commissioner Selebi was indicted. And, Chair, this may be of interest to you. The channel was done properly. I got a memorandum from the NPA informing me that this was going to happen.

Now I am showing you the route of how documents are passed on. I then in turn wrote a formal memo to the President informing him that the Commissioner was to be indicted. What I know about the differences and conflict between the two, had to do with a
10 different matter.

And my understanding was that the NDP, there was an attempt at searching premises, which were state premises, in maybe part of gathering of evidence, I do not know, as it were, maybe that is, yes, as it happens. And that is where there was tension. That is what I remember.

And I did make an effort to try, as people who I had known before, to try and bring about an understanding.

COMMISSIONER KGOMO: Sorry, sorry, I do not want to interrupt you. During some evidence, some character issue surfaced and it
20 slipped through. I do not know whether you hear that evidence. If, please, in the conflict between the two, if that can be avoided, it should not be on record. I do not know whether you know about that.

DR MUVANGUA: My apologies for interrupting. I just was not clear on the caution, Commissioner Kgomo.

COMMISSIONER KGOMO: Yes, the conflict that was there

between... Okay, let us leave it because the Minister does not seem to know about it. Let us leave it there.

FORMER MINISTER MABANDLA: No, I do not know.

COMMISSIONER KGOMO: No, no, okay, carry on. Sorry to interrupt you.

DR MUVANGUA: But I just want to take care that this does not run... The answer was quite directed at the... He elicited this. I am not sure whether she should continue with the answer or whether it might be appropriate to not continue.

10 COMMISSIONER KGOMO: No, no, no, no. She must ignore what I said and carry on with Ms Rantho's issues. She can carry on.

FORMER MINISTER MABANDLA: Chairperson, I honestly do not know the kind and depth of quarrels amongst us.

CHAIRPERSON: Yes. Thank you. Ms Rantho?

ADV RANTHO: Thank you, Chairperson. If I may just clarify from the Minister that, if I heard her quite well, her explanation or clarification was that, the only misunderstanding that the Minister came across was the one that anything other than the involvement of the DG's Forum in relation to the TRC prosecution. It is just a follow-
20 up. I just wanted to make sure that I understood the Minister clearly, Chairperson.

FORMER MINISTER MABANDLA: Chairperson, I think you did understand me correctly. Thank you.

ADV RANTHO: Thank you very much, Chairperson. I do not have any other questions.

CHAIRPERSON: Thank you. Any other person who is online? Mr Varney?

ADV VARNEY: Thank you, Chairperson. We will apply to cross-examine former Minister Mabandla.

CHAIRPERSON: Yes. Thank you. Former Minister Mabandla, I have read your supplementary affidavit and I have not been able to understand the reason why it was... The supplementary affidavit was filed late. You submitted your application, your main statement on the 9 October. On the 9 October. And you had a meeting with Mr
10 Bulelani Ngcuka... You submitted your statement on the 9 October and you had a meeting with Mr Ngcuka about the issues of concerns you had about your statement on the 6 October.

Yet it took you up to the 20 October to make your supplementary affidavit. That has not been explained in your supplementary affidavit.

FORMER MINISTER MABANDLA: Thank you, Chairperson, for the question. It took time because I was slow in indicating. I kept on... I was wondering. I wanted... I wanted to recall the truth. And so that is why I had not been certain about the question of a phone call. So in
20 my mind, I knew all the time that that could not have happened.

But when I mentioned it to counsel, as we were finally preparing... When I was having my final consultation, I did say to them, you know, in my mind, I am still certain I never phoned. And counsel, the team, got down to work and did the research and the finding. And we looked at the dates, because I had been worried.

You see, in the month of November also, I had taken a trip to the Commission on the Human and People's Rights Commission in Banjul at the time. And that is why I spoke to Makhubela also. Because I really, in my mind, I was very convinced that I did not make that phone call.

But I just did not have information to substantiate those thinking. And, you know, Mr Ngcuka was trying to help me jog my mind. Not that he knew about that period.

CHAIRPERSON: Yes.

- 10 FORMER MINISTER MABANDLA: He was talking about probabilities, because he was trying to help me settle. Because I did want to accept if I had done something wrong. If I had done it anyway. But I had to... So I had been having this matter troubling me over time.

CHAIRPERSON: Yes.

FORMER MINISTER MABANDLA: And I do apologise for the inconvenience.

CHAIRPERSON: Yes. When did you have your preparation, consultation with your legal representatives?

- 20 FORMER MINISTER MABANDLA: So in the last three days, intensely, we have been going through a... Just to look at the gaps. And it was during the time when finally, I said, you know, I did not do the phone call.

CHAIRPERSON: Yes.

FORMER MINISTER MABANDLA: And so, Chairperson, my

apology. Mr Ngcuka was really cautioning me., not to make the error of being definitive, when in fact I could have made a call. Perhaps differently. So, but it kept on worrying me. I do apologise once more.

CHAIRPERSON: Yes, I am also concerned that Mr Ngcuka did not say you did not make a phone call. He said you probably did. And you were within your rights to do so. So what made you to supplement your statement to say you did not do so?

FORMER MINISTER MABANDLA: It was the nagging feeling that I... Mr Ngcuka was settling me. And was being objective and just helping
10 me weigh, being objective and weighing what could have happened. But on the final consultation, I said to my counsel, no, no, no. I did not do the phone call.

CHAIRPERSON: Yes.

FORMER MINISTER MABANDLA: I said, no, I did not make the phone call.

CHAIRPERSON: So this one ...(intervenes)

FORMER MINISTER MABANDLA: Because also it is not the way I... Apart from the rules, it is not how I would work. I, even with a person I was very familiar with, I would be very steady. I always take a step
20 back. So I just could not imagine myself just taking that phone call and saying, no do this. It just was very difficult for me to internalise.

CHAIRPERSON: Yes. So Mr Ngcuka did not jog your memory about whether you made the phone call or not?

FORMER MINISTER MABANDLA: He would not know. That was not the purpose. That was a colleague, a person who knows my

personality. And who was trying to say that, on balance of what is before you, this is another scenario. So I am the one. So it is not really Mr Ngcuka, it is I taking that decision. That no, I am going to... I am going to say I do not remember, but that I may have.

But I constantly went back, reflecting and saying, but that does not make sense. So that was my story, Chairperson.

CHAIRPERSON: Yes.

COMMISSIONER GABRIEL: Hello, former Minister. Two questions. Do you now have a firm recollection of what you did not do? That is,
10 you did not make this phone call.

FORMER MINISTER MABANDLA: I do not... I am comfortable with our finding, because it is closer to what I think of who I am. That I would not have done that kind of thing.

COMMISSIONER GABRIEL: All right, thank you. Secondly, you have referred in your evidence and in both your affidavits to the TRC cases. Now, what did you understand by the TRC cases?

FORMER MINISTER MABANDLA: This would have been cases that have been a complete... Here is the point. What I had expected, obviously, what I would have expected when they have completed, is
20 to be informed, a memo informing me that they are going to be prosecuting in such a case. That kind of collaboration, working together is very important.

COMMISSIONER GABRIEL: Right, but I understand that you played a role, as you said, in drafting the TRC legislation. So that would have been the promotion of National Unity and Reconciliation Act.

And do you recall those provisions were that, if you do not get amnesty, you are open to prosecution?

FORMER MINISTER MABANDLA: Of course, yes, absolutely.

COMMISSIONER GABRIEL: So in your references to TRC cases, are those included? Where they have been recommended for prosecution?

FORMER MINISTER MABANDLA: There is a way in which there is a muddling of issues. Here is my experience, Commissioner, Chairperson.

10 COMMISSIONER GABRIEL: Can you come slightly closer to the mic, please?

FORMER MINISTER MABANDLA: Sorry, here is my experience. That in my capacity as Minister, I did get approached. Apart from the fact that the President had been getting requests for that, and you know the history as he explained it in his affidavit about the 2002. But I am saying, I know that there were lots of people that were left out from formations.

Some civic formations, some political formations. And those were the people that wanted a dispensation that would help them.

20 COMMISSIONER GABRIEL: Okay, so what about the cases that were referred to the NPA for prosecution?

FORMER MINISTER MABANDLA: They were supposed to be prosecuted. Investigations, prosecution, and that is it.

COMMISSIONER GABRIEL: And were those TRC cases?

FORMER MINISTER MABANDLA: I do not know what was, there

was a slowness, a stagnation.

COMMISSIONER GABRIEL: Oh no, no. I am trying to understand.

FORMER MINISTER MABANDLA: Were those TRC cases?

COMMISSIONER GABRIEL: Yes. What did you understand?
Forget your affidavit, your evidence. What did you understand by
TRC cases?

FORMER MINISTER MABANDLA: I do not know. I thought,
Commissioner, you are talking about the cases that were before the
NPA for prosecution. And those were the cases you are referring to.

10 COMMISSIONER GABRIEL: Are you referring to those cases?

FORMER MINISTER MABANDLA: When I was talking about the
guidelines, I was talking about pardons.

COMMISSIONER GABRIEL: About?

FORMER MINISTER MABANDLA: Pardons.

COMMISSIONER GABRIEL: I see. Thank you.

CHAIRPERSON: Thank you. Minister, just a follow-up on that one.

The Amended Prosecution Policy dealt with cases, which had not
been referred by the TRC to the NPA. Would I be correct in
understanding your evidence? Or did the amended policy deal with

20 all TRC cases whether referred initially by the TRC to the NPA or not?

FORMER MINISTER MABANDLA: Sorry, Chairperson, sorry about
that. It is just that there has been such tension around that very same
matter that you are asking. Honestly, Chairperson, the prosecution
policy, when it was discussed and when I did go public, it was really
about the pardons for people who wanted pardons and who wanted to

continue being active in politics and information in their political parties and be able to go to Parliament and to get that kind of pardon, should it be afforded.

CHAIRPERSON: So it did not relate to cases that had been referred by the TRC commission to the NPA?

FORMER MINISTER MABANDLA: No.

CHAIRPERSON: Thank you.

FORMER MINISTER MABANDLA: It should not have been.

CHAIRPERSON: Thank you. Dr Muvangua, we will not afford you
10 the right of re-examination following the questions from the bench. That will be afforded to you at the right time when cross-examination is conducted.

COMMISSIONER KGOMO: Yes. Ms Mabandla, before I forget, twice you referred to the fact that you are old and you did not really refer to the time lack. Now, the whole of South Africa knows how old President Mbeki is because he is president. I speak about presidents, not former presidents. You are not suggesting that you are older than President Mbeki. He did not mention about his age. You can take that up with him afterwards and apologise that old
20 people forget, at your own convenience.

CHAIRPERSON: Yes.

COMMISSIONER KGOMO: Yes.

CHAIRPERSON: Thank you. Former Minister Mabandla, we thank you profoundly for having availed yourself to give evidence before this Commission in order to assist it to discharge its mandate. As you

have heard, there will be an application to cross-examine you and when that application is granted, you will be expected to come back to this Commission for the conduct of such cross-examination, but on a date to be determined by the Commission. But for now, you are excused as a witness.

NO FURTHER QUESTIONS

CHAIRPERSON: These proceedings are adjourned until tomorrow at 10 o'clock.

INQUIRY ADJOURNS UNTIL 22 OCTOBER 2026

CERTIFICATE OF VERACITY

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

JUDICIAL COMMISSION OF INQUIRY INTO TRC

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- Where no information provided, names transcribed phonetically.
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