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PROCLAMATIONS • PROKLAMASIES

PROCLAMATION NOTICE 269 OF 2025

by the
PRESIDENT of the REPUBLIC of SOUTH AFRICA

JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM ARISING FROM THE SPECIFIC ALLEGATIONS MADE PUBLIC BY LIEUTENANT GENERAL NHLANHLA MKHWANAZI ON 6 JULY 2025

In terms of section 84(2)(f) of the Constitution of the Republic of South Africa, 1996, I hereby appoint a Judicial Commission of Inquiry into criminality, political interference and corruption in the Criminal Justice System arising from the specific allegations made public by Lieutenant General Nhlanhla Mkhwanazi on 6 July 2025, with the terms of reference in the Schedule attached hereto, and appoint the Honourable Acting Deputy Chief Justice, Justice Mbuyiseli Madlanga as its Chairperson and Advocate Sesi Baloyi, SC and Advocate Sandile Khumalo, SC, as members of the Commission.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this 21st day of July Two thousand and twenty-five.

MC RAMAPHOSA
President

By Order of the President-in-Cabinet:

MT KUBAYI
Minister of the Cabinet

SCHEDULE

TERMS OF REFERENCE

OF THE

JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM ARISING FROM THE SPECIFIC ALLEGATIONS MADE PUBLIC BY LIEUTENANT GENERAL NHLANHLA MKHWANAZI ON 6 JULY 2025

A Judicial Commission of Inquiry ("the Commission") is hereby appointed in terms of section 84(2)(f) of the Constitution of the Republic of South Africa, 1996. On 6 July 2025, the Provincial Commissioner of Police for KwaZulu-Natal, Lt. Gen. Mkhwanazi held a media briefing to make public serious concerns regarding the existence and operation of a sophisticated criminal syndicate that has allegedly infiltrated law enforcement and intelligence structures in South Africa, undermining the South African Criminal Justice System. The allegations made in this media briefing raise serious constitutional, security and rule-of-law concerns, necessitating an urgent and comprehensive investigation.

The Commission is appointed to investigate and report on the veracity, scope, and extent of the allegations with regard to the infiltration of law enforcement, intelligence and associated institutions within the criminal justice system by criminal syndicates and make findings and recommendations for criminal prosecutions, disciplinary actions and institutional reform.

The Commission shall inquire into, report on and make findings and recommendations concerning:

1. Whether criminal syndicates, including but not limited to drug cartels, have infiltrated or exert undue influence over:
   - 1.1 The South African Police Service ("SAPS"), including the Political Killings Task Team and Crime Intelligence;
   - 1.2 The Johannesburg Metropolitan Police Department ("JMPD");
   - 1.3 The Ekurhuleni Metropolitan Police Department ("EMPD");
   - 1.4 The Tshwane Metropolitan Police Department ("TMPD");
   - 1.5 The National Prosecuting Authority ("NPA");
   - 1.6 The State Security Agency ("SSA");
   - 1.7 Any member of the Judiciary, including the magistracy and of courts administration;
   - 1.8 The Department of Correctional Services; and
   - 1.9 Any other institutions and/or organs of state within the criminal justice system.

2. The nature, extent, and consequences of such infiltration or influence, including:

2.1 The facilitation of organised crime;

2.2 Suppression or manipulation of investigations;

2.3 Inducement into criminal, or other unlawful actions, including corruption, of law enforcement leadership;

2.4 Commission of any other criminal offences; and

2.5 Intimidation, victimisation or targeted removal of witnesses, potential witnesses or persons making protected disclosures or officials resisting criminal influence.

3. The role of senior officials of SAPS, JMPD, EMPD, TMPD, NPA, and SSA, and of members of the Judiciary, including the magistracy, current or former, who may have:

3.1 Aided or abetted the alleged criminal activity;

3.2 Failed to act on credible intelligence or internal warnings; and/or

3.3 Benefitted financially or politically from the syndicate's operations.

4. The role of any member of the national executive responsible for the criminal justice system, whether they were complicit, aided and abetted, or participated in the acts listed in paragraphs 1 to 3 above, or did so by omission.

5. The effectiveness or failure of oversight mechanisms.

6. The adequacy of current legislation, policies, and institutional arrangements in preventing such infiltration.

7. Once established, the Commission shall also consider prima facie evidence relating to the involvement of individuals currently employed within law enforcement or intelligence agencies and, where appropriate, the Commission must make recommendations regarding the employment status of such officials including whether they should be suspended pending the outcome of further investigations.

8. These Terms of Reference may be added to, varied or amended by proclamation from time to time.

9. The Commissions Act, 1947, (Act No. 8 of 1947) (“the Act”) shall apply to the Commission, subject to such amendments, including amendments in relation to the Terms of Reference of the Commission, and exemptions as may be specified by proclamation from time to time.

10. The Commission shall have all the powers necessary to achieve its mandate, including:

10.1 The power to summon witnesses and compel the production of documents;

10.2 The power to conduct search and seizure operations, subject to applicable law;

10.3 The power to deviate from the Act insofar as it provides for public hearings, and to order that the Commission shall sit in camera where necessary to protect the safety of witnesses, the integrity of ongoing investigations where appropriate and where intelligence and the work of intelligence services are concerned; and

10.4 The power to refer matters for immediate criminal investigation and urgent decisions on prosecution, taking into account the nature of the allegations and evidence the Commission will uncover.

11. Regulations may be made, after consultation with the Chairperson of the Commission, in terms of the Commissions Act, 1947, and shall apply to the Commission in order to enable the Commission to conduct its work meaningfully and effectively and to facilitate the gathering of evidence by conferring on the Commission powers as necessary, including the power to enter and search premises, secure the attendance of witnesses and compel the production of documents.

12. The Commission shall, where appropriate, refer any matter for prosecution, further investigation or the convening of a separate enquiry to the appropriate law enforcement agency, government department or regulator.

13. The Commission shall submit:

13.1 an interim report within 3 months of its establishment; and

13.2 a final report within 6 months of its establishment, or such extended period as the President may determine.

14. Each report must be submitted to the President and shall include recommendations that can be immediately actioned based on the Commission's work as at that date.

15. The Commission shall ensure the protection of potential witnesses and witnesses. All proceedings may be held in public or in private, as the Chairperson deems necessary.

16. The Commission's final report will be sent to the Speaker of the National Assembly and the Chief Justice.

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PROKLAMASIE KENNISGEWING 269 VAN 2025

van die

PRESIDENT van die REPUBLIEK van SUID-AFRIKA

REGTERLIKE KOMMISSIE VAN ONDERSOEK MET BETREKKING TOT KRIMINELE GEDRAG, POLITIESE INMENGING EN KORRUPSIE IN DIE STRAFREGSTELSEL VOORTSPRUITEND UIT BEPAALDE AANTUIGINGS OPENBAAR GEMAAK DEUR LUITENANT-GENERAAL NHLANHLA MKHWANAZI OP 6 JULIE 2025

Kragtens artikel 84(2)(f) van die Grondwet van die Republiek van Suid-Afrika, 1996, stel ek hierby 'n Regterlike Kommissie van Ondersoek in met betrekking tot kriminele gedrag, politiese inmenging en korrupsie in die Strafregstelsel voortspruitend uit bepaalde aantuigings openbaar gemaak deur Luitenant-Generaal Nhlanhla Mkhwanazi op 6 Julie 2025, met die opdrag in die Bylae hiertoe aangeheg, en stel die Agbare Waarnemende Adjunk-Hoofregter Mbuyiseli Madlanga as Voorsitter en Advokaat Sesi Baloyi, SC en Advokaat Sandile Khumalo, SC, as lede van die Kommissie, aan.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die 21ste dag van Julie Twee duisend vyf-en-twintig.

MC RAMAPHOSA
President

Op las van die President-in-Kabinet:

BYLAE

OPDRAG

VAN DIE

REGTERLIKE KOMMISSIE VAN ONDERSOEK MET BETREKKING TOT KRIMINELE GEDRAG, POLITIESE INMENGING EN KORRUPSIE IN DIE STRAFREGSTELSEL VOORTSPRUITEND UIT BEPAALDE AANTUIGINGS OPENBAAR GEMAAK DEUR LUITENANT-GENERAAL NHLANHLA MKHWANAZI OP 6 JULIE 2025

‘n Regterlike Kommissie van Ondersoek (“die Kommissie”) word hierby ingevolge artikel 84(2)(f) van die Grondwet van die Republiek van Suid-Afrika, 1996, aagestel. Op 6 Julie 2025, het die Provinsiale Kommisaris van Polisie van KwaZulu-Natal, Lt. Gen. Mkhwanazi ‘n media sessie gehou om ernstige bekommernisse openbaar te maak met betrekking tot die bestaan en operasie van ‘n gesofistikeerde kriminele organisasie wat na bewering wetstoepassings en intelligensie strukture in Suid-Afrika geïnfiltreer het tot ondermeining van die Suid-Afrikaanse Strafregstelsel. Die aantuigings wat in die media sessie gemaak is bring ernstige grondwetlike, sekuriteit en regsgeldige bekommernisse na vore, wat ‘n dringende en omvangryke ondersoek noodsaak.

Die Kommissie word aangestel om ondersoek in te stel en verslag te doen op die geloofwaardigheid, trefwydte en omvang van die beweringe met betrekking tot die infiltrasie van wetstoepassings, intelligensie en betrokke instellings binne die strafregstelsel deur kriminele sindikate en bevindinge en aanbevelings vir strafregtelike vervolgings, dissiplinêre stappe en instellings hervorming te maak.

Die Kommissie moet ondersoek doen na, verslag lewer en bevindinge en aanbevelings maak met betrekking tot:

1. Of kriminele sindikate, met inbegrip van, maar nie beperk tot dwelm sindikate nie, geïnfiltreer het of onbehoorlike beïnvloeding uitgeoefen het oor:
    - 1.1 Die Suid-Afrikaanse Polisidiens (“SAPD”), met inbegrip van die Politieke Moorde Taakspan en Kriminele Intelligensie;
    - 1.2 Die Johannesburgse Metropolitaanse Polisie Departement (“JMPD”);
    - 1.3 Die Ekurhuleni Metropolitaanse Polisie Departement (“EMPD”);
    - 1.4 Die Tshwane Metropolitaanse Polisie Departement (“TMPD”);
    - 1.5 Die Nasionale Vervolgingsgesag (“NPA”);
    - 1.6 Die Staats Sekuriteit Agenskap (“SSA”);
    - 1.7 Enige lid van die Regbank, met inbegrip van landdroste en hof administrasie;

1.8 Die Departement van Korrektiewe Dienste; en

1.9 Enige ander instellings en/of staatsorgane binne die strafregstelsel.

2. Die aard, omvang en gevolge van sodanige infiltrasie of beïnvloeding, met inbegrip van:

2.1 Die fasilitering van georganiseerde misdaad;

2.2 Onderdrukking of manupilasie van ondersoeke;

2.3 Oorhaling tot kriminele, of ander onwettige aktiwiteite, met inbegrip van korrupsie, van wetstoepassings leierskap;

2.4 Pleeg van enige ander kriminele misdrywe; en

2.5 Intimidasie, viktimisasie of geteikende verwydering van getuies, potensiële getuies of persone wat beskermende bekendmakings maak of beamptes wat kriminele beïnvloeding weerstaan.

3. Die rol van senior beamptes van die SAPD, JMPD, EMPD, TMPD, NPA, en SSA, en van lede van die Regbank, met inbegrip van landdroste, huidig of voormalig, wat kon:

3.1 Hulp verlening of aanhitsing van die beweerde kriminele gedrag;

3.2 Versuim het om op te tree met betrekking tot geloofwaardige intelligensie of interne waarskuwings; en/of

3.3 Finansieël of polities voordeel getrek het uit die sindikaat se bedrywighede.

4. Die rol van enige ander lid van die nasionale uitvoerende gesag wat vir die strafregstelsel verantwoordelik is, hetsy hulle mededadig, hulp verleen het aangehits, of in die dade in paragrawe 1 tot 3 hierbo, deelgeneem het of dusdanig gedoen het by nalate.

5. Die effektiwiteit of nalate van oorsig meganismes.

6. Die voldoendenheid van huidige wetgewing, beleid, en instellings maatreëls in die voorkoming van sodanige infiltrasie.

7. Sodra ingestel, moet die Kommissie ook die prima facie getuienis met betrekking tot die betrokkenheid van individue tans in diens binne die wetstoepassings of intilligensie liggame ondersoek en, waar van toepassing, moet die Kommissie aanbevelings maak met betrekking tot die werkstatus van sodanige beamptes met inbegrip daarvan of hulle geskors moet word hangende die uitslag van verdere ondersoeke.

8. Hierdie Opdrag mag bygevoeg word tot, verander of gewysig word van tyd tot tyd by proklamasie.

9. Die Kommissiewet, 1947, (Wet No. 8 van 1947) ("die Wet"), is van toepassing op die Kommissie, onderhewig aan sodanige wysigings met betrekking tot die Opdrag van die Kommissie, en vrystellings wat by proklamasie van tyd tot tyd vermeld word.

10. Die Kommissie het alle bevoegdhede wat nodig is om sy mandaat uit te voer, met inbegrip van:

10.1 Die bevoegdheid om getuies te dagvaar en om die oorlêgging van dokumente te vereis;

10.2 Die bevoegdheid om deursoeking en beslaglegging operasies, onderhewig aan die betrokke wetgewing, uit te voer;

10.3 Die bevoegdheid om van die Wet af te wyk vir soverre dit vir openbare verhore voorsiening maak, en om opdrag te gee dat die Kommissie in camera sal sit waar dit nodig is om die veiligheid van getuies te beskerm, die integriteit van voortgaande ondersoeke waar van toepassing en waar intelligensie en die werk van die intelligensie dienste van toepassing is; en

10.4 Die bevoegdheid om aangeleenthede vir onmiddellike kriminele ondersoek en dringende vervolging te verwys, met inagneming van die aard van die aantuigings en bewysmateriaal wat die Kommissie mag ontdek.

11. Regulasies kan gemaak word, na oorlegpleging met die Voorsitter van die Kommissie, ingevolge die Kommissiewet, 1947, en is van toepassing op die Kommissie ten einde die Kommissie in staat te stel om sy werk meningvol en effektief te verrig en om die insamel van getuienis te hulp te wees, met inbegrip van die bevoegdheid om persele te betree en te deursoek, die bywoning van getuies te verseker en om die oorlêgging van dokumente te vereis.

12. Die Kommissie sal, waar toepaslik, enige aangeleentheid verwys vir vervolging, verdere ondersoek of die byeenroeping van 'n aparte ondersoek na die gepaste wetstoepassing agentskap, regerings departement of reguleerder.

13. Die Kommissie moet sy:

13.1 tussentydse verslag binne 3 maande vanaf sy instelling; en

13.2 finale verslag binne 6 maande vanaf sy instelling, of sodanige uitgestelde tydperk as wat die President mag bepaal,

indien.

14. Elke verslag moet aan die President oorhanding word en moet aanbevelings bevat wat onmiddellik op grond van die werk van die Kommissie op daardie stadium ingestel kan word.

15. Die Kommissie moet die veiligheid van potensiële getuies en getuies verseker. Alle verrigtinge mag in die openbaar of privaat gehou word soos wat die Voorsitter noodsaaklik ag.

16. Die Kommissie se finale verslag moet aan die Speaker van die Nasionale Vergadering en die Hoofregter oorhandig word.

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