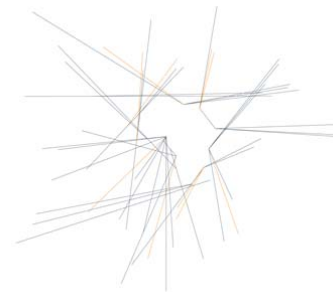


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Chairperson of the Portfolio Committee on Police

By email: tjoemat-pettersson@parliament.gov.za;
bmbengo@parliament.gov.za

Minister of Police

By email: GaehlerSMK@saps.gov.za; SereroR@saps.gov.za;
PhoaneN@saps.gov.za

The Independent Police Investigative Directorate

By email: tmahibila@ipid.gov.za;
sseisa@ipid.gov.za

90 Rivonia Road, Sandton
Johannesburg, 2196

PO Box 61771, Marshalltown
Johannesburg, 2107, South Africa

Docex 26 Johannesburg

T +27 11 530 5000
F +27 11 530 5111

www.webberwentzel.com

Your reference

Our reference

Date

V Movshovich / P Dela / D Cron / D
Rafferty / L Pillay
3005284

7 July 2020

Dear Sir

NOMINATION OF PROPOSED NEW EXECUTIVE DIRECTOR OF THE INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE

1. We act for the Helen Suzman Foundation ("**our client**").
2. It is with some alarm that our client has become aware of the agenda item "*Nomination for the Executive Director of IPID*" in the *Announcements, Tablings, and Committee Reports* (ATC) of Parliament, dated 2 July 2020.
3. This announcement indicates that a letter was received from the Minister of Police ("**the Minister**") informing the National Assembly that the Minister "*has nominated Ms Jennifer Dikeledi Ntlatseng as the preferred candidate for appointment to the position of Executive Director for the Independent Police Investigative Directorate (IPID), in terms of section 6 of the Independent Police Investigative Directorate Act, 2011 (Act No 1 of 2011).*" The announcement further states that the matter has been "*referred to the Portfolio Committee on Police for consideration and report*".

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4. The Portfolio Committee on Police ("**the Committee**"), the Minister and IPID are respondents in a pending matter before the Supreme Court of Appeal ("**SCA**"), namely *Helen Suzman Foundation // Robert McBride and Others* (GP case no: 6175/19; SCA case no: 1065/2019) ("**the matter**").
5. The matter concerns, *inter alia*, the lawful interpretation of the tenure and renewal of the executive head of IPID in terms of section 6(3)(b) of the Independent Police Investigative Directorate Act, 2011 ("**the Act**"). By virtue of private agreement, the Minister, the Committee and the then Executive Director of IPID, Mr Robert McBride, agreed to their own (unlawful) interpretation of the Act, which was (improperly) made an order of court by agreement. Their interpretation - quite apart from suffering from procedural defects in having it made an order of court - does not comply with the requirements of independence under the Act, the Constitution of the Republic of South Africa, 1996 and international law.
6. The dispute in the matter is concerned with the question of whether the Minister and the Committee were permitted to take a decision not to renew the tenure of the then Executive Director, and the interpretation of the Act in this regard. Until the Court has pronounced its judgment, the office of the Executive Director cannot be viewed as vacant and, as a result, any appointments made to this office would be unlawful.
7. We anticipate that the SCA will set this matter down for hearing during the November term.
8. Against this background, the HSF is making a formal request that any appointment process in respect of IPID's Executive Director be halted until such time as the abovementioned matter has been finally determined. Please confirm, in writing, that this request will be acceded to.
9. Any unlawful appointment would have dire consequences for the administration of justice and an important corruption fighting institution, IPID, as well as the perception of IPID. This is not to mention that any unlawful appointment is, legally, *void ab initio*.
10. Should the Committee proceed to deliberate and reach a decision on the Minister's nomination, the HSF reserves its rights in respect of legal remedies which are available to it, including the right to take appropriate remedial action.

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Yours faithfully

PP 

WEBBER WENTZEL

V Movshovich

Direct tel: +27 11 530 5867

Direct fax: +27 11 530 6867

Email: vlad.movshovich@webberwentzel.com