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Dear Madam Speaker, Chairpersons of Committees, Secretary to Parliament and Registrar of the Ethics Committee

PARLIAMENT’S LAWYERS ABUSE THE JUDICIAL PROCESS IN THE MATTER BETWEEN #UNITEBEHIND AND PARLIAMENT ON THE ROLE OF MPS IN STATE CAPTURE AT PRASA

We write on behalf of #UniteBehind and ourselves as litigants against Parliament for its role in state capture. It is our firm belief that Parliament has not issued instructions to its lawyers to obstruct justice and abuse the judicial process by taking every spurious technical point that has inordinately delayed this matter central to hold Members of Parliament accountable for their role in state capture.¹ Not only has this matter been delayed in your name but the actions of Parliament’s counsel constitute irregular and wasteful expenditure through the milking of the public purse.

1. Since 1994, the movements and organisations which we helped build and lead have worked to ensure that Parliament is central to the building of participatory democracy, the realisation of fundamental rights and the reconstruction of the state. From the AIDS Law Project and National Coalition for Gay and Lesbian Equality, Treatment Action Campaign, Equal Education, Social Justice Coalition and Open Shuhada Street to Ndifuna Ukwazi, Reclaim the City and Article One, we have seen Parliament at its best and its worst.
2. Since July 2017, when #UniteBehind started our work against state capture at PRASA, it seemed that Parliament had a greater interest in the protection and promotion of corrupt members of the Executive and its leading members. Parliament’s protection was extended to politically connected ANC business people (such as Roy Moodley and Makhensa Mabunda), corrupt PRASA

¹ (*#UniteBehind NPC and Others v Bekizwe Nkosi N.O. Chairperson of the Joint Committee on Ethics and Members’ Interests and Others* Case Nos 6258/2023 and 11880/2023)

Executives (Lucky Montana, Mthura Swartz and Cromet Molepo) and former Board Members².

3. When the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector and Organs of State ('The State Capture Commission')³ was established, it also investigated, held hearings, heard arguments, made findings and recommendations related to state capture at PRASA. Significant findings against Parliament, specifically, the Portfolio Committee on Transport, former Ministers of Transport and MPs.
4. In September 2022, #UniteBehind started a process through Parliament's Joint Committee on Ethics and Members' Interests ('The Ethics Committee') to hold MPs implicated in state capture at the Passenger Rail Agency of South Africa (PRASA) accountable.⁴ A protracted struggle between #UniteBehind and Parliament ensued which culminated in court proceedings against Parliament.
5. The former and current Ministers, Deputy Ministers, Chairpersons of Portfolio Committees and Members of Parliament against whom we filed complaints with the Ethics Committee were directly or indirectly involved in the facilitation of state capture, corruption, maladministration, mismanagement and fraud at PRASA. They are:

² Public Protector, *Derailed: A Report on an Investigation into Allegations of Maladministration Relating to Financial Mismanagement, Tender Irregularities and Appointment Irregularities against PRASA*, Report No 3 of 2015/16 (2015), available at:

<https://www.gov.za/documents/derails-report-investigation-allegations-maladministration-relating-financial>

³ Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector and Organs of State, *Report*, Part IV, Vol 1 (2022), available at:

<https://www.gov.za/documents/judicial-commission-inquiry-state-capture-report-part-4-volume-1-29-apr-2022-0000>

⁴ For the full complaint see: #UniteBehind, Ethics Complaints against Sfiso Buthelezi, Fikile Mbalula, Dipuo Peters, Joe Maswanganyi, Dikeledi Magadzi and Mosebenzi Zwane, filed with the Joint Committee on Ethics and Members' Interests, 9 September 2022 available at:

<https://unitebehind.org.za/wp-content/uploads/Complaint-to-Parliament-Final.pdf>

- 5.1. **Mr Sifiso Buthelezi:** former Deputy Minister of Finance, Chairperson of the Standing Committee on Appropriations, Chairperson of the Portfolio Committee on Finance, Chairperson of the PRASA Board of Control, board member of the South African Rail Commuter Corporation (PRASA's predecessor) and former Special Advisor to Jacob Zuma. Buthelezi is or was also a founder, a director and shareholder of a number of companies including Autshumato, the Makana Group and Sebenza Group that have benefited directly and indirectly from corruption and state capture at PRASA. Buthelezi, Autshumato and the Makana Group were also involved in corruption and institutional capture of the Robben Island Museum. In relation to PRASA, Buthelezi was central to state capture and the loss of billions of rands. **The Ethics Committee dismissed the complaint saying it had no jurisdiction over Buthelezi because the state capture preceded his time in Parliament.**
- 5.2. **Mr Joe Maswanganyi:** current Chairperson of the Standing Committee on Finance, former Minister of Transport and former Chairperson Portfolio Committee on Public Service and Administration. While Maswanganyi was found responsible for failing to appoint a permanent PRASA Board, he was not held accountable for his most egregious actions such as the unlawful appointment of Judge Nana Makhubele who tried to further facilitate state capture from the moment she entered the unlawfully constituted "interim" Board and then breached the separation of powers from the date of her appointment to the Bench.⁵ He also failed to ensure accountability for billions of lost money due to state capture that was uncovered by the Public Protector, Treasury, the Auditor-General and Werksmans Attorneys. **Maswanganyi received a slap on the wrist from the Ethics Committee and to the best of our knowledge failed to**

⁵ GroundUp, "Dishonest judge Makhubele found guilty, faces impeachment," 2025, available at: <https://groundup.org.za/article/dishonest-judge-makhubele-found-guilty-faces-impeachment/>

submit to Parliament's sanction. He also appointed the late Ms Dudu Myeni as the Chairperson of South African Airways.

- 5.3. **Mr Fikile Mbalula:** currently, Secretary-General of the ANC, former Minister of Transport, former Minister of Sport and Recreation and former Deputy Minister of Police. Mbalula was responsible for a number of disasters at PRASA, not least the unlawful appointment of an “administrator” and the persecution of whistle-blowers Ms Martha Ngoye, Mr Fani Dingiswayo and Tiro Holele. In our successful litigation against Mbalula, #UniteBehind recovered costs⁶. **In direct violation of the Code of Ethics, the Committee declined to hear the complaint against Mbalula because he had “left” Parliament.**
- 5.4. **Ms Dipuo Peters:** a former Minister of Transport, Premier of the Northern Cape and Deputy-Minister was directly implicated in state capture at PRASA including of using the rail agency's buses to transport people to the ANC's birthday celebration. **The Ethics Committee suspended Peters from Parliament for one term.**⁷ Peters challenged her suspension in the Western Cape High Court and lost. #UniteBehind recovered its costs but it is unclear whether Parliament has acted to recover its cost.⁸ Meanwhile, Peters is the Speaker of the Sol Plaatje Municipality where she is again embroiled in unlawful actions.⁹

⁶ *#UniteBehind v Minister of Transport and Others* (2058/2020) [2020] ZAWCHC 85; [2020] 4 All SA 593 (WCC) (25 August 2020), available at: <https://www.saflii.org/za/cases/ZAWCHC/2020/85.html>

⁷ GroundUp, "Ramaphosa suspends Dipuo Peters," 2023, available at: <https://groundup.org.za/article/ramaphosa-suspends-dipuo-peters/>

⁸ GroundUp, "Dipuo Peters pays R190K to stop sheriff from taking her car", 2026, available at: <https://groundup.org.za/article/dipuo-peters-settles-legal-debt-after-sheriff-arrives-to-take-her-car-as-part-of-cost-order/>

⁹ Sunday World, "Ex-minister Dipuo Peters slapped with personal costs over unlawful suspension", 2026. Available at: <https://sundayworld.co.za/politics/ex-minister-dipuo-peters-slapped-with-personal-costs-over-unlawful-suspension/>

- 5.5. **The late Ms Dikeledi Magadzi:** former Deputy Minister of Transport, Chairperson of the Portfolio Committee on Transport and MEC for Education was found to have actively undermined Parliamentary oversight in relation to corruption, malfeasance, maladministration and fraud at PRASA by the State Capture Commission. **The #UniteBehind complaint against Ms Magadzi was erroneously declined by the Ethics Committee because she had left Parliament.**
- 5.6. **Mr Mosebenzi Zwane:** a former MEC for Agriculture in Free State, former Minister of Minerals and Energy and after being found to have acted on behalf of the Gupta Enterprise in ruining Eskom became Chairperson of the Portfolio Committee on Transport as PRASA continued to be stripped. Zwane deliberately neglected to hold anyone accountable in terms of the State Capture Commission and Auditor-General's reports while he completely ignored judgments on state capture, corruption, mismanagement and fraud. **The Ethics Committee dismissed our complaint against Zwane as vexatious.**

UNLAWFUL AND IMPROPER CONDUCT BY THE PREVIOUS ETHICS COMMITTEE AND REGISTRAR DELAYED THE MATTER

6. The Code of Ethics previously indicated that complaints against MPs who resigned from Parliament had to be heard by the Committee.¹⁰ To our consternation, just before the matter was heard in February 2025, #UniteBehind learnt that the Ethics Committee and the Registrar had inveighed Parliament into changing the rule that held former MPs accountable. We use such strong

¹⁰ *Code of Ethical Conduct and Disclosure of Members' Interests for Assembly and Permanent Council Members*, adopted by the Joint Committee on 13 March 2014, available at: https://www.parliament.gov.za/storage/app/media/PRandNews/content/code_of_Conduct_for_MPs_adopted_13_March_2014_2.pdf

For the new code see https://www.parliament.gov.za/storage/app/media/Ethics/Code%20of%20Ethical%20Conduct/Code_of_Ethical_conduct_V2.pdf

language because none of the material facts relating to Mr Fikile Mbalula (now the Secretary-General of the ANC) and the late Ms Magadzi was placed before Parliament nor was there any mention of this critical litigation. Again, we believe that the will of Parliament was subverted by the former committee and the Registrar of the Ethics Committee.

7. The rule change necessitated a supplementary Founding Affidavit deposed by Mr Zackie Achmat. In a rushed process, Advocate Daryll Cooke SC who was the Commissioner of Oaths failed to add his address at Huguenot Chambers and to state Cape Town as the place where this was signed. At the time of the hearing Advocate Cooke was an Acting-Judge in the Western Cape High Court. Parliament's lawyers strenuously opposed the admission of the same affidavit after the error had been corrected. And then, Parliament's counsel decided to attack Mr Achmat's character by challenging his lawful name change from "Abdurrazack" to "Zackie".
8. The argument presented by Parliament's counsel that has led to a further delay of nine months would make a comedian weep. In its Heads of Argument, it is argued that Parliament "pointed out that the original supplementary affidavit identified the deponent as "Zackie Achmat" whereas Advocate Cooke's confirmatory affidavit ... referred to the deponent as "Adurrazack 'Zackie' Achmat". Meaning that Parliament "accordingly could not confirm that Advocate Cooke's confirmatory affidavit related to the same deponent as the original affidavit". Since 1994, every President has known "the deponent" as Zackie Achmat. In addition, he has made oral submissions to the following portfolio committees in Parliament as "Zackie Achmat" since 1994: Labour, Transport, Police, Correctional Services, Health, Trade and Industry, International Relations and has met scores of MPs and Ministers over the years. If anything is vexatious, then this waste of time and money to protect corrupt MPs through the abuse of the judicial process constitutes such conduct.

9. Parliament's counsel has demanded that we bring a new application to admit the affidavit and to prove that "Zackie Achmat" is "Zackie Achmat" despite the fact that the judges of the High Court have already heard the entire matter and could hand down judgment tomorrow if they choose.
10. On Friday, we were informed by Advocate Greg Solik and our attorney, Mr Mandla Mogola of Lopes Attorneys as follows:

At a case management meeting on Friday, 31 July 2026 before the Full Bench, the Court indicated that the interlocutory application may be decided through oral argument and the earliest available hearing date may only be in April 2027. Alternatively, if the matter is allocated to a differently constituted Full Bench, the matter will be required to be heard *de novo* and further delays are likely to arise while a new hearing date is obtained.

11. #UniteBehind is now confronted with a conundrum. We wait until April 2027 for a hearing almost five years after the complaints were lodged with Parliament's Ethics Committee, or, we start the matter afresh in the High Court. We are considering approaching the Constitutional Court on an urgent basis to finalise the matter and to order personal costs against all the respondents and counsel. As a result, we demand as follows:

- 11.1. Parliament gives lawful instructions to its lawyers to allow the matter to be finalised diligently and without delay as the Constitution demands. Instructions that will allow the corrupt to be held accountable and not to incur any further fruitless and wasteful expenditure.
- 11.2. The Joint Standing Committee on the Financial Oversight of Parliament and the Secretary of Parliament investigate and examine the costs in this matter up until 31 July 2026. And, to provide the same to #UniteBehind.

- 11.3. The Ethics Committee must investigate and hear the complaint against Mr Joe Maswangany, the Chairperson of the Standing Committee on Finance anew for his role in appointing Judge Nana Makhubele as Chairperson at PRASA. Judge Makhubele has been found guilty by the Judicial Services Commission of gross misconduct and the matter is now before Parliament to vote on her impeachment. Our complaint to the JSC was instituted seven years ago and #UniteBehind has spent around R4 million to ensure that Judge Makhubele is held accountable. The public has not only paid her salary, perks, benefits and legal fees as a judge while on suspension for this period amounting to millions of rands but the Department of Justice has had to pay for an Acting-Judge to fulfil her role. These factors must play an aggravating role in the sanctions against Maswanganyi. #UniteBehind must be allowed to make further representations to the Ethics Committee on all the complaints and on sanctions.
- 11.4. The Standing Committee on Public Accounts must as a priority hold hearings into state capture at PRASA by calling current and past Transport Ministers and Deputy Ministers, Portfolio Committee Members, PRASA Board Chairpersons and members including Sfiso Buthelezi, Popo Molefe, Judge Nana Makubele, Khanyisile Kweyama, Leonard Ramatlakane and Nosizwe Nokwe-Macamo, as well as, the former unlawfully appointed “Administrator”. Naturally, the former PRASA Group CEOs starting with Lucky Montana and ending with the current GCEO Hisham Emeran, other members of management and staff implicated and guilty of corruption and fraud such as Daniel Mthimkhulu former “Chief Engineer” who is currently serving a prison sentence and Mthura Swartz. Key whistleblowers: Martha Ngoye, Fani Dingiswayo and Tiro Holele should also be called. #UniteBehind further requests to be heard by SCOPA preferably before PRASA to **outline** the history of state capture at PRASA and the evidence available to Parliament. Evidence abounds through the work of the Public Protector, investigations by the Treasury

(never brought before SCOPA), Auditor-General Reports, Werksmans Attorneys investigations, court papers and evidence before the State Capture Commission.

12. #UniteBehind requests a reply to this letter of demand before the close of business on 11 August 2026.

Finally, we reiterate our belief that neither the current Joint Standing Committee on Ethics and Members' Interests nor the Office of the Speaker of Parliament are involved in the unethical and possibly unlawful conduct of Parliament's counsel. #UniteBehind stands ready to help Parliament.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Zukiswa' with a stylized flourish.

Zukiswa "Vuka" Fokazi
Executive Director

A handwritten signature in black ink, appearing to read 'Zackie' with a stylized flourish.

Zackie Achmat
Director