

**COMMISSION OF INQUIRY INTO STATE CAPTURE**

**HELD AT**

**PARKTOWN, JOHANNESBURG**

10

**23 NOVEMBER 2018**

**DAY 29**

20

**PROCEEDINGS HELD ON 23 NOVEMBER 2018**

**CHAIRPERSON:** Is there anybody there? Usually there is somebody standing there by the time I lift my head up.

**MS NORMAN:** Good afternoon, Mr Chairman.

**CHAIRPERSON:** Good afternoon, Ms Norman, good afternoon everybody.

**MS NORMAN:** Mr Chairman, first, I think there is something wrong with my mic here, is it an echo? Thank you. Mr Chairman, I wish to apologise for yesterday. I think that one thing that I learned from yesterday is that if I have an application to move I must do it myself and not ask anyone to do it for me.

10 I apologise I happened to be one of the woman who were chosen by the country to represent the values of Mama Sisulu and that function and those persons were happening yesterday. Then I requested my colleagues to stand in for me, but things did not go the way I planned. I sincerely apologise for that.

**CHAIRPERSON:** Okay, no, that is fine.

**MS NORMAN:** Thank you, Mr Chairman. And I was advised, Mr Chairman, that you would like to hear the application first today, is that correct?

**CHAIRPERSON:** Yes, I would like us to deal with it quickly.

**MS NORMAN:** Yes, thank you.

**CHAIRPERSON:** Yes.

20 **MS NORMAN:** Mr Chairman, this is an application for condonation for the late filing of the Rule 3.3 notices on Mr Whitley, Mr Bobart, Mr van Rooyen and Mr Mabaso. Mr Mabaso is represented by Mr Denga, he is present today, but on the day when I moved the application, the initial day the representatives of Mr – of the other three implicated persons were present and they indicated that they were not opposing the application and so does Mr Denga. He also does not oppose it.

**CHAIRPERSON**: Okay.

**MS NORMAN**: Yes. I submit, Mr Chairperson that a proper case is made out...[intervenes]

**CHAIRPERSON**: The delay was...[intervenes]

**MS NORMAN**: The delay is a delay of actually 13 days.

**CHAIRPERSON**: 13 days?

**MS NORMAN**: 13 days, yes.

**CHAIRPERSON**: Yes.

**MS NORMAN**: Because the signed statements were received only on Friday after  
10 17:00 on Friday and then we worked on the notices over the weekend and they were issued on Monday morning and as a result of that, because the first witness was going to testify on Tuesday and then by the time that witness had testified the implicated persons had only one day to deal and have a look at the notices.

And I did explain to Mr Denga, that because it is due to the lateness of the issuing of the notices, therefore there are 14 – we are going to apply to the Chairperson that their 14 day period not be interrupted by the fact that the witnesses have testified, that they be afforded the exact two weeks for them to put up their version and deal with the matter in the manner in which they deem appropriate.

**CHAIRPERSON**: Yes, yes, yes.

20 **MS NORMAN**: Yes. If the, Chairperson, is satisfied with the explanation given...[intervenes]

**CHAIRPERSON**: No, that is in order.

**MS NORMAN**: Yes.

**CHAIRPERSON**: What is the – what is the Prayer 1 would be condonation?

**MS NORMAN**: Condonation and then Prayer 2 is – in fact Prayer 2 and 3, they are kind of repetitive, save that in Prayer 3 the persons affected are mentioned by name.

**CHAIRPERSON**: Ja.

**MS NORMAN**: The order is then that we are seeking paragraph 1, 2 and 3, Mr Chair.

**CHAIRPERSON**: Ja.

**MS NORMAN**: Yes.

**CHAIRPERSON**: Okay.

**MS NORMAN**: Of the notice of motion which appears at pages 1 to 2 of the bundle.

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**ORDER**

**CHAIRPERSON**: Okay condonation is granted in regard to the failure of the Commission's legal team to comply with the rules of the Commission in relation to the timeous delivery or service of the Rule 3(3) notices. Does that cover everything?

**MS NORMAN**: That covers everything, as the Chairperson pleases, thank you, Mr Chairman.

**CHAIRPERSON**: Thank you.

**MS NORMAN**: Thank you.

**ADV VINCENT MALEKA SC**: Mr Chairman, the second of the three Treasury witnesses is Mr Dondo Mogajane.

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**CHAIRPERSON**: Okay.

**ADV VINCENT MALEKA SC**: He is ready to testify.

**CHAIRPERSON**: If that is the correct pronunciation I would like you to repeat it, otherwise I will ask the DG to give the correct pronunciation, because I would have pronounced it very differently, so, and I believe in trying to pronounce people's names and surnames correctly.

**ADV VINCENT MALEKA SC:** Yes.

**CHAIRPERSON:** Do you know whether you have got the pronunciation right?

**ADV VINCENT MALEKA SC:** As I have it from the statement signed by him is Mogajane.

**CHAIRPERSON:** Yes, no the spelling I know, it is just I would have said ga, Gayane instead of Ghajane, so that is why I am saying I want to get the correct pronunciation. The DG will indicate in due course if we are not pronouncing it correctly.

**ADV VINCENT MALEKA SC:** Yes.

10 **CHAIRPERSON:** Okay, thank you. Registrar you can administer the oath or the affirmation?

**REGISTRAR:** Please state your full names for the record?

**MR ANDREW DONDO MOGAJANE:** My name is Andrew Dondo Mogajane.

**REGISTRAR:** Do you have any objection to taking the prescribed oath?

**MR ANDREW DONDO MOGAJANE:** I do not have any objection.

**REGISTRAR:** Do you consider the oath to be binding on your conscience?

**MR ANDREW DONDO MOGAJANE:** Yes, I do.

**REGISTRAR:** 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

20 God?

**MR ANDREW DONDO MOGAJANE:** So help me God.

**ANDREW DONDO MOGAJANE** (Duly sworn states)

**EXAMINATION BY ADV VINCENT MALEKA SC:** Mr Mogajane first thing first, how do you pronounce your name?

**MR ANDREW DONDO MOGAJANE:** My surname is Mogajane.

**CHAIRPERSON**: Mogajane, have I got it right?

**MR ANDREW DONDO MOGAJANE**: Yes, Chair, you have got it right.

**CHAIRPERSON**: Thank you. I do not want people not pronouncing my surname incorrectly or even saying Zondi, so I do not want to pronounce anybody's surname wrongly.

**MR ANDREW DONDO MOGAJANE**: Yes.

**CHAIRPERSON**: Thank you.

**ADV VINCENT MALEKA SC**: Mr Mogajane for the purposes of your evidence we will be working with one bundle only. And, Chair, that will be EXHIBIT P the bundle  
10 that we used yesterday.

**CHAIRPERSON**: Well I just asked the Registrar a few minutes before we came in whether we needed all these bundles and she said that somebody said to be on the safe side they must all be brought in and I said the moment when somebody says to be on the safe side, it means that they did not apply their mind as to whether it is needed or not.

**ADV VINCENT MALEKA SC**: Yes, yes.

**CHAIRPERSON**: Okay, alright.

**ADV VINCENT MALEKA SC**: That silent laziness. Chair, the statement of Mr Mogajane begins at page 44 of EXHIBIT P.

20 **CHAIRPERSON**: Did you say 84?

**ADV VINCENT MALEKA SC**: 44.

**CHAIRPERSON**: Oh, okay. Thank you, I have got it.

**ADV VINCENT MALEKA SC**: You will see that page 44 is a title page together with the index of the statement and then page 45 is the table of contents and the substantive statement begins from page 46. And that is where I would like to start

Mr Mogajane. It is now common ground that you are the present Director General of the National Treasury, correct?

**MR ANDREW DONDO MOGAJANE**: Yes, it is correct.

**ADV VINCENT MALEKA SC**: When were you appointed?

**MR ANDREW DONDO MOGAJANE**: I was appointed Director General of the National Treasury on 8 June 2017.

**ADV VINCENT MALEKA SC**: And we heard the witness who testified before you that he was your predecessor and he left office sometime in May 2017?

**MR ANDREW DONDO MOGAJANE**: Yes, that is correct.

10 **ADV VINCENT MALEKA SC**: And that is Mr Lungile Fuzile?

**MR ANDREW DONDO MOGAJANE**: Yes, sir.

**ADV VINCENT MALEKA SC**: What happened between June and May to that office?

**MR ANDREW DONDO MOGAJANE**: I was appointed Acting Director General after Mr Fuzile left the National Treasury and I was formally appointed by Cabinet on 8 June 2017.

**ADV VINCENT MALEKA SC**: So you acted for more or less a month...[intervenes]

**MR ANDREW DONDO MOGAJANE**: Yes.

20 **ADV VINCENT MALEKA SC**: Before your final and permanent occupation of that office. Can I ask you to just give us a sense of your qualifications?

**MR ANDREW DONDO MOGAJANE**: I have Bachelor of Administration Degree that I acquired at the University of Durban Westville. I also have two Honours Degrees, one in Public Management and the other one in Industrial Relations and Human Resources that are also acquired, both of them acquired at the University of Durban Westville.

I also have a certificate of Public Management and Financial Management from Harvard University. I also have a Masters Degree from University of Maryland in Public Management and acquired this from the University of Maryland in the United States.

**MS NORMAN**: In Washington?

**MR ANDREW DONDO MOGAJANE**: Yes, no, yes in Washington Maryland, ja.

**CHAIRPERSON**: Well I note Mr Mogajane that you studied in KZN and your predecessor also did study in KZN, so I think KZN is making some contribution to National Treasury.

10 **MR ANDREW DONDO MOGAJANE**: Indeed, KZN is, those of us that studied at KZN are contributing positively in South Africa.

**ADV VINCENT MALEKA SC**: And in case you do not know Mr Mogajane we wisely boast that KZN, especially the University of Zululand has produced three successive Chief Justices of this country and we hope that in due course it will add to that number. Mr Mogajane in paragraph 1 you set out in detail your employment history in National Treasury beginning from 1999. Is there any other historic employment matter before you joined National Treasury that you think important to bring to the attention of the Chairperson?

20 **MR ANDREW DONDO MOGAJANE**: Yes, advocate, I can do that. Before I joined the University, I mean before I joined National Treasury I was a lecturer at Technicon South Africa and before then I was full time employed at the University of Durban Westville. I was in the student housing division and I was responsible for student housing and on a part time basis I was also teaching at the University of Durban Westville and at the same time I was also teaching part time at the Emil Sudan Technicon in Durban.



**ADV VINCENT MALEKA SC:** Alright. So you have a fair amount of academic background?

**MR ANDREW DONDO MOGAJANE:** In my early years yes sir.

**ADV VINCENT MALEKA SC:** Yes. There are two aspects of your official duties in National Treasury that I would like to highlight and emphasise for the purposes of your testimony. The first is that position which you occupied from May 2014 to May 2015 as the Chief Operating Officer in National Treasury, do you see that?

**MR ANDREW DONDO MOGAJANE:** Yes, I can see that.

**ADV VINCENT MALEKA SC:** Can you give us a sense of what you generally broad  
10 official functions and duties were in that regard?

**MR ANDREW DONDO MOGAJANE:** Thank you. Before I go onto answering that question, can I also explain that in 2000, between 2000 and 2001 which is also material I have left the Treasury for one year and I was with EDA Trust, an Environmental and Development Agency Trust, an NGO based in Braamfontein, and it is that year, so it is also important that I was a Deputy Director at that NGO for just one year and I rejoined National Treasury in 2001 in September of that year.

**ADV VINCENT MALEKA SC:** Yes, thank you for that addition. Can we get back to your general functions as the COO...[intervenes]

**MR ANDREW DONDO MOGAJANE:** Yes.

20 **ADV VINCENT MALEKA SC:** Of National Treasury for that one year period?

**MR ANDREW DONDO MOGAJANE:** After the elections in 2014 and after Minister Gordhan, because I was his Chief of Staff before then...[intervenes]

**ADV VINCENT MALEKA SC:** I will get to that.

**MR ANDREW DONDO MOGAJANE:** Oh, yes.

**ADV VINCENT MALEKA SC:** Ja.

**MR ANDREW DONDO MOGAJANE:** As COO having been around the position exist is at a DDG level in the National Treasury my duty was basically to be a liaison between the office of the DG and the office – and the rest of the National Treasury including the office of the Minister at the time and at the time it was Minister Nene who was the Minister.

**ADV VINCENT MALEKA SC:** Yes, but what were you doing as a COO?

**MR ANDREW DONDO MOGAJANE:** As COO I was simply in most cases representing the DG internally taking matters outside the Treasury, where the office of the DG was needed in terms of liaison ensuring that in government it is very  
10 interesting. Government, it depends where you are coming from and what your level is.

**ADV VINCENT MALEKA SC:** Yes.

**MR ANDREW DONDO MOGAJANE:** Now if you are asked as the Minister I mean the office of the DG to engage with other departments and a DGG comes, then they sometimes want to insist that they engage with the office of the DG. So it was easy for this role to be performed on behalf – in some cases on behalf of the DG office and I would interact ensuring that the aspirations and objections of the National Treasury are actually entrenched in the system of government, including liaising between various divisions of the Treasury and the office of the DG.

20 **ADV VINCENT MALEKA SC:** So in a sense you were the technical gateway to the DG's office?

**MR ANDREW DONDO MOGAJANE:** Yes, I confirm and say yes.

**ADV VINCENT MALEKA SC:** The next office is the one you already presaged and that is the office of Chief of Staff. We heard a lot about it yesterday and I would like

you to solicit your views about it. Where does that office fit in within the administration of National Treasury?

**MR ANDREW DONDO MOGAJANE**: As Chief of Staff I am the head of the office of the Minister and the head and that includes the office of the Deputy Minister, administratively so. I would then make sure that the rest of the National Treasury including the office of the DG, playing a liaison role between the office of the Minister and the rest of the National Treasury and the office of the Minister and the rest of the administration, government as a whole, in terms of again what Ministers responsibilities are and how they are communicated to the rest of the department  
10 and sometimes, because again as I said the authority of the ministry becomes quite critically, and I represent a view or the authority of the Minister as Chief of Staff.

**ADV VINCENT MALEKA SC**: And in that capacity do you have any authority to issue instructions to first the DG?

**MR ANDREW DONDO MOGAJANE**: I would not put it like that. I would rather say in collaboration with the office of the DG, understanding that the DG is the one I enter into a contract with the DG is my direct administratively and officially so he becomes my supervisor and as a result the avoidance at all material instances would be to give or to be seen to be giving instruction or be seen to be superimposing myself on the DG or the Deputy Minister's office.

20 So at any given point in time collaboratively so I would then not issue instructions, but request and in some cases I would then directly engage with the department, but the DG would be aware.

**ADV VINCENT MALEKA SC**: So the short answer to my question is you would have no authority to give instructions to the DG?

**MR ANDREW DONDO MOGAJANE:** I would not have authority at all to give instruction to the DG.

**ADV VINCENT MALEKA SC:** Conversely would the DG have the capacity or the authority to issue instructions to you?

**MR ANDREW DONDO MOGAJANE:** Yes, yes, certainly the DG would give instruction to me, yes.

**ADV VINCENT MALEKA SC:** Second, would you have the authority as the Chief of Staff to issue instructions to any DDG or any other management employees of National Treasury?

10 **MR ANDREW DONDO MOGAJANE:** I would reasonable instructions in line with our work, but obviously in collaboration with the DG and not as I say superimpose on the functioning of the administration of the National Treasury and the function of the DDG's.

**ADV VINCENT MALEKA SC:** Yes. I will get to the office that you occupied when the events that began on the Wednesday of 9 December 2015 unfolded, and before I do so, can I ask you to confirm that you had consulted through your lawyers with members of the legal team, and certainly not me, but some of my colleagues, correct?

**MR ANDREW DONDO MOGAJANE:** Yes, I did consult.

20 **ADV VINCENT MALEKA SC:** And they invited you to make a statement and asked for your assistance in relation to the term of reference relating to paragraph 1.8 of the terms of reference and I take it that you know what that paragraph 1.8 requires of the Commission?

**MR ANDREW DONDO MOGAJANE:** Yes, yes, I do.

**ADV VINCENT MALEKA SC:** And then you did so by compiling the statement which begins from page 46.

**MR ANDREW DONDO MOGAJANE:** Yes sir.

**ADV VINCENT MALEKA SC:** And the body of the statement ends at page 50, correct?

**MR ANDREW DONDO MOGAJANE:** At page?

**ADV VINCENT MALEKA SC:** 5-0.

**MR ANDREW DONDO MOGAJANE:** 5-0, yes sir.

**ADV VINCENT MALEKA SC:** Yes, typed page 6 at the bottom, correct?

10 **MR ANDREW DONDO MOGAJANE:** Yes, yes sir.

**ADV VINCENT MALEKA SC:** And then you only annexe one annexure to that statement which is the email accompanied by a media statement from pages 51 to 52, correct?

**MR ANDREW DONDO MOGAJANE:** Yes, yes sir.

**ADV VINCENT MALEKA SC:** At page 50 there is a signature just above your name?

**MR ANDREW DONDO MOGAJANE:** Yes, sir, that is my signature, yes.

**ADV VINCENT MALEKA SC:** Do you confirm that is your signature?

**MR ANDREW DONDO MOGAJANE:** Yes sir, it is my signature.

20 **ADV VINCENT MALEKA SC:** And by that signature you do confirm that you have read the contents of the statement and that they are true and correct to the best of your knowledge and belief, correct?

**MR ANDREW DONDO MOGAJANE:** Yes, correct.

**ADV VINCENT MALEKA SC:** Is there any part of the statement that you would wish to alter, modify or supplement?

**MR ANDREW DONDO MOGAJANE**: No, not at this stage, no, not at all.

**ADV VINCENT MALEKA SC**: On that premise can we now begin with the office that you occupied when the events I have indicated took place? What was your position in Treasury around that period of December 2015?

**MR ANDREW DONDO MOGAJANE**: At the time of that period I was Deputy Director General responsible for public finance at the National Treasury.

**ADV VINCENT MALEKA SC**: Can you repeat that again?

**MR ANDREW DONDO MOGAJANE**: I was a Deputy Director General responsible for public finance at the National Treasury.

10 **ADV VINCENT MALEKA SC**: Yes. And what were your general responsibilities?

**MR ANDREW DONDO MOGAJANE**: My general responsibilities included liaison and overseeing expenditure and revenue issues in relation to all national government departments and public entities under those national government departments.

**ADV VINCENT MALEKA SC**: Yes.

**MR ANDREW DONDO MOGAJANE**: And assisting the budget office in preparation of the national budget including liaison on behalf of the National Treasury with various bodies in parliament and I mean various parliamentary committees, in particular the SCOF which is the standing committee on finance, standing committee on appropriations, standing committee on public accounts and other committees as  
20 and when we had been requested to engage on behalf of National Treasury insofar as public national entities are concerned and national government departments.

**ADV VINCENT MALEKA SC**: Yes, you heard the Chairman yesterday made an appeal to Mr Fuzile who in turn said that you are the appropriate person to deal with the Chairperson's appeal around information regarding the extent of business and

revenue that the Gupta related entities would have procured from state or government business. You remember or do you have any knowledge of that appeal?

**MR ANDREW DONDO MOGAJANE**: Yes, I do have knowledge of what Mr Fuzile was referring to.

**ADV VINCENT MALEKA SC**: Yes.

**MR ANDREW DONDO MOGAJANE**: Because at the time the National Treasury did do some estimates in terms of the impact of what then was finally called the nenegate, the impact that it had and again I requested my economic policy team to then remodel the impact of that – the impact that, that had.

10 **ADV VINCENT MALEKA SC**: I think we are speaking across purpose. Let me make it quite clear...[intervenes]

**MR ANDREW DONDO MOGAJANE**: Yes.

**ADV VINCENT MALEKA SC**: What is the context of the appeal that the Chairperson has extended. And I assume that you would want to talk about the consequences of the so called nenegate, we will get to that.

**MR ANDREW DONDO MOGAJANE**: Oh.

**ADV VINCENT MALEKA SC**: But the appeal was made in the context of the evidence which has now been placed before the Chairperson through the evidence of then Minister Jonas, Deputy Minister Jonas, who I take you know him?

20 **MR ANDREW DONDO MOGAJANE**: Yes, I know him.

**ADV VINCENT MALEKA SC**: He told the Chairperson at some point during the course of his evidence that a member of the Gupta family said to him, when they had a conversation in October 2015 that they received revenue from their business with government entities in the order of 6 billion I think, Chairperson, and they would like to push it up, ramp it up to 8 billion. For that reason they wanted Mr Jonas to assist

them. The appeal is in that context, and it is this, can you in National Treasury confirm the extent of business and associated revenue the Gupta owned or controlled entities have received from government? Can you model that revenue stream especially in relation to 2015 financial year, and can you please produce that type of data to us?

**MR ANDREW DONDO MOGAJANE**: Yes, sir, yes, I will certainly do that. I have already actioned that request, what came through yesterday. I have asked our Chief Procurement Office together with our Financial Management Office to model the cost and the revenue that would have been accrued to the Gupta empire and as and  
10 when it is available I will certainly make it available to the Commission.

**ADV VINCENT MALEKA SC**: Yes, and if I may give you some kind of indication of what the information we are looking for is, it relates to revenue.

**MR ANDREW DONDO MOGAJANE**: Yes, revenue.

**ADV VINCENT MALEKA SC**: I will be surprised if you can give us information relating to the cost structure of those business entities?

**MR ANDREW DONDO MOGAJANE**: No, I will not be able to give you the cost structures.

**ADV VINCENT MALEKA SC**: Yes, yes. That we will get, sorry Chair?

**CHAIRPERSON**: You can continue, maybe what I wanted to say is what you want to  
20 say.

**ADV VINCENT MALEKA SC**: No, no, Chair.

**CHAIRPERSON**: Just to make sure that you have correct understanding one of the aspects that the information must address, particularly the one that we are asking for, but you know, it will not hurt if we get more, is whether as at 2015 maybe 2014/2015, 2013/2014/2015 what revenue were Gupta related entities obtaining



annually from government and maybe SOEs, yes. So, that is what we would very much like to know.

**MR ANDREW DONDO MOGAJANE**: Yes, no, thank you, Chair, I will certainly look at it like that. Revenues, state owned companies and national government from the period 2013 to 2015.

**CHAIRPERSON**: Yes.

**ADV VINCENT MALEKA SC**: I think it is fairly straight forward from national departments, because we are told that they have the BAS system that they utilize to track and trace payments from various expenses, but it would be difficult, we are  
10 told, insofar as state owned enterprises are concerned.

**MR ANDREW DONDO MOGAJANE**: It will certainly be difficult for state owned companies and municipalities.

**ADV VINCENT MALEKA SC**: Yes.

**MR ANDREW DONDO MOGAJANE**: For provincial departments and national departments through the basic accounting system we should be able to get the information.

**ADV VINCENT MALEKA SC**: Yes, and that is the BAS system?

**MR ANDREW DONDO MOGAJANE**: Yes, the BAS system.

**ADV VINCENT MALEKA SC**: Thank you. And just to conclude on that score, this  
20 may well be...[intervenes]

**CHAIRPERSON**: Before you conclude, you say it will be difficult with municipalities?

**MR ANDREW DONDO MOGAJANE**: Yes.

**CHAIRPERSON**: Just difficult meaning you need more time in order to achieve or it will be impossible?

**MR ANDREW DONDO MOGAJANE**: It will not be impossible, it will mean we will have to engage all 250 plus municipalities, because they are not on the same system, and so that includes state owned companies, it is going to be difficult for state owned companies, but however, most state owned companies would be better structured than most of the challenges that we have in the municipalities. So accumulating such data is not impossible, but we will try all sort of ways to try and get the information.

**CHAIRPERSON**: Okay that is fine. Obviously you might be able to produce exact figures, but if you ask me if they, what you get is not exact, but is a reasonable  
10 estimate, I will not complain.

**MR ANDREW DONDO MOGAJANE**: Okay.

**CHAIRPERSON**: But obviously if you can get exact that is first price.

**MR ANDREW DONDO MOGAJANE**: Yes.

**CHAIRPERSON**: Thank you.

**ADV VINCENT MALEKA SC**: Thank you, Chair, and the point is you can churn out the information in batches, so the information that is easy and quick to produce you can send that to us and the ones that are difficult, on which you may well have to do reasonable estimates can be brought in later.

We are under tight control and tight timelines. We would like to have that  
20 information fairly quickly. You had indicated that there were some adverse financial and micro economic consequences flowing from the so called nenegate and you deal with those consequences in paragraph 4 of your statement at page 47.

Can we get to it? Because you seem to suggest that you have reflected on those consequences and you have done some additional research through those

who report to you. Can I start here? We know that, that week began on 7 December, Monday, 2015, correct?

**MR ANDREW DONDO MOGAJANE**: Yes.

**ADV VINCENT MALEKA SC**: During that week as far as you are aware, was National Treasury aware of any possible dismissal of Minister Nene, including yourself, in other words, did you have any idea or suspicion that Minister Nene might well be removed from office?

**MR ANDREW DONDO MOGAJANE**: I had only become aware on the Tuesday, 8 December, through an article that I read on Independent Online that was forwarded  
10 by one of the colleagues in the Treasury and in that article, a newspaper online article it was indicated that a Minister Nene might be replaced by Minister van Rooyen.

**ADV VINCENT MALEKA SC**: Yes, but that is gossip? All I am trying to establish from you is was there any official communication conveyed to you about the possible removal of Mr Nene, yes or no as far as you know?

**MR ANDREW DONDO MOGAJANE**: No, there was no official communication.

**ADV VINCENT MALEKA SC**: Yes. So when you began that Monday and when you went to Cabinet on 9 December it was business as usual?

**MR ANDREW DONDO MOGAJANE**: Yes, it was business as usual.

20 **ADV VINCENT MALEKA SC**: And then we already know that there was some speculation around the 8<sup>th</sup> of Minister Nene's possible removal and that speculation became real on 9 December, correct?

**MR ANDREW DONDO MOGAJANE**: Yes, correct.

**ADV VINCENT MALEKA SC**: Yes. And you say in paragraph 4 that there were serious adverse consequences flowing from the removal of Minister Nene and I

would like you to get there and explain to us in your own words what those consequences were?

**MR ANDREW DONDO MOGAJANE:** There was indeed what I term as a catastrophic fall of the Rand at the time and the impact was that we saw about 148 000 jobs lost in terms of the model that we ran. We saw a reduction of about 378 billion Rand in the JSE market capitalisation and we also saw, the cost impact to at least 1.1% of GDP by the end of that year 2017.

That for me are the three variables that we looked at in the model that I requested my teams, economic policy team in the Treasury to run for me.

10 **ADV VINCENT MALEKA SC:** Yes. And can we be clear, because people like us who do not understand the quantification of that impact, may assume that for instance the 148 000 jobs that were lost, would have been lost as a result of that event on that day, but your model does not suggest that as I understand it? You look at that significant event over a period around which you calculate the effect, correct?

**MR ANDREW DONDO MOGAJANE:** Correct, correct, ja.

**ADV VINCENT MALEKA SC:** And can you indicate to us what was the period that you nominated for that calculation and quantification?

**MR ANDREW DONDO MOGAJANE:** We nominated the period from the announcement of Mr Nene's you know existing from the system until the  
20 replacement when before the Asian markets open on that Sunday, until around Sunday, so that was a period, but however, the impact would have carried through costs.

**ADV VINCENT MALEKA SC:** Yes.

**MR ANDREW DONDO MOGAJANE:** Obviously that ran through and the impact would have been felt throughout.

**ADV VINCENT MALEKA SC:** Yes.

**MR ANDREW DONDO MOGAJANE:** Effectively the impact of which one can say lasted for a longer, much longer period than the three days that, you know Minister Nene was replaced.

**ADV VINCENT MALEKA SC:** Yes.

**MR ANDREW DONDO MOGAJANE:** Ja, so the impact is much longer, it is not just because of one day.

10 **ADV VINCENT MALEKA SC:** Yes, and I understand that and I want to see the extrapolation what is the longer period for that effect around which you made the calculation.

**MR ANDREW DONDO MOGAJANE:** Look in terms of the impact that we saw and the as you say, Chair, the – one can say, you know I do not have the exact date time lines, but it is the impact that we saw much later and one can even say the impact can be even felt by now. I do not think that we were able ever to recover in a way that we had lost the market recapitalisation of about 370 billion. The JSE has never recovered to that level. So the impact we are still experiencing to date.

20 **ADV VINCENT MALEKA SC:** I understand that, but for the purposes of you calculation you used metrics such as quarter period, Q1, Q2, Q3, Q4. Sometimes you use a financial year. Sometimes you use a six month period. I just want to understand whether the calculation relates to the whole financial year after December 2015 or it related to a quarter or six months thereafter?

**MR ANDREW DONDO MOGAJANE:** One can say, Chair, it is the period – in terms of the numbers that I have, because the high frequency data that we have one can see that the impact in 2015 recovering was only started being recognised and

noticed around 2016 in quarter 2 of 2016, that is when recovery starting being experienced and realised.

**ADV VINCENT MALEKA SC:** So on a straight line calculation it will be about a period of six months more or less?

**MR ANDREW DONDO MOGAJANE:** Of six months, it could be, yes.

**ADV VINCENT MALEKA SC:** Yes. Then you indicate that there was a reduction of the JSE capital value of 378 billion Rand and then you say that GDP shrunk by 1.1%, correct?

**MR ANDREW DONDO MOGAJANE:** Yes, sir.

- 10 **ADV VINCENT MALEKA SC:** There are of course other micro economic adverse consequences which flowed from this and Minister Gordhan and also Mr Fuzile did talk about them, because they say that ordinary members such as ourselves do not appreciate it until we feel it at the counters of the supermarkets. The cost of living would rise as a result of these adverse micro economic consequences.

Do you have any comment to make in that regard?

- MR ANDREW DONDO MOGAJANE:** Yes, I do have a comment. Business confidence were at its lowest as we approached January of that year and that is why Minister Gordhan in his statement would have indicated that there was clearly a need to rally around each other as a country and various sectors of the economy,  
20 business labour and government and the first such engagement was around 23 January when business came together with government and after the DAVOS meeting CO's came at very short notice to meet and by March we had had a plan to do something about it, because if business confidence at its lowest it means then that there is an impact on investor sentiment and you would not see any new investments coming through and that is why in March of that year we went on a very,

call it intensive road show with business labour and government as a block. We went to the US, we went to Europe to explain that the fundamentals are still in place and that South Africa is still open for business, and it was a very difficult conversation in March 2016 that we had with this global investors, because we had seen the impact and we were not recovering at all in terms of what they saw as clearly the challenge that South Africa was experiencing at the time.

**ADV VINCENT MALEKA SC:** Yes, one thing that I would like you to comment on as part and parcel of this adverse consequence and I am not to sure if it was covered by both Minister Gordhan and Mr Fuzile. Relates to whether or not these  
10 consequences might impact on the cost of our country's ability to service its sovereign debt? By that I mean would the depreciation of the currency as a result of these things impact on your cost of servicing the debt which our country incurs?

**MR ANDREW DONDO MOGAJANE:** The cost of servicing debt would certainly rise when the country is faced with such environmental situation. By just the movement in the Rand as an example, because the, you know, we have to service our debt, our debt to GDP is packed to a certain exchange rate assumption and once that changes then clearly there is impact.

Now we go and Mr Fuzile did correctly indicate that at the time we were going to – into the market on a weekly basis and raise anything between 9 and 14  
20 billion Rand. Now if at the level of you – the performance of the economy are not doing well and you are too risky as – you know – as a potential client to investors or people who actually lend you money...[intervenes]

**ADV VINCENT MALEKA SC:** Yes.

**MR ANDREW DONDO MOGAJANE:** The money will be more expensive. In simple terms I normally explain to people that if you have to buy a car and or you want to

get a home loan and you are listed at the credit bureau. Some lenders will still say at least we have a job, but they will give it to you at prime, maybe even prime +5%, because you are risky. And if you are okay they will even go and give you prime less 2% if you have got a stable job and your ability to pay is not questionable.

Now if the country's situation is such that the performance of the country, performance of the economy is not at the level where we will give comfort to people who lend us money, then it becomes very expensive and that translates therefore into your debt rising, because you borrow at very high rates, including again the cost of servicing your debt and that is then your debt, debt service cost increases to  
10 levels that will be difficult to manage as time goes on.

**ADV VINCENT MALEKA SC**: Yes, thank you for that. Lastly on that issue. If you have a modelling exercise which you may have done to quantify the effects of this negative on the country's ability to service its debt that will be useful and you can use the indicators such as – but – we borrow our money in foreign currency and yet our revenue is raised in terms of the local currency, and so the local currency goes down obviously the repayment is going to be higher by that fact alone.

But if our creditors would have said look you are risky and therefore we would want to protect ourselves and they make calculations that impact on our ability you can do so. So what we are interested in are the figures. If you have them we  
20 would be grateful for that exercise.

**MR ANDREW DONDO MOGAJANE**: Yes we will certainly make them available.

**ADV VINCENT MALEKA SC**: You then talk about the events of 11 December from paragraph 5 of your statement on page 47. You talk about a meeting with Minister van Rooyen that was scheduled to begin at 11:00 that morning. How did you get to know about that meeting yourself?



**MR ANDREW DONDO MOGAJANE**: We got notification from the office of the DG, DG Fuzile, at the time that there would be meeting at 11:00 to meet with the new Minister and this notice was sent to all Deputy Director Generals.

**ADV VINCENT MALEKA SC**: And you received one of them, you received that notice?

**MR ANDREW DONDO MOGAJANE**: Yes, I did receive the notice.

**ADV VINCENT MALEKA SC**: And so you were ready for the meeting?

**MR ANDREW DONDO MOGAJANE**: I was ready for the meeting, yes.

**ADV VINCENT MALEKA SC**: And then what happened when 11:00 struck?

10 **MR ANDREW DONDO MOGAJANE**: We waited, we were in the big board room. Sorry DG's board room as you call it, you know, DG's board room on the second floor, 40 Church Square and then as usual, you now we were all excited that we are going to see or meet the new Minister.

**ADV VINCENT MALEKA SC**: When you say we, who were there to the best of your recollection?

**MR ANDREW DONDO MOGAJANE**: There were a number of colleagues.

**ADV VINCENT MALEKA SC**: Who were there?

**MR ANDREW DONDO MOGAJANE**: The DDG's I do not have a list of colleagues who were there, but there were a number of colleagues who were DDG's and some  
20 who were representing the office of the DDG's because most people were on leave as it was around 11 December, so most people were on leave, so there could have been a sizeable number of colleagues, I remember a few, Mr Monale was in the meeting, Whendiphane was in the meeting, Mr Momaniat came late and a few others.

**ADV VINCENT MALEKA SC**: Mr Sachs was he there?

**MR ANDREW DONDO MOGAJANE:** Mr Sachs was not in the meeting he was on leave.

**ADV VINCENT MALEKA SC:** Okay. What, so you were waiting in excitement for the new Minister, what happened thereafter?

**MR ANDREW DONDO MOGAJANE:** As we were waiting the new Minister walked in with two gentlemen that I did not know. I have never met before, I was meeting them for the first time and shortly as soon as they walked in then they were followed by Mr Fuzile and we all sat down waiting for the meeting to start.

**ADV VINCENT MALEKA SC:** Yes. It is now the evidence before the Chairperson  
10 that those two gentlemen who walked with the Minister were Mr Mohammed Bobart and Mr Ian Whitley. You yourself did not know them?

**MR ANDREW DONDO MOGAJANE:** Yes, I did not know them.

**ADV VINCENT MALEKA SC:** Had you met them before?

**MR ANDREW DONDO MOGAJANE:** I have never met them before, I was seeing them for the first time.

**ADV VINCENT MALEKA SC:** Had you heard about the name Mohammed Bobart and the name Ian Whitley before?

**MR ANDREW DONDO MOGAJANE:** Not at all, I was hearing about them for the first time.

20 **ADV VINCENT MALEKA SC:** Yes, alright, and you say in paragraph 7 that before that meeting you had been busy with a media statement?

**MR ANDREW DONDO MOGAJANE:** Yes sir.

**ADV VINCENT MALEKA SC:** Okay, and you indicate that, that media statement, let me not lead you, let me ask you, how did it come about that you were engaged in that media statement?

**MR ANDREW DONDO MOGAJANE:** I was engaged to the media statement because of the situation at the time, the Rand was taking a beating. The narrative in the public was very negative and I was worried that we are quiet as a National Treasury. The Presidency is quiet in terms of what happened, because at the time I had developed a very good working relationship when I was Chief of Staff when the head of the office of the President, Ms Lakela Kaunda, I was in touch with her on the days after Mr van Rooyen was announced as the new Minister. Actually I called her on Thursday at the early morning after the announcement, because we had a very close relationship, close working relationship when she sent me a message and say

10 you know we did not see this coming and I said you know it is tough but we have to stand firm, but as the time goes by the office of the President was quiet. And the Treasury and I could imagine Mr Fuzile was busy with, you know, as he said what he was busy with on Thursday the swearing in ceremonies etcetera, so we then agreed with Ms Lakela Kaunda that I think it is better that we issue the statement to calm the markets to explain, because we had accepted that Mr van Rooyen was going to be the Minister of finance...[intervenés]

**ADV VINCENT MALEKA SC:** Yes.

**MR ANDREW DONDO MOGAJANE:** So we realised that the best is to at least calm the markets and indicate to the markets and everyone who wishes to listen that

20 South Africa is still keeping the fundamentals in place and those fundamentals that I was talking about are captured in the draft statement that I sent to Ms Lakela that day.

**ADV VINCENT MALEKA SC:** Yes, the point of the inquiry is this, did you take it upon yourself together with Ms Kaunda to formulate a statement or did someone within the National Executive as you to do so?

**MR ANDREW DONDO MOGAJANE**: There was no one at the National Executive I was engaged with at the time, because it was a freefall in terms of the governance of the economy. I as, knowing the impact as a responsible national treasury official and obviously talking amongst some of my colleagues who I was waiting for inputs and Mr Fuzile as you can imagine I was not in touch with him...[intervenes]

**ADV VINCENT MALEKA SC**: Yes.

**MR ANDREW DONDO MOGAJANE**: At the time, because I did not see him actually on Thursday.

**ADV VINCENT MALEKA SC**: Yes.

10 **MR ANDREW DONDO MOGAJANE**: I only saw him on Friday morning.

**ADV VINCENT MALEKA SC**: Yes.

**MR ANDREW DONDO MOGAJANE**: And so as a result I did it upon myself in relation I mean in connection with the office of the President, Ms Kaunda, to make sure at least we calm the markets, because I knew the impact of calming that markets.

**ADV VINCENT MALEKA SC**: Yes. You heard yesterday I did cover and canvas with Mr Fuzile about the fact that it was a crisis moment which was unfolding right in front of his eyes and that there was a need for critical leadership intervention and yet there was none. You took it upon yourself to try and solicit some intervention in  
20 order to address that crises?

**MR ANDREW DONDO MOGAJANE**: Yes, I did, I did take it upon myself.

**ADV VINCENT MALEKA SC**: And you say so, because of your sense of responsibility?

**MR ANDREW DONDO MOGAJANE**: Yes sir.

**ADV VINCENT MALEKA SC:** Okay. Look at – I am going to jump all over like a cat on hot bricks if you do not mind, look at the statement which is at page 52 and we will get to its contents in a moment, but page 51 is an email, do you see that?

**MR ANDREW DONDO MOGAJANE:** Yes sir.

**ADV VINCENT MALEKA SC:** Where does it come from?

**MR ANDREW DONDO MOGAJANE:** It is an email coming from me and I am sending it to Lakela and I have copied Phumela Williams and Nebo Hoo, both of them were at GCIS at the time.

**ADV VINCENT MALEKA SC:** And you will see that it was sent on Friday the very  
10 day that you had a meeting and it was sent at almost an hour after the scheduled commencement time of the meeting, 11:58, do you see that?

**MR ANDREW DONDO MOGAJANE:** It is 11:41.

**ADV VINCENT MALEKA SC:** 11:41?

**MR ANDREW DONDO MOGAJANE:** And 58 seconds.

**ADV VINCENT MALEKA SC:** I am sorry, you sent it at 11:41, okay, so you must have sent it sometime after the meeting?

**MR ANDREW DONDO MOGAJANE:** Yes, I did send it after the meeting, because at the meeting itself I was having my laptop with me and I was busy writing the statement when the meeting was taking place with Mr van Rooyen.

20 **ADV VINCENT MALEKA SC:** So you had divided attention?

**MR ANDREW DONDO MOGAJANE:** I was more interested in calming the markets, because I could see that with that meeting we were not going anywhere.

**ADV VINCENT MALEKA SC:** Yes. And that is *dexpreity pa excelace* but in any way let us look at your statement. It is at page 52, Chairperson.

**CHAIRPERSON:** Page?

**ADV VINCENT MALEKA SC:** 52.

**CHAIRPERSON:** Thank you.

**ADV VINCENT MALEKA SC:** You indicate that it is a draft statement, correct?

**MR ANDREW DONDO MOGAJANE:** Yes, it was a draft statement.

**ADV VINCENT MALEKA SC:** Yes, it has not been issued to the media houses?

**MR ANDREW DONDO MOGAJANE:** Not at all at this time, no.

**ADV VINCENT MALEKA SC:** Yes. And then in the first unnumbered paragraph of that statement you record a historical fact, do you see that?

**MR ANDREW DONDO MOGAJANE:** Yes sir.

10 **ADV VINCENT MALEKA SC:** But then you raise in the last sentence of that paragraph policy questions and you say, let me quote, so that we are on the same wave length:

"Our fiscal policy continuous to anchor on the principles of counter cyclicity, debt sustainability and intergenerational fairness."

I mean these are big phrases. I am not going to ask you to decode them for us, but it seems to me that these are major policy issues. Why did you consider it necessary to incorporate these fundamental policy principles in your statement or draft statement?

20 **MR ANDREW DONDO MOGAJANE:** I decided to put these three basic policy principles, because in the budget of that year the February budget, and confirmed in the medium budget policy statement of that year we wanted to – and this was what was at the pillar of what we represented and that was the storyline of our budget that counter cyclicity will be what we want to do, meaning when the economy is not doing well we will have to come in. We are going to approach our debt sustainably,

we are not going to borrow to a point where it actually impacts us negatively and we are with inter generational fairness we are saying that we were not going to, you know, burden future generations in terms of our fiscal policy.

Now the narrative at the time this is what we were punting out there to investors and to South Africans around what our fiscal policy stance, so that departure of a statement like that would have made sure that South Africa has not deviated from maintaining these.

Why am I saying debt sustainability? The issue at the time as Mr Fuzile indicated was around nuclear financing. The issue was around higher education  
10 challenges that we saw manifesting themselves two/three years later.

So by saying that we are going to maintain this, effectively we would have calmed people down that thought we are going to go, you know, we are going to break this policy framework that we had set for ourselves. So by putting it up, right there is paragraph 1 that was the intention to calm that view out there, that was already suggesting that we are not going to respect what we said in the budget of that year.

**ADV VINCENT MALEKA SC:** Yes. Chair, you would recall that Minister Gordhan said at that point in time the estimate for the nuclear procurement would be in the order of one trillion Rand, and yet the revenues expected for that financial year  
20 would be in the order of 800 billion, so there would essentially be a shortfall and that would mean that your debt would rise and therefore you would not be able to manage it and then as you borrow more and more of course you would ultimately not be able to raise debt, and you will be left with one and one source and that is the IMF that will come with its own structural adjustment conditionalities as you know them.

**MR ANDREW DONDO MOGAJANE:** Yes sir.

**ADV VINCENT MALEKA SC:** Anyway, I am going to skip paragraph 2 that is the unnumbered paragraph 2, unless you want to comment on it?

**MR ANDREW DONDO MOGAJANE:** Paragraph 2 is important, because expenditure ceiling is what has defined South Africa's policy, physical policy stance to date, and meaning the ceiling that you had set the medium term budget policy statement. It is actually confirming what you have just indicated as part of the cost that was going to be on us if you were going to embark on a nuclear financing arrangement, which would have costed us in excesses of a trillion at the time.

10           So by saying that we would adhere to the expenditure ceiling while maintaining a trajectory on our debt portfolio, meaning that we are not going to borrow any extra cent to finance nuclear or any other expenditure which may be unsustainable. And that is why I am saying that as set out in the 2015 budget.

          So the two paragraphs basically, you know confirms each other.

**ADV VINCENT MALEKA SC:** We heard figures from Minister Gordhan about the debt ceiling at the point in time. Are you able to tell us from your own knowledge what was the debt ceiling at that point in time?

**MR ANDREW DONDO MOGAJANE:** I do not want to – I do not have the figures with me, I would not want to get into that, but we had a ceiling.

20   **ADV VINCENT MALEKA SC:** Okay. I am going to skip the third unnumbered paragraph unless you want to comment on it, in case I overlook its importance. Is there anything you want to comment?

**MR ANDREW DONDO MOGAJANE:** On paragraph?

**ADV VINCENT MALEKA SC:** The paragraph that follow? The one that is the third from the top?



**MR ANDREW DONDO MOGAJANE**: No, I am okay with it, I am okay.

**ADV VINCENT MALEKA SC**: But I would like to deal with the one that follows thereafter, because you make either a prediction or a factual assumption, and there you say and let me read it so that we are at one:

"Minister van Rooyen will not abandon the fiscal path that we have chosen in the last few years. He will strengthen the path and continue to support all efforts to improve the lives of ordinary South Africans."

Do you see that?

10 **MR ANDREW DONDO MOGAJANE**: Yes, what I have learned to understand in my years in the Treasury even up to that point, when you put something like this out in public it gives the market confidence and in a way for me where I was seated, Chair, I was fighting my own battles, if you can imagine, in terms of what Mr Fuzile said.

When I say fighting my own battles, meaning I wanted to contribute in a particular way in stabilizing the situation now. In here I am now binding whether I like it or not, a Minister who is imposed on us in the way that he came, I am then binding with this draft that he will come, if he wants to abandon he would have committed himself or the Presidency would have committed themselves on this, which I know was correct and true by the way in terms of what we said in the budget.

20 So by saying that he would not abandon the fiscal path that we have chosen in the last few years, it means indirectly we will then force Minister van Rooyen to not deviate from what we have said and there will be a statement coming from the President to confirm that he cannot – for me it was a strategic move and a strategic, you know, point that I was putting upfront to ensure that we actually, you know maintain the fiscal discipline and ceiling that we had aspired to.

**ADV VINCENT MALEKA SC:** Thanks for that. That is your sense of responsibility, but on the facts you had not yet spoken to Minister van Rooyen, correct?

**MR ANDREW DONDO MOGAJANE:** Yes, no, not at all, not at all.

**ADV VINCENT MALEKA SC:** You had not spoken to anyone who at that point in time would lawfully be entitled to speak on his behalf?

**MR ANDREW DONDO MOGAJANE:** Not at all.

**CHAIRPERSON:** But you were including in the statement what you believed would continue as the government's position at the time?

**MR ANDREW DONDO MOGAJANE:** Yes, correct, Chair, yes.

10 **CHAIRPERSON:** In other words in your own mind you could not imagine that there would be a departure on that aspect?

**MR ANDREW DONDO MOGAJANE:** It was not only imagining, Chair, but I wanted to that there should not be a departure.

**CHAIRPERSON:** Yes, but what I am saying apart from your subjective desires.

**MR ANDREW DONDO MOGAJANE:** Yes.

**CHAIRPERSON:** In terms of what you understood government to be likely to do and not to be likely to do, it was something you did not think government would do to depart from that?

20 **MR ANDREW DONDO MOGAJANE:** Yes, at that point I did not think government would do that, ja.

**CHAIRPERSON:** You expected a Minister who is appointed by the President who has been around for the past few years to continue on that part of the policy?

**MR ANDREW DONDO MOGAJANE:** I wanted exactly that, Chair, yes.

**CHAIRPERSON:** Okay, alright, thank you.

**ADV VINCENT MALEKA SC:** Thank you, Chair. We have now confirmed that you had not yet spoken to the Minister and you expected that he would not change these policy positions which is fair of course, but the point is this, that Mr Fuzile said that immediately after his inauguration Minister van Rooyen took out a piece of paper and I do not want to undermine the status of what he took out, but he described it as a piece of paper, and he read something from it, and that was his inaugural speech which is now on the websites, did you have a look at that speech?

**MR ANDREW DONDO MOGAJANE:** This speech was on Thursday at the – I was not there and I have not seen him, I have not interacted with him at all, I did not  
10 know, you know his speech, I did not contribute to his speech.

**ADV VINCENT MALEKA SC:** Yes, I understand, but did you subsequently read it from the website or you had not read it at all?

**MR ANDREW DONDO MOGAJANE:** I had not read it at all at this time. I had not read it – you know, Chair it was very painful – for me in particular it was a very painful period having been at the Treasury for years and so I had two options on the Thursday and for me it was, I had switched myself off from what was happening, just because of sadness of what we were doing to ourselves and at a later stage obviously when you engage on other matters it will come through, because my pain started that Monday, it did not start on Friday, Thursday or Friday.

20 So by Thursday I had completely switched off, I did not even listen to, you know even watch on TV the swearing in ceremony. I completely just taken a – I was too angry to watch TV that Thursday.

**ADV VINCENT MALEKA SC:** Ja, I know it is events of the past, but take us along in that pain and the painful moments you experienced, because we have not yet received evidence of a witness who speaks in personal emotive terms around that

event and you make a very interesting observation. And if you can take us through it and give us more information it will be useful. You say that you were saddened by what, and I paraphrase what we were doing to ourselves. I would like you if you can and if you feel comfortable just to take us through that emotional journey and indicate what is it so painful that we were doing to ourselves?

**CHAIRPERSON**: Well, Mr Maleka, I am happy that you have asked that question, because I have read your statement DG and you have just made the point that there are – there are certain things that happened from Monday or that you got to know from Monday and I am as keen as Mr Maleka is just to hear about that pain that you  
10 are talking about.

Yes. Thank you.

**MR ANDREW DONDO MOGAJANE**: Chair, thank you very much. I would not give further details expect to mention and if Commission so feels I will be more than happy to assist the Commission to get into more details, but what I mean about the pain is that I was at the meeting on Monday afternoon when the Treasury...[intervenes]

**CHAIRPERSON**: The Monday before the 9<sup>th</sup>?

**MR ANDREW DONDO MOGAJANE**: The 9<sup>th</sup>.

**CHAIRPERSON**: The 9<sup>th</sup> was a Monday?

20 **ADV VINCENT MALEKA SC**: No, no, the 9<sup>th</sup> was a Wednesday, the 7<sup>th</sup> was the Monday.

**MR ANDREW DONDO MOGAJANE**: The 7<sup>th</sup>.

**CHAIRPERSON**: Monday the 7<sup>th</sup>.

**MR ANDREW DONDO MOGAJANE**: Monday the 7<sup>th</sup>.

**CHAIRPERSON**: December 2015?

**MR ANDREW DONDO MOGAJANE:** 2015. In the afternoon I was at a meeting where as tradition DDG Michael Sachs, myself responsible for public finance, Michael was responsible for budget office and Mr Fuzile as the DG including Mr Nene as Minister, we went to brief the President on the budget, because we were going to Cabinet on Wednesday the 9<sup>th</sup>.

So I am saying that it was painful in that there was that meeting, which was a normal meeting where we were you know just presenting the budget to the President and explaining, because the budget is not one event it is a process, so we are explaining the allocations and how we got to them and the tone of that meeting  
10 was so cordial that you know, we were engaged as to how can we improve this moving forward.

I left that meeting a very positive South African and public official and I was happy and I was even telling Mr Fuzile and Mr Sachs, you know, we had a very good meeting, because it was very constructive in terms of things – you know it is a close space with the President, you know, really appreciate in terms of suggesting things openly, you know, around allocations and also around, you know the wastage that we see, so that as President you would be aware and he would give guidance in terms of future processes that we should engage on, on how we have to set priorities, how we have to find expression in the Cabinet Legotla processes and also  
20 find expression in the ANC government, ANC the party aspirations, because then they will be translated into government.

So it is on that basis that I say that it was a very nice, good meeting, and I left on that note on Monday. Tuesday I was also at another meeting at the same time almost at the same venue at the President's residence at what then we know later as a nuclear meeting, the NNEC meeting, the National Nuclear Energy Sub-

committee of Cabinet, that committee, that long name. I was in that meeting and you know the interactions in that meeting pained me.

The feeling that I had the previous day was gone in terms of how the meeting ended up and in how I think at the time, you know the meeting went about. I was also at a meeting on the following day on a Wednesday in Cabinet when we presented our budget and the way we presented out budget and the way Cabinet including everyone in the room interacted with the budget and subsequent to that then the Cabinet meeting ends and then I go home.

And as I am driving then I get a call from somebody in the President's  
10 office, because of the relationship that I indicated, it was not from Ms Lakela Kaunda per say, but as Chief of Staff I interacted very closely in the previous term Minister Gordhan between 2010 and 2014. I got a call and they were looking for Minister Nene. I said look, why are you calling me, I am not Chief of Staff, he has got a Chief of Staff.

This gentleman said no, but you were with him just now. I said no, I am – I have left and he also left. So then I called him and said look you are being called by the President. This was after the Cabinet meeting. So now I am saying Monday, Tuesday, Wednesday and then what we then came to know later in the evening around after 20:00 when it was announced that Minister Nene has been – you know,  
20 has been fired, basically.

So it is now – and when you take that into Thursday now where I say I did not even want to watch TV, I am now tracing back the three days and what I felt in the three days and why, and the call we got and the message that you know we exchanged amongst each other that evening that said the axe has, you know, fallen.

So for me it was to painful to say, you know, it cannot be as an important institution like the Treasury our own system would have interacted with us like that. So it was a – that is why I am saying it was a very painful – that is why I am saying if at a later stage and I would prefer, Chair, that I leave it at that.

**CHAIRPERSON:** Yes.

**MR ANDREW DONDO MOGAJANE:** For me that is what I meant.

**ADV VINCENT MALEKA SC:** Well if I may press you a bit and I am not reviving your pain, what do you think should have happened in order to avoid or lessen the pain that you had experienced in the normal ordinary responsible way of doing government's business? And by that I mean Treasury's responsibility including the  
10 executive line function of the Minister? What would you have had expected to happen so as to avoid or lessen the pain?

**MR ANDREW DONDO MOGAJANE:** Chair, I do not get it, is it during or after?

**ADV VINCENT MALEKA SC:** Take any moment in regard to the time and frame of reference of the painful moment that you have talked about. For that pain not to arise or if it arose for it not to become as severe as you discuss, what are the things that you would have expected to happen differently?

**MR ANDREW DONDO MOGAJANE:** I think, the first, the first thing that one expected we should not have – firstly Minister Nene should not have been fired. So  
20 there would not have been any pain.

**ADV VINCENT MALEKA SC:** Yes.

**MR ANDREW DONDO MOGAJANE:** Because where I was seated I did not get the justification as to why Minister Nene should have – was supposed to have been fired. Even today when I look back I do not clearly see the reason. Even after Mr Fuzile tried to go into after in a way that we would have expected things to be

because when Minister Trevor Manuel left the Treasury and Minister Gordhan came there was a process, a handover, a very process that tells you there is no crisis.

When Minister Nene came onboard and Minister Gordhan was shifted to COGTA again there was a process. Now Minister Nene comes and after a few months, 18 months or so I am not sure of the time period. You can confirm that Minister Van Rooyen comes and there is no – there is no handover proper.

It should have been done differently in a way that you know the tradition there is that the collective of the Treasury is called to what we call the Banking Hall. The outgoing Minister gives a speech. The incoming Minister gives a speech.

10 It then tells you that and it also tells the staff, the 1000 plus staff of the National Treasury, that there is no crisis here, things are okay but we did not see any of that even after when Minister Van Rooyen came onboard.

That is why I am saying it could have been done differently and I would have certainly go back to tradition in terms of what possible and proper handover is all about.

**ADV VINCENT MALEKA SC**: Thank you for that. Chair, I think I have covered the issue unless you have further questions on that issue?

**CHAIRPERSON**: Yes. No, no that is fine. I am going to do today this afternoon what I did I think what is it yesterday?

20 **ADV VINCENT MALEKA SC**: Yes.

**CHAIRPERSON**: We will take a very short adjournment. On my watch it is 21 minutes past. We will resume at half past.

**ADV VINCENT MALEKA SC**: Thank you, Chair.

**CHAIRPERSON**: We adjourn.

**ADV VINCENT MALEKA SC**: Thank you, Chair.



**CHAIRPERSON**: We adjourn.

**HEARING ADJOURNS**

**HEARING RESUMES**

**CHAIRPERSON**: Yes you may continue.

**ADV VINCENT MALEKA SC**: Thank you, Chair. Mr Mogajane we are at paragraph eight of your statement and there you describe what happened after the Minister entered the DG's boardroom. Can I invite you to tell us what unfolded thereafter?

**MR ANDREW DONDO MOGAJANE**: Thank you. The Minister walked into the meeting and greeted us in a very colloquial manner saying I just wanted to say hi, hi,  
10 hi to all of you. He must have said that three or four times and then he said or he sat down and then as he was sitting down as I say that I mean I say I have worked with Mr Fuzile because remember we do not know now what happened before.

We are seeing him for the first time and I could see that Mr Fuzile was in a very sombre mind, I mean you know state of mind and I could see his face was not how I used to because I know him very well. I had worked with him since I joined the Treasury in 1999 and I could tell through his demeanour that he was reserved and he was very tense and then so because we all were looking up to him I think that immediately just made the meeting room to be tense and so as soon as he sat down after saying hi, hi, hi then he started trying to engage already.

20 You know I just wanted to say hi to you and you know and tell you that this place is going to change. Things are going to change around here and things are not going to be the same. You know that language. We are going to be accessible to rural people and rural areas.

You know and now at this time as he was trying to go on this must have been say for a minute or half a minute or so, one and half a minute Mr Momoniat

walks in. Mr Momoniat was also on leave on the day but because he lives in Johannesburg he was able to drive through to actually try and make the meeting.

Now Mr Momoniat you know we know him. I mean he is a very simple person and he walks in. He sees all of us. He starts joking and say oh, no welcome Minister. Welcome to the Treasury. You know now you are on our side. You are not on the other side meaning he was the member of the Standing Committee on Finance and they would have dealt with various pieces of legislation at the time, the Twin Peaks Legislation and other pieces of legislation and then Mr Momoniat soon realised that you know we are not going to smile and be happy and jolly as he was.

10 So I think as soon as he looked at the meeting room and how tense we were all he then decided to quietly sit down and let Mr Van Rooyen you know continue with what he was trying to do.

**ADV VINCENT MALEKA SC:** Yes.

**MR ANDREW DONDO MOGAJANE:** So that is what happened the first few minutes, say three minutes of his talk around what he was – at that point Chair it was you know Mr Fuzile said but you already need – why do you not try and know the people here?

At least you know, know the people here or even introduce. That is when [missing audio] and then he is going to be my Chief of Staff and Mohamed said no, no, no. You did this. No, no, no I am advisor. Then he looked at ja of course this is Mr Ian Whitley. He is going to be my Chief of Staff.

So it was clear that you know for me...[intervenes]

**CHAIRPERSON:** I am sorry Mr Mogajane. Some of the things that non lawyers might not appreciate are important. As you were giving your evidence as to how – as to what Mr Van Rooyen said you were making gestures when you were telling us

and you must just confirm if what I am saying is right because I want it to go into the record.

When you were telling us what he said when he looked to his left but I think you looked to your right – to his left where Mr Bobat was as I understand your statement.

**MR ANDREW DONDO MOGAJANE:** Yes.

**CHAIRPERSON:** You stretched your hand and to point to the person that he was speaking to. Is that what he was doing or is that just what you are doing to express what you understood but not necessarily what he was doing?

10 Did he point him like that and I think at some stage when you were indicating Mr Bobat's response you said when he said no, no, no you were moving your hand from right to left and left to right in front of your face.

Is that what Mr Bobat was doing gesturing as he was saying no, no, no or is it something that you are just using to express yourself?

**MR ANDREW DONDO MOGAJANE:** Chair, you are correct. Mr Bobat was gesturing. He was – firstly Minister Van Rooyen was gesturing in this case to his left yes and saying pointing as he was busy trying to reconnect or recollect his name and saying this is – he was pointing at Mr Bobat and the same Chair when Mr Bobat was responding he was waving his fingers and no, no, no. Meaning correcting him  
20 but waving his finger and saying...[intervenes]

**CHAIRPERSON:** Waving his pointing finger?

**MR ANDREW DONDO MOGAJANE:** Just as I am pointing it out.

**CHAIRPERSON:** Yes as you are doing.

**MR ANDREW DONDO MOGAJANE:** Not to him.

**CHAIRPERSON:** Yes.

**MR ANDREW DONDO MOGAJANE**: You know just...[intervenes]

**CHAIRPERSON**: In front of Mr Bobat's face just to express...[intervenes]

**MR ANDREW DONDO MOGAJANE**: Yes just in front of his face.

**CHAIRPERSON**: Yes. Yes.

**MR ANDREW DONDO MOGAJANE**: Saying no, no, no. It could have been a finger or a hand but he was...[intervenes]

**CHAIRPERSON**: Yes.

**MR ANDREW DONDO MOGAJANE**: You could see he was saying no, no, no it is...[intervenes]

10 **CHAIRPERSON**: Yes.

**MR ANDREW DONDO MOGAJANE**: It is Advisor not Chief of Staff.

**CHAIRPERSON**: Okay, thank you. So but I summarised it correctly?

**MR ANDREW DONDO MOGAJANE**: Yes you summarised it correctly and as he was pointing to Mr Whitley same thing. He was...[intervenes]

**CHAIRPERSON**: Yes.

**MR ANDREW DONDO MOGAJANE**: He was then pointing to him and this is Ian Whitley.

**CHAIRPERSON**: Yes.

**MR ANDREW DONDO MOGAJANE**: And he is going to be the Chief of Staff.

20 **CHAIRPERSON**: No, thank you. I interrupted you but I wanted that to be recorded. It has got some significance.

**MR ANDREW DONDO MOGAJANE**: Yes.

**CHAIRPERSON**: For lawyers.

**ADV VINCENT MALEKA SC**: Chair, I am grateful for placing on record the replay of the audio visual seen of that moment. I am interested in whether Mr Whitley said

anything when he was introduced as the Chief of Staff by the Minister? Did he or did he not say anything?

**MR ANDREW DONDO MOGAJANE:** Mr Whitley did not say anything.

**ADV VINCENT MALEKA SC:** Okay and what happened after the Minister introduced the two individuals?

**MR ANDREW DONDO MOGAJANE:** The DG then requested that he then wants to introduce his team and he slowly introduced each one of us indicating our names and the roles that we play in the Treasury including those that were in acting capacity on the day indicating who the original or the DGD is and who is not there  
10 and he was taking his time obviously.

I think you know looking back he was then trying to prove to Mr Van Rooyen – Minister Van Rooyen at the time that I know my people and I can introduce them. It came out very clear to me at the time.

**ADV VINCENT MALEKA SC:** Yes.

**CHAIRPERSON:** And that was about how many people that from Treasury more or less who were there?

**MR ANDREW DONDO MOGAJANE:** More or less nine, 10, 11. I mean we can with the names because there are 10 divisions in the National Treasury so it could have been around the same number.

20 **CHAIRPERSON:** Okay.

**MR ANDREW DONDO MOGAJANE:** You know with Mr Momoniat coming in because I could have explained that someone who was acting on his behalf would have been in the meeting but around 10, 11, 12.

**CHAIRPERSON:** Okay.

**MR ANDREW DONDO MOGAJANE:** But we have got a list of the names that were,

people who were there.

**CHAIRPERSON**: Okay.

**ADV VINCENT MALEKA SC**: Yes. So the DG did the introductions name by name, office by office and then he completed the introduction, correct?

**MR ANDREW DONDO MOGAJANE**: Yes.

**ADV VINCENT MALEKA SC**: There is some conclusions that the DG shared with us about how the introduction if any by the Minister unfolded and I am not going to explain to you what those conclusions are but what I would like you to do for us if you can is to tell us that whether you too drew some conclusions about the way the  
10 introduction from the Minister's side took place.

**MR ANDREW DONDO MOGAJANE**: Look I think from where he is seated, I was seated it was clear that I was seeing obviously Mr Van Rooyen that week for the first time on the day and I was experiencing the two gentlemen who were with him the first time.

But the gestures that he was making referring – when he was trying to get his name really kind of gave me an indication that he may not know them and he was – his body language also suggested that he is not comfortable in the way he was going about in the meeting and the conclusion therefore that I am drawing is that you know having interacted with Ministers before and also having been a Chief  
20 of Staff before and the relation that I could see in that room clearly you know made me realise that he may not be you know very familiar with the colleagues that he was with on the day and the only observation that I can make and draw from is the introduction because if I expected that he would have explained in detail his Chief of Staff, where he was from, what he is doing and how he is coming, what his qualification is, how he is going to be of value to the Treasury.

He would have done the same with the Advisor. He would have said this is my Advisor. His background is X. He is coming from, his qualifications. He is an economist or he is an accountant, whatever because I know in instances when I was Chief of Staff, Chair, to Minister Pravin Gordhan when we had gotten one or two people to assist as advisors or as short term consultants I would take the pain of one as Chief of Staff understanding who they are and you know and then would call the collective of the Treasury and saying look we have asked so and so to come and you know he is going to assist us in the capacity as an Advisor to Minister Gordhan.

10 He is so and so. His qualifications, he is going to focus on this area etcetera. Now none of that happened and I had experienced two Advisors that Minister Gordhan appointed in his first term when he was you know and that is how we introduced them.

So and I did not see this happening so again the conclusion suggest that if Minister was not confident to introduce the two colleagues in a way that he did then that means he did not know them.

**ADV VINCENT MALEKA SC:** And you deal with the point and I am going to jump some few paragraphs of your statement but just to locate your conclusion. You deal with it at page 50, paragraph 15, and there you say a little more than what you had just said about the relationship between a Minister and his or her Chief of Staff. Now  
20 can you elaborate a bit?

**MR ANDREW DONDO MOGAJANE:** I had a relationship with Minister Gordhan, not very close, in the early days when I was a student – in fact when I was a staff member at the University of Durban Westville in the 80's and 90's.

Minster Gordhan was a member of the Convex, Convocation Executive of the University. Now if you know that university you would know that we would not go

a year without issues. We would enjoy around August of every year we would just have a nice and it was like that and we would then either a university assembly would be called and issues would be dealt with or students would have trashed the administration of the university but things would be so.

Now how we resolved issues at the time because a struggle as students it was around council representation and all those issues and I was also in the student activists movement. I was active in that, you know though I was never an SRC member person.

10 So Minister Gordhan would come as Convex because the collective of the university so I always admired how issues would have been dealt with and he kind of just knew me then. Later when I joined the Treasury after 1999 and in the later years 2000 he was then at SARS.

So we would have crossed paths one way or the other so he had an idea from when I was still at maybe Durban Westville he saw me around in the Treasury. In 2009 I was still in Washington at the time representing South Africa at the World Bank and then I had indicated to some colleagues that hey, you know I am okay with America. I am fine. Like I want to go home and just you know and then so someone whispered...[intervenes]

**CHAIRPERSON:** I am okay not in the sense that you wanted to stay there forever.

20 **MR ANDREW DONDO MOGAJANE:** Yes, I want to come back home.

**CHAIRPERSON:** Okay in the sense that you have had enough.

**MR ANDREW DONDO MOGAJANE:** Not had enough. Not had enough. I was – Minister Trevor Manuel took me out for lunch one day in Spain on the 23<sup>rd</sup> of June 2006. He sat with me and he said I want you to go to Washington and I want you to do the following.



One key thing that he asked me he says look we have a relationship. We are going to have a challenge with Eskom. We have a relationship. Eskom will soon run into trouble. We have to understand the World Bank and at some point we will have to get money from them.

So when I left the World Bank I had done my – the \$3.57 billion was in the kitty and when I say I was done meaning my mission was complete as a secondee of the Treasury to the World Bank system to navigate that. So I had indicated to some colleagues and say I am, you know, I think maybe next year whenever I will come home, but August 2009 when I was home for holiday  
10 because around that time is holiday and I was going to greet my Minister for the first time because he started in May, formally so. I went to his office and he says "hey, you know what someone told me you want to come back home I want you to come and work with me." I tried to argue and said "no, Minister." You know he said "no, no, no", he again convinced me in October of that year in Turkey when we met again and by December I had decided with my family that we will go back to South Africa. It is the relationship that I was talking about Chair that I say he understood, he knew me, he understood that I was in the Treasury from the 90's and understand how Treasury functions. I was in various divisions in the Treasury, I understood the work. So when I come back to be his chief of staff he  
20 knows my background, he knows what I am capable of and it is on those bases Chair that I say the relationship between the chief of staff and the Minister is quite important because I will know what it is all about and he will know what I can do and as I say it is an intimate relationship of trust and shared values generally built over a long period of time. So it was not surprising for the Treasury when I come back in 2010 to become chief of staff to Minister Gordhan and how then that was

accepted and how, what role I understood because I was clearly a bridge between, and I understood the dynamics, in paragraph 15, I understood the dynamics of the department and I understood what is expected of the Minister's office, because I had interacted with that office long – from '99 onwards in various capacities. So in that way my point is here are two colleagues who are not introduced to give me the comfort that they understand the dynamics of the department. They understand the work of the Treasury, understanding that Minister van Rooyen is new obviously, but I would have expected that Minister van Rooyen eases himself into the department just like, at least we had an idea that

10 Minister Gordhan was the first after Minister Manuel was there for ten years. Minister Gordhan comes in, he did not come in with advisors at all. He came in 2009, he came in with administer, people who will understand, you know what he likes, what kind of food he eats and he came with such admin people from SARS. Who some obviously they were known, but he did not bring any advisor, nor did he bring a Chief of Staff.

He brought some senior admin people to assist as he was busy looking. His first advisor Mr Voor Kashim was only appointed in 2010 on 5 January around that time, but it was January if I remember, because I had formally started as Chief of Staff and I knew I interacted with him and again Mr Gordhan called me in and he

20 said this is Voor Kashim and we went through the process. I knew he was an economist and it was then easy to introduce him to the collective of the Treasury.

So one expected that as this two new people who are going to come with Minister van Rooyen that would have had that kind of introduction which again I say it should have been build over time, but again, I cannot attest and put my head on the block and say I know that they knew each other or they did not know each other,

but what I saw suggested and in the way they were introduced suggested that they may not know each other.

**ADV VINCENT MALEKA SC:** Yes. I would like to be quick now and go through the concluding parts of the meeting. You say and I am going to quote the last sentence of paragraph 11 and I will ask you to comment on it. Are you at page 49?

**MR ANDREW DONDO MOGAJANE:** Paragraph 11?

**ADV VINCENT MALEKA SC:** Yes, the last statement reads as follows:

10 "I have met all the Finance Ministers since the tenure of  
Minister Manuel and from my observations Minister van  
Rooyen seemed very ill at ease and hesitant as he was  
talking to us."

What do you mean by that?

**MR ANDREW DONDO MOGAJANE:** Here is a country in turmoil from what I explained earlier in terms of the impact that what we were experiencing that week in South Africa and Minister van Rooyen is not talking to those issues, but instead the focus of the meeting is just greeting and saying hi, I came to say hi to you, without saying I am appointed and show leadership that are inspected a Minister should have shown. That I expected sitting in the room to say welcome colleagues, thank you very much, I am here, let us not get into the details of how I am here, but for the  
20 fact that I am here, let us work together, one, two, we are in trouble.

Three, how can we address the challenges, because the Rand was taking a tumbling, Chair. So I do not see – I did not get the sense of the authority insofar as issues that mattered on that day, but what I saw was the fact that I am coming to sort you out. When he said this place is going to change. What did he mean by saying this place?

I think he had preconceived views about us and about the collective that he was going to engage with and that is why I am saying, you know – secondly for the fact that he did not mention issues that were related to what was affecting the country on the day.

That suggested to me that he was not at ease or he was hesitant in addressing those issues, because the reality is that he could have said maybe I am the cause of the issues, because really the economy was taking a beating, because of exactly someone who is appointed to the markets did not have an idea of and secondly who the market did not respect, and that was demonstrated by the impact  
10 that the appointment cost.

**ADV VINCENT MALEKA SC:** Yes.

**CHAIRPERSON:** Well, I do not know whether when you said he could have said I am the cause, whether that is because that is what you believe is the position, but we know that he did not make or rather we believe that he did not appoint himself he was appointed to the position. And there is nothing that we know that may suggest that he was responsible for the removal of his predecessor.

**MR ANDREW DONDO MOGAJANE:** Chair, I agree with you completely, ja.

**CHAIRPERSON:** But I guess what you meant was the perceptions that were driving the markets to do what they were doing were connected, he was a factor in that, that  
20 is what you...[intervenes]

**MR ANDREW DONDO MOGAJANE:** Yes, he was a factor, that is what I am saying.

**CHAIRPERSON:** Ja, ja.

**ADV VINCENT MALEKA SC:** Thank you. So you say in paragraph 12 that the meeting lasted for about 20 minutes, is that correct?

**MR ANDREW DONDO MOGAJANE:** It is correct sir, yes.

**ADV VINCENT MALEKA SC:** And you say there was nothing substantive that was discussed at that meeting?

**MR ANDREW DONDO MOGAJANE:** Yes, that is correct.

**ADV VINCENT MALEKA SC:** And then what was the response of you and your colleague now that we know how the introductions had gone about and we also know that nothing substantive were discussed? I mean how did you respond?

**MR ANDREW DONDO MOGAJANE:** I can simply sum it up by saying as officials of the Treasury we were all stunned.

**ADV VINCENT MALEKA SC:** Stunned?

10 **MR ANDREW DONDO MOGAJANE:** Stunned, yes.

**ADV VINCENT MALEKA SC:** Yes.

**MR ANDREW DONDO MOGAJANE:** Stunned. Meaning we were stunned, we were just – we did not know what was happening, we were like – we did not have words, or I did not have words to explain what I was witnessing on the day.

**ADV VINCENT MALEKA SC:** Yes, and then you reference the important name and Treasury at that time and that was Deputy Minister Jonas.

**MR ANDREW DONDO MOGAJANE:** He was absent in the meeting he did not form part of the meeting on the morning.

**ADV VINCENT MALEKA SC:** Was he not invited to the meeting?

20 **MR ANDREW DONDO MOGAJANE:** He was not at the meeting no.

**ADV VINCENT MALEKA SC:** Do you or do you not know that he was invited to that meeting?

**MR ANDREW DONDO MOGAJANE:** I do not know if – but, I cannot recall exactly if he was part of the –but I would imagine, I would imagine which is standard practice

in the Treasury that such meetings where Minister is going to engage with the rest of the senior managers that a Deputy Minister would be invited to a meeting like that.

**ADV VINCENT MALEKA SC:** Yes. I mean that is standard practice, it has happened, he was not the first or the last Deputy Minister. There have been predecessors before him and there have been successors, I mean...[intervenes]

**MR ANDREW DONDO MOGAJANE:** Yes, as I say in such meetings where the Minister engages with the DDG's in the Treasury it is standard even the assistants, even now they know that they will invite the Deputy, whether he is there or not is another thing, but there will be such a standing invitation, but I guess for a meeting  
10 as important as that meeting when a new Minister of Finance is being introduced to his senior managers that, you know, a Deputy Minister is not there, it is very unusual. I would have expected that you would want him to make himself available, or he should be in the meeting.

**ADV VINCENT MALEKA SC:** Yes. I am sure the issue will be explored with Mr Jonas when he resumes his testimony, but from your side that absence you described as conspicuous and highly unusual. What signals did it send to you if you can speak for yourself?

**MR ANDREW DONDO MOGAJANE:** It simply said to me that there will be – there are challenges. There are something that is not going right, because remember I am  
20 connecting now what I said earlier the demeanour of Mr Fuzile and the fact that Deputy Minister Jonas is not here and that the tone of the meeting is tense and this place is going to be changing.

All of that, the connection of that tells me that things were not in a good shape, including between the Minister and the Deputy Minister.

**ADV VINCENT MALEKA SC:** Yes, and then in paragraph 14 you express the impression arising from how the meeting unfolded. You have made some points regarding that impression, but can I ask you to sum up by reading that paragraph?

**MR ANDREW DONDO MOGAJANE:**

"My impression of this short engagement was that Minister van Rooyen did not appear to be confident in this role. He did not appear to know the two people he came with. Minister van Rooyen was just sworn in on Thursday and had already appointed an advisor and a Chief of Staff  
10 by Friday morning."

**ADV VINCENT MALEKA SC:** Yes. We have dealt with paragraph 15 and in paragraph 16 you revert back to the draft statement that you had prepared and you say that you raised the issue of the draft statement with Mr Fuzile and what was his response?

**MR ANDREW DONDO MOGAJANE:** I, he was – he angrily just indicated to me that I should just send this statement to the President. He did not even read it, he was just too angry to interact with the statement. So I then took it upon myself as soon as I was back at my desk to send the press button, to send it to the Presidency.

**ADV VINCENT MALEKA SC:** Yes, and in paragraph 17 you draw some conclusions  
20 about the presence of Minister van Rooyen and his two – the two individuals that accompanied him. Can you just tell us what the conclusion that you draw is?

**MR ANDREW DONDO MOGAJANE:** This was the last time I saw and engaged with Mr van Rooyen, Mr Mohammed Bobart and Mr Ian Whitley at the Treasury after this meeting. I did see them again later in my interactions with the Department of Corporative Governance and Traditional Affairs.

**ADV VINCENT MALEKA SC:** Do you now meet with them in a different capacity?

**MR ANDREW DONDO MOGAJANE:** I do not meet them, the only time I met Mr Whitley and Mr Bobart was at the lobby of the hotel at the BRICS summit in Chia-Men in China last year. I just bumped into them, greeted them and they were all in the lobby and I did not recall them very well. It took me a while for me to connect the dots.

**ADV VINCENT MALEKA SC:** Yes.

**MR ANDREW DONDO MOGAJANE:** That was the last time I saw them.

**ADV VINCENT MALEKA SC:** Alright, alright, Chair, one last question. The  
10 revolving door of ministerial engagement with Treasury did not stop with Minister van Rooyen.

**MR ANDREW DONDO MOGAJANE:** Not at all.

**ADV VINCENT MALEKA SC:** You now have a new Minister.

**MR ANDREW DONDO MOGAJANE:** Yes.

**ADV VINCENT MALEKA SC:** Minister Mboweni.

**MR ANDREW DONDO MOGAJANE:** Yes sir.

**ADV VINCENT MALEKA SC:** Does he have advisors and Chief of Staff?

**MR ANDREW DONDO MOGAJANE:** Minister Mboweni does not have advisors.  
Minister Mboweni has a Chief of Staff who is Mr Marlon Geswint who used to work  
20 with Minister Nene and he also has a PA Mary Marumo who used to work with  
Minister Nene and he constantly say that the Treasury will be his advisors and we  
had an agreement that as and when needed based on specific responsibilities,  
issues that we want to deal with and we do not have the necessary competence in  
the Treasury that we will then see if there is a need to actually acquire those



services from anywhere else, if we deem so, but currently there are no advisors to the Treasury.

**ADV VINCENT MALEKA SC:** So you as Treasury are the in-house advisors of Mr Mboweni?

**MR ANDREW DONDO MOGAJANE:** Yes, the same way that we were previously.

**ADV VINCENT MALEKA SC:** Chair, that will be the end of our questions to Mr Mogajane.

**CHAIRPERSON:** Thank you Mr Maleka. I have one or two questions for you Mr Mogajane. We heard from Mr Fuzile's evidence in the past two days that he had  
10 had interactions with Mr van Rooyen prior to Mr van Rooyen's appointment as a Minister of Finance and he had those interactions, because Mr van Rooyen was a member of the standing committee on finance in parliament. Had you had any interactions with Mr van Rooyen in his capacity as a member of the standing committee on finance prior to his appointment?

**MR ANDREW DONDO MOGAJANE:** I never had any interactions with Mr van Rooyen except in committee when he would maybe ask a question and I would respond as a delegation coming from the National Treasury, but I did not have any relations with him, I did not even have his phone numbers at all.

**CHAIRPERSON:** So whatever interactions you had would have been in a committee  
20 meeting between the committee and the Treasury – National Treasury?

**MR ANDREW DONDO MOGAJANE:** Yes, Chair, yes.

**CHAIRPERSON:** Yes. Now he did not say much at that meeting, but the one thing that he did say according to you and I think that is consistent with what Mr Fuzile also said namely that this place is going to change and it is going to be accessible to rural people. In the interactions in committee between National Treasury and the

standing committee on finance had there been any complaints, maybe voiced by him or anybody about National Treasury that might relate to how accessible National Treasury is to rural people or not?

**MR ANDREW DONDO MOGAJANE**: Not that I – I do not remember any particular interaction with Mr van Rooyen with the Treasury insofar as the issues that the, Chair, you are mentioning, but generally there has always been a narrative that says Treasury is neoliberal, Treasury is a problem, Treasury, which is normal, I mean and we have learnt to accept that, because we have tend to develop thick skin over the years in that it will not always be likeable, because of the kind of responsibilities and  
10 job that we do, obviously given to us by the Constitution. So I think, you know, people might have had views about the Treasury and some of them would be articulated differently, but I do not remember any situation where Mr van Rooyen took us on in terms of his views about the Treasury in committee, I do not remember that.

**CHAIRPERSON**: But leaving Mr van Rooyen aside, were you then or are you now aware of there being maybe sections of society or certain people or organisations or groups of people whose criticism of National Treasury includes anything along the lines that National Treasury is not accessible to rural people or to people in general? In other words is this – was this something that you could associate with anybody or  
20 was it just a new thing completely to you?

**MR ANDREW DONDO MOGAJANE**: Chair, it will always be with people who would not want to understand or agree with the fact that we have got a particular role, given to us by the Constitution, given to us by the MFMA and PFMA, because these three pieces of legislation, firstly as we know the Constitution established the National Treasury. It gives us certain powers and I always say to colleagues in the Treasury

that as you perform your functions know that we are directed by the Constitution and the PFMA and the FMA and other pieces of legislation.

So it is not always that as we engage with these issues that as I said we will be likeable we would make friends all the way. There would be those who have views about the Treasury, but also it is also then equally important that, because this view then may be a wrong view that says you are not accessible, we are of a certain breed, that we should then make ourselves accessible in the way we engage with the departments, in the way we engage with the public, in the way we engage with business, both black and white business in South Africa and then issues that talks  
10 about our accessibility.

But, however, in performing our functions we should know that we will always not be likeable, so – but however it is also important that we strive as a department that we work within the collective of government. We work within the collective of advancing the ideals of the NDP as I think it is important and make sure that we achieve and improve the lives of South Africans. That is the brief and that is the kind of culture that I am continuing to inculcate even today in the Treasury that we should as much as we say no, let us say no with a smile.

I know it is difficult, because of the role I played as DDG Public Finance where all 40 government departments and 1 000 plus public entities were always,  
20 even now where people will demand or ask to see that they want to see the DG of the National Treasury including and there was a newspaper article, Chair, just to divert where parliament said that the DG of Treasury has gone awol. And where the DG of the Treasury at the same time was being wanted by another committee at the same time and the DG of the Treasury was at the same time presenting at a very critical important workshop.

So you can imagine our time now. Sometimes for other people when you are not available then it is an issue about accessibility and he is never available, he is always busy, he is never on the phone, he does not return messages, but the challenge is our work is quite strenuous and unique in many ways, so but I think it is important that we be seen and act to define who we are, because we are working within a collective, and that is critically important.

**CHAIRPERSON**: Yes, but are you saying that this was kind of criticism, because it seems to have been criticism that you people – this place is not accessible to rural people. Are you saying that you could not associate this criticism with any particular  
10 grouping, or it was not something you had particularly heard or that had registered in your mind as being a complaint against National Treasury?

**MR ANDREW DONDO MOGAJANE**: No, Chair, I attributed that statement to many things.

**CHAIRPERSON**: Yes, talk about that...[intervenes]

**MR ANDREW DONDO MOGAJANE**: That has to do with the Treasury and the stance that we took on major things and it is worse now after the fact, years later that I then finally tried to understand what that means. The stance that we took as an example which is a fact now on nuclear, and our approach and the stance I said we took as in the discussions especially the 8<sup>th</sup> of December discussions at the  
20 meeting of the nuclear meeting, and finally what now is public knowledge in terms of the views articulated by both Minister Nene and Minister Gordhan as the reasons why Minister Nene was removed.

Then it is clear for me now after the fact that it was no coincidence that we are viewed as a stumbling block to certain things, we are viewed as being inaccessible, we are viewed as arrogant etcetera and all of these things then

manifest itself in many ways to me to say a view that people have is not the other issues that I mentioned earlier on, people accessibility and so on in doing our job, but it is also us clearly now in terms of a blockage where evidence came from the various people before me, a blockage to what essentially was deemed as the state capture by the former Public Protector in terms of the report and what this Commission is all about.

So it is, I am already combining these things and it is then for that reason that we were seen to be inaccessible and we are seen to be arrogant and we are seen to be Mr and Mrs Nose as we embark on our responsibilities.

10 **CHAIRPERSON**: No, thank you. Unless there is something arising there, there is nothing.

**ADV VINCENT MALEKA SC**: No, no, Chair, there is nothing from my side.

**CHAIRPERSON**: Thank you very much Mr Mogajane for coming forward to give the evidence and assist the Commission. You know already I am sure by now what I have been saying all along about asking current DG's and past DG's and other people to come forward and assist the Commission. We are grateful to you. I am also grateful that you are still going to come back, because there is more that you want to share with the Commission from what I have seen and we are interested in hearing whatever you have that may fall under the terms of reference and I have no  
20 doubt that the legal team will make sure, if it has not already done so that they obtain that information from you and at the right time I am sure that you will come back. But thank you very much and you are excused.

**MR ANDREW DONDO MOGAJANE**: Thank you very much, Chair.

**MR ANDREW DONDO MOGAJANE EXCUSED**

**CHAIRPERSON**: Yes, Mr Pretorius.

**ADV PAUL PRETORIUS SC:** Chair, we then adjourn until Monday for the evidence of Ms Macanda, as well as Mr Manye. The only problem, however, is whether we begin at 09:00 or 10:00. We have caught up some time and we are on time if we start at 10:00.

**CHAIRPERSON:** We are on time?

**ADV PAUL PRETORIUS SC:** Yes.

**CHAIRPERSON:** And that assurance is more reliable.

**ADV PAUL PRETORIUS SC:** Chair, I am not as bold as my colleague.

**CHAIRPERSON:** So you suggest we stick to normal starting time?

10 **ADV PAUL PRETORIUS SC:** 10:00 it just allows preparation to take place conveniently.

**CHAIRPERSON:** Yes, okay, alright. We will adjourn now and then we will resume on Monday at 10:00 o'clock when we will hear evidence from another official from the National Treasury Ms Macanda and thereafter we will hear Mr Zwanele Manye. We adjourn.

**MEETING ADJOURNED**

**TRANSCRIBER'S CERTIFICATE FOR COMMISSION OF INQUIRY**

**INTO STATE CAPTURE**

**HELD AT**

**PARKTOWN, JOHANNESBURG**

DATE HELD : 2018-11-23

DAY: : 29

TRANSCRIBERS : E. KOEKEMOER, C. SWART, M. BOCCHIO, E

10 BOUWER

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