



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

NATIONAL ASSEMBLY

OFFICE ON INSTITUTIONS SUPPORTING DEMOCRACY

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Parliament: Following up on our commitments to the people

20 September 2017

Mr. M Xaso

Secretary to the NA Table

Parliament

Cape Town

8000


Dear Mr. Xaso

**RE: TABLING AND REFERRAL OF REQUEST FOR THE INSTITUTION OF
REMOVAL PROCEEDINGS AGAINST THE PUBLIC PROTECTOR.**

Kindly find attached for tabling and referral, a request from Hon. J Steenhuisen, MP for the institution of removal proceedings of the Public Protector, Adv. Busisiwe Mkhwebane.

The matter should be referred to the Portfolio Committee on Justice and Correctional Services, for consideration and reporting.

Yours faithfully



Kaya Zweni
Head: OISD



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

NATIONAL ASSEMBLY
OFFICE OF THE CHIEF WHIP OF THE
OPPOSITION

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13 September 2017

Hon B Mbete MP
Speaker of the National Assembly
Parliament of the Republic of South Africa

Dear Madam Speaker,

REQUEST FOR INSTITUTION OF REMOVAL PROCEEDINGS AGAINST PUBLIC PROTECTOR

The abovementioned matter has reference.

I write to you in terms of Rule 337(b) to request that Parliament initiate proceedings in accordance with section 194 of the Constitution.

Section 194 deals with the removal of the Public Protector from office. Specifically, section 194(1) states that the Public Protector may be removed from office on a finding of "misconduct, incapacity or incompetence" by a committee of the National Assembly, followed by the adoption of a resolution on said removal by two thirds of the members of the National Assembly.

It is our submission that the conduct of the Public Protector over the past ten months has amply demonstrated that she is not fit to hold the office she presently occupies. The conduct referred to includes, but is certainly not limited to:

- That she grossly over-reached her powers when she recommended, in her report 8 of 2017/18 ("Report into allegations of maladministration, corruption, misappropriation of public funds and failure by the South African government to implement the CIEX report and to recover public funds from ABSA Bank" – hereafter referred to as the "ABSA/Bankorp report"), that the Constitution be amended to alter the mandate of the South African Reserve Bank;
- That she grossly over-reached her powers when she sought, in the ABSA/Bankorp report, to dictate to Parliament, to whom she is accountable in terms of section 181(5) of the Constitution, how and when legislation should be amended. Her actions in this regards compromised the independence of Parliament and the effectiveness of Parliamentary procedures;
- That in doing the above she has shown a poor understanding both of the law as well as of her own powers in relation thereto;
- That she sacrificed her independence and impartiality when she consulted – as revealed in a supplementary affidavit filed by the South African Reserve Bank in the North Gauteng High Court on or about 11 September 2017 - with the Presidency and the State Security Agency on remedial action to be recommended in the ABSA/Bankorp report;

- That the North Gauteng High Court – in a judgment by Murphy J handed down on 15 August 2017 in case number 43769/17 - found inter alia that the Public Protector had “unconstitutionally and irrationally” intruded on Parliament’s exclusive authority and that she had gone about crafting her recommendations in the ABSA/Bankorp report in a “procedurally unfair” manner. This is the same case in which your office was one of several parties seeking to set aside the aforementioned recommendations.

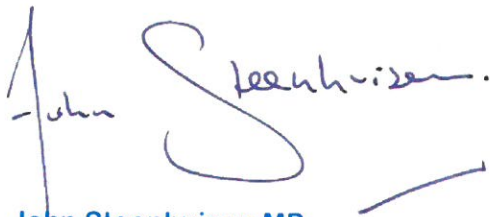
For your ease of reference, I will attach hereto:

1. A copy of the North Gauteng High Court judgement in case number 43769/17;
2. A copy of the ABSA/Bankorp report by the Public Protector;
3. A copy of the supplementary affidavit filed by the South African Reserve Bank, mentioned above.

It is our belief that the Public Protector’s conduct should be closely scrutinised by Parliament, and we therefore request that you table this letter in terms of Rule 337(b) of the Rules of the National Assembly and refer the matter to the relevant portfolio committee in order to consider a finding in terms of section 194(1) of the Constitution.

I trust that you will find the above in order and look forward to your response in this matter.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'John Steenhuisen', with a large, stylized 'S' and a horizontal line extending to the right.

John Steenhuisen MP
Chief Whip of the Official Opposition
Parliament of RSA