

STATEMENT F12/2021

ISSUED ON BEHALF OF THE ASSOCIATION FOR THE MONITORING AND ADVOCACY OF GOVERNMENT PENSIONS. (AMAGP).

Cape Town

2 September 2021

Mpati Commission : AMAGP calls for Criminal and Civil Action

The Association for Monitoring and Advocacy of Government Pensions (AMAGP) - a non-profit organisation focused on the sustainability of the Government Employees Pension Fund and the welfare of its beneficiaries - is profoundly disturbed by the latest investigative journalism by amaBhungane which reveals the collusion between Dr Iqbal Survé and Dr Dan Matjila, the former CEO of the Public Investment Corporation, to the financial detriment of the almost two million government employees and current civil service pensioners.

- Given the fact that amaBhungane has already established as an incontrovertible fact that the monies that Iqbal Survé-linked companies received from the PIC are being dissipated as fast as possible;
- Given the fact that the AYO shares purchased at Matjila's behest for R43 are now selling on the JSE for R3.50;
- Given the justifiable public concern about the Zondo Commission 'Project Wave' evidence that the Iqbal Survé-linked African News Agency (ANA) received a covert and manifestly-illegal bribe of R20 million from a security slush fund to provide propaganda which would promote the state capture goals of the Zuma faction of the ANC; and
- due to the lapse of time, prescription both in criminal and civil matters is now a factor to be considered:

AMAGP wishes to make the following points regarding the urgent need for prosecution and the seizure of assets:

1. The findings/recommendations of a commission may amount to criminal proceedings being instituted against certain persons or to civil action being taken to recover the money.

2. In terms of civil procedure the period of prescription will endure for three years from the date of cause of debt and the claimant having been aware or reasonably aware thereof. In this regard, see the Prescription Act 68 of 1969.

3. With regard to the Mpati Commission, it may be argued that prescription commenced from the date of the relevant evidence being given and not only from the date that its report was released – i.e., 12 March 2020. With regard to the Project Wave evidence before the Zondo Commission in January this year, there is no need to wait for the final Zondo report. To be on the safe side perhaps the state attorney should, by now, have issued summons' against Survé and his companies and against Matjila to facilitate the recovery of the monies which state employees and current pensioners will otherwise assuredly lose and which the taxpayer will lose in the context of the Project Wave bribe.

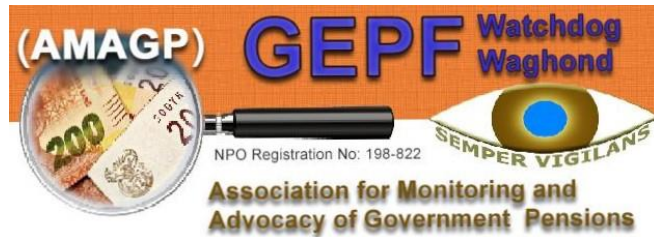
4. Section 18 of the Criminal Procedure Act provides that the right to institute criminal proceedings (except for some exceptions) prescribes 20 years after the relevant offence was committed. Once again, looking at the Mpati Commission, it is clear that many cases are far advanced in terms of this time scale and it is imperative that the state proceed without further delay.

5. If claims have prescribed as far as civil liability is concerned, there exists an alternative remedy through seizure of assets in terms of POCA (the Prevention of Organised Crime Act 121/1998) and then having such assets forfeited to the state. This, however, implies identifiable assets. In practice, however, the odds on recovering monies owed is inevitably limited.

As indicated in two previous media releases AMAGP has reconciled itself to the fact that the Government Employees Pension Fund (GEPF) will receive no return on the almost R6 billion invested by the PIC in Sekunjalo Independent Media and AYO Technology Solutions as a consequence of the collusion between Dr Iqbal Survé and Dr Dan Matjila.

Had it not been for the fortunate intervention of the JSE, a further R3 billion would have been invested in the similarly-suspect Sagarmatha proposal.

AMAGP feels that it is imperative for the NPA and GEPF to timeously seek the institution of criminal proceedings, where applicable, as well as the recovery of what little remains of these monies – thereby providing a corruption-weary public with the assurance that the Ramaphosa administration is committed to the clean and transparent governance which it promised at Nasrec on 18 December 2018.



VERKLARING F12/ 2021.

UITGEREIK DEUR DIE ORGANISASIE VIR DIE MONITERING EN BEVORDERING VAN STAATSDIENSPENSIOENE. (AMAGP)

Kaapstad

2 September 2021

MPATIKOMMISSIE : AMAGP VRA VIR KRIMINELE EN SIVIELE STAPPE.

Die Vereniging vir die Monitering en Bevordering van Regeringspensioene (AMAGP) – 'n nie-winsgewende organisasie gefokus op die volhoubaarheid van die Pensioenfonds vir Staatsamptenare (GEPF) en die welstand van sy begunstigdes – is uiters verontrus oor die jongste ondersoekende joernalistiek deur amaBhungane wat die sameswering tussen dr. Iqbal Survé en dr. Dan Matjila, die vorige HUB van die Openbare Beleggingskorporasie (OBK), tot die finansiële nadeel van die bykans twee miljoen regeringswerknemers en huidige staatsdienspensionarisse blootlê.

Gegewe die feit dat amaBhungane reeds as 'n onweerlegbare feit vasgestel het dat die geld wat Iqbal Survé-verwante maatskappye van die OBK ontvang het, so vinnig as moontlik verkwis word;

Gegewe die feit dat die AYO-aandele wat op Matjila se aandrang vir R43 gekoop is, nou op die JSE vir R3.50 verkoop word;

Gegewe die regverdigbare openbare kommer oor die Zondo-kommissie se 'Project Wave'-getuienis dat die Iqbal Survé-verbonde African News Agency (ANA) 'n koverte en klaarblyklik onwettige omkoopsom van R20 miljoen ontvang het van 'n sekuriteit - omkoopgeldfonds om propaganda te voorsien en te bevorder wat die staatskapingsdoelstellings van die Zuma-faksie van die ANC sou bevorder; en As gevolg van die tydsverloop, verjaring in beide kriminele en siviele sake nou 'n faktor geword het wat in ag geneem moet word:

Wens AMAGP om die volgende punte te maak ten opsigte van die dringende noodigheid van vervolging en beslaglegging op bates:

1. 'n Kommissie se bevindings/aanbevelings kan daarop neerkom dat sekere persone strafregtelik vervolgd moet word, of dat sekere sivielregtelike stappe geneem word om die geld te verhaal.

2. Siviëlregtelik tree verjaring normaalweg in drie jaar nadat die skuldoorsaak ontstaan het en die Eiser daarvan bewus was of redelikerwys daarvan bewus moes gewees het. Sien in hierdie verband die Verjaringswet, Wet 68 van 1969.

3. Met verwysing na die Zondo Kommissie, kan geargumenteer word dat verjaring reeds loop vanaf die datum toe die betrokke getuienis gelewer is en nie eers vanaf die datum toe die verslag vrygestel is nie – m.a.w. 12 Maart 2020. Met betrekking tot die Project Wave-getuienis voor die Condo-kommissie in Januarie vanjaar, is daar geen nodigheid om vir die finale Zondo-verslag te wag nie. Om dus veilig te speel behoort die Staatsprokureur lankal dagvaarding uitgereik het teen Surve en sy maatskappye vir terugbetaling van geld van Survé en sy maatskappye en teen Matjila om die herwinning van die geld wat staatsdienswerknemers en huidige pensionarisse andersins verseker sal verloor en wat belastingbetalers in die konteks van die Project Wave-omkoper sal verloor, te fasiliteer.

4. Art 18 van die Strafproseswet bepaal dat die reg om strafregtelike vervolging in te stel, (behalwe vir sekere uitsonderings) 20 jaar ná die betrokke daad gepleeg is, verval. Kyk 'n mens weer na die Zondo kommissie, is dit duidelik dat baie gevalle reeds ver gevorder is wat die 20-jaar betref en is dit noodsaaklik dat die Staat sonder oponthoud optree.

5. Indien eise verjaar wat siviele aanspreeklikheid betref het, bestaan daar 'n alternatiewe remedie deur ingevolge POCA (the Prevention of Organised Crime Act, 121/1998) beslag te lê op misdadigers se bates en dit dan aan die Staat te laat verbeur. Dit veronderstel egter identifiseerbare bates, en in die praktyk is die kans op herwinning van geld wat verskuldig is, egter onvermydelik beperk.

Soos in die vorige twee mediavystellings aangedui, het AMAGP homself versoen met die feit dat die Pensioenfonds vir Staatsamptenare (GEPF), as gevolg van die sameswering tussen dr. Iqbal Survé en dr. Dan Matjila, geen opbrengs op die bykans R6 miljard wat deur die OBK in Sekunjalo Independent Media en AYO Technology Solutions belê is, sal ontvang nie. Was dit nie vir die gelukkige ingryping van die JSE nie, sou 'n verdere R3 miljard in die soortgelyke verdagte Sagarmatha-voorstel belê gewees het. AMAGP glo dat dit noodsaaklik vir die Nasionale Vervolgingsgesag (NVG) en die GEPF is om, waar toepaslik, betyds kriminele gedinge in te stel, asook om die bietjie van hierdie gelde wat oorbly te herwin en sodoende 'n korrupsie-moeë publiek te verseker dat die Ramaphosa-administrasie verbind is tot skoon en deursigtige staatsbestuur wat hy op 18 Desember 2018 by Nasrec belowe het.

END

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