PROCLAMATIONS • PROKLAMASIES

PROCLAMATION NOTICE 49 OF 2022

PROCLAMATION
by the
PRESIDENT of the REPUBLIC of SOUTH AFRICA

SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT

WHEREAS allegations as contemplated in section 2(2) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996) (hereinafter referred to as the "Act"), have been made in respect of the affairs of Telkom South Africa SOC (hereinafter referred to as "Telkom");

AND WHEREAS Telkom or the State suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and civil proceedings emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the Act, refer the matters mentioned in the Schedule in respect of Telkom, for investigation to the Special Investigating Unit established by Proclamation No. R. 118 of 31 July 2001 and determine that, for the purposes of the investigation of the matters, the terms of reference of the Special Investigating Unit are to investigate as contemplated in the Act, any alleged–

(a) serious maladministration in connection with the affairs of Telkom;

(b) improper or unlawful conduct by employees, officials or agents of Telkom;

(c) unlawful appropriation or expenditure of public money or property;

(d) unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon State property;

(e) intentional or negligent loss of public money or damage to public property;

(f) offence referred to in Parts 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), and which offences were committed in connection with the affairs of Telkom; or

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(g) unlawful or improper conduct by any person, which has caused or may cause serious harm to the interests of the public or any category thereof,

which took place between 1 June 2006 and the date of publication of this Proclamation or which took place prior to 1 June 2006 or after the date of publication of this Proclamation, but is relevant to, connected with, incidental or ancillary to the matters mentioned in the Schedule or involve the same persons, entities or conduct investigated under authority of this Proclamation, and to exercise or perform all the functions and powers assigned to or conferred upon the said Special Investigating Unit by the Act, including the recovery of any losses suffered by Telkom or the State, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at **PRETORIA** this **14TH** day of **JANUARY** Two thousand and twenty-two.

M C RAMAPHOSA
President

By Order of the President-in-Cabinet:

R O LAMOLA,MP
Minister of the Cabinet

SCHEDULE

1. The contracting for or procurement of—

(a) telegraph services (telex and telegrams); and

(b) advisory services in respect of the broadband and mobile strategy of Telkom, by or on behalf of Telkom, and payments made in respect thereof in a manner that was—

(i) not fair, equitable, transparent, competitive or cost-effective; or

(ii) contrary to applicable—

(aa) legislation;

(bb) manuals, guidelines, circulars, practice notes or instructions issued by the National Treasury; or

(cc) manuals, policies, procedures, prescripts, instructions or practices of, or applicable to Telkom,

and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by Telkom or the State.

2. Maladministration in the affairs of Telkom in relation to the sale or disposal of—

(a) iWayAfrica and Africa Online Mauritius; and

(b) Multi-Links Telecommunications Limited,

and any losses or prejudice suffered by Telkom or the State as a result of such maladministration.

3. Any unlawful, improper or irregular conduct by—

(a) employees, officials or agents of Telkom; or

(b) any other person or entity,

in relation to the allegations referred to in paragraphs 1 and 2 of this Schedule.

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PROKLAMASIE KENNISGEWING 49 VAN 2022

PROKLAMASIE
van die
PRESIDENT van die REPUBLIEK van SUID-AFRIKA

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET NO. 74 VAN 1996): VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE ONDERSOEKEENHEID

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as die "Wet"), gemaak is in verband met die aangeleenthede van Telkom Suid-Afrika SBM Beperk (hierna na verwys as "Telkom");

EN AANGESIEN die Staat of Telkom verliese gely het wat moontlik verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleenthede in die Bylae vermeld, ten opsigte van die Munisipaliteit vir ondersoek na die Spesiale Ondersoekeenheid ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van die aangeleenthede, dit die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

(a) ernstige wanadministrasie in verband met die aangeleenthede van Telkom;

(b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van Telkom;

(c) onregmatige bewilliging of besteding van openbare geld of eiendom;

(d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;

(e) opsetlike of nalatige verlies van openbare geld of skade aan openbare eiendom;

(f) misdryf bedoel in Dele 1 tot 4, van artikel 17, 20 of 21 (vir sover dit op voornoemde misdrywe betrekking het) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), en welke misdrywe in verband met die sake van Telkom gepleeg is; of

(g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belange van die publiek of enige kategorie daarvan veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 Junie 2006 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 Junie 2006 of na die datum van publikasie van hierdie Proklamasie, wat relevant is tot, verband hou met, insidenteel of bykomstig is tot die aangeleenthede vermeld in die Bylae of wat dieselfde persone, entiteite of kontrakte betrek wat ondersoek word kragtens die volmag verleen deur hierdie Proklamasie, en om al die werksaamhede en bevoegdhede wat deur die Wet aan die gemelde Spesiale Ondersoekeenheid toegewys of opgedra is, uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, insluitend die verhaal van enige verliese wat deur die Staat of Telkom gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te **PRETORIA** op hede die **14DE** dag van **JANUARIE** Twee duisend-en-twee-en-twintig.

M C RAMAPHOSA
President

Op las van die President-in-Kabinet:

R O LAMOLA, LP
Minister van die Kabinet

BYLAE

1. Die aanskaffing van of kontraktering van—

(a) telegraafdienste (druktelegraaf en telegramme); en

(b) raadgewende dienste ten opsigte van die breëband en mobiele strategie van Telkom, deur of ten behoewe van Telkom en betalings in respek daarvan gemaak is op 'n wyse wat—

(i) nie regverdig, mededingend, deursigtig, billik, of koste-effektief was nie;

(ii) strydig was met toepaslike—

(aa) wetgewing;

(bb) handleidings, riglyne, praktyknotas, omsendbriewe of instruksies wat deur die Nasionale Tesourie uitgevaardig is; of

(cc) handleidings, beleid, prosedures, voorskrifte, instruksies of praktyke van, of wat op Telkom van toepassing is,

en verbandhoudende ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawes wat deur die Staat of Telkom opgedoen was

2. Wanadministrasie in die sake van Telkom ten opsigte van die verkoop of wegmaking van—

(a) iWayAfrica en Africa Online Mauritius; en

(b) Multi-Links Telekommunikasies beperk,

en enige verliese deur Telkom of die Staat gely as gevolg van die wanadministrasie.

3. Enige onwettige of onbehoorlike gedrag deur—

(a) beamptes, werknemers of agente van Telkom; of

(b) enige ander persoon of entiteit,

ten opsigte van die bewerings uiteengesit in paragrawe 1 en 2 van hierdie Bylae.