

MEDIA RELEASE	Ugly head of political interference delays justice for Deputy Directors of Public Prosecutions and Chief Prosecutors
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EMBARGO	None
ENQUIRIES	communication@psa.co.za

Differences of opinion between the new National Director of Public Prosecutions (NDPP), the Minister of Justice and the Director-General of Justice and Constitutional Development have further delayed justice for Deputy Directors of Public Prosecutions (DDPPs) and Chief Prosecutors (CPs) employed by the National Prosecuting Authority (NPA) when a High Court hearing was postponed on 5 February 2019.

The Public Servants Association (PSA) condemns what it views as ongoing political interference at the NPA after the outcome of the court proceedings at the High Court.

The Public Servants Association (PSA) that represents some 82% of NPA employees, was in 2016 approached by DDPPs and CPs when they were excluded from being translated to the occupational-specific dispensation LP-10 level. In terms of the *Government Gazette* of 3 December 2010, all Prosecutors appointed in terms of section 16 of the *NPA Act* would translate to OSD posts. DDPPs and CPs are appointed in terms of section 15 of the *Act* and the NPA approached these employees with the proposal to transfer them to LP10 OSD posts. Each employee received a financial breakdown of his/her financial position once transferred. All the PSA's members signed the agreement and a new performance contract as per the NPA's instruction.

"This created a legitimate expectation for translation and when the NPA under the previous NDPP failed to implement this, the PSA approached the High Court to enforce the contract. The PSA also lodged an unfair labour practice dispute related to promotion at the General Public Service Sectoral Bargaining Council, but this process is stayed pending the outcome of the court case," said PSA General Manager, Ivan Fredericks.

The situation is further complicated in that Senior State Advocates who are the juniors of DDPPs in terms of responsibilities were translated to OSD posts (LP9) and are now earning in excess of R200 000 per annum more than DDPPs and CPs.

The PSA is representing 57 members in the case that was set for hearing in the Pretoria High Court on 5 and 6 February 2019. "When arriving at the Court, the PSA was informed that the NPA's counsel was awaiting a new instruction from the NDPP who assumed duty on 1 February 2019. The PSA was informed that the NDPP instructed the NPA counsel to withdraw the motion to oppose the PSA's application and would abide by the Court's decision. This means that should the Court decide that the NPA is guilty of breach of contract and is instructed to place DDPPs and CPs on LP10, the NPA would comply. The Minister of Justice and the Director-General, however, indicated that they are opposing the application and need time to prepare and consult with the NDPP on why she is of the view to withdraw the motion to oppose the PSA's application," said Mr Fredericks.

After a lengthy debate, the Judge granted postponement. The matter has now been placed on the Court roll for 11 and 12 June 2019 owing to the urgency raised by the PSA.

“The Minister and the Director-General, for reasons known to them, want to interfere with the NDPP’s decision not to proceed by opposing the PSA’s application. The Minister has in the past been reported to have used the justice system to play a political game, which undermines the courts as well as the NPA. The action by the Minister and the Director-General is indicative of behaviour that is consistent with what the country urgently needs to move away from, namely political interference in entities that are meant to be independent. On 1 February 2019, Adv Batohi already indicated that she was aware of the need to retain experienced staff in the NPA. DDPPs and CPs fall in this category. The PSA urges Adv Batohi to ensure that these employees are treated fairly,” said Mr Fredericks.

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