



MINISTRY OF FINANCE
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

MINISTER SEEKS REVIEW AND SETTING ASIDE OF PUBLIC PROTECTOR'S FINDINGS AND REMEDIAL ACTION AGAINST TREASURY DG

The Minister of Finance, Tito Mboweni, has filed papers seeking the reviewing and setting aside of the Public Protector's (PP) findings and remedial action against National Treasury's Director-General, Dondo Mogajane.

The application before the Gauteng Division (Pretoria) of the High Court of South Africa follows the conclusion by the PP that Mr Mogajane was dishonest and that he made himself guilty of gross negligence by failing to disclose that he has a criminal conviction when he applied for the post of DG in 2017. The conviction relates to an admission of guilt fine that Mr Mogajane paid in relation to a traffic infraction (speeding over the limit) in 2011.

Minister Mboweni challenges the PP's findings and remedial action on two fronts:

- a) The findings are arbitrary and irrational in that:
 - There is no rational basis on which she could have arrived at these findings;
 - The PP failed to have due regard to relevant facts and instead considered irrelevant facts; and that
 - There is no rational connection between the findings and remedial action and the evidence before her at the time.

- b) The Minister further argues that the PP's remedial action is inappropriate in that it infringes the doctrine of separation of powers in that:
 - The remedial action directed against the President requires that he submits an implementation of plan for approval prior to implementing the remedial action directed by the PP;
 - To the extent that prior approval by the PP of the implementation plan is required, the remedial action amounts to an unconstitutional breach of the separation of powers in that it effectively usurps the President's executive constitutional powers to appoint and discipline Directors-General and arrogates this power to the PP;

- This is untenable and undermines the very fabric of South Africa's constitutional democracy. In this regard, National Treasury has a material interest in correcting this state of affairs.

The Minister is therefore asking the court to declare the PP's findings and remedial action to be irrational, alternatively unreasonable, and that it be set aside.

Issued by the Ministry of Finance

Date: 1 March 2019

