



# LESOTHO

## Government Gazette

### EXTRAORDINARY

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## LEGAL NOTICE NO. 14 OF 2003

**APPOINTMENT OF TRIBUNAL (REMOVAL OF MEMBER OF  
THE INDEPENDENT ELECTORAL COMMISSION) NOTICE 2003  
(CONSTITUTION – SECTION 66(12))**

**WHEREAS** the Council of State has represented to me that the question of removing Commissioner Mafole Sematlane, a member of the Independent Electoral Commission, ought to be investigated; and

**WHEREAS** the Honourable Chief Justice has selected the Chairman and two members from among persons who hold or have held high judicial office to constitute the Tribunal;

**NOW THEREFORE,**

**I, KING LETSIE III**, pursuant to section 66(12) of the Constitution<sup>1</sup> and acting on the representation of the Council of State, appoint a tribunal to enquire into the question of removing Commissioner Mafole Sematlane from office.

**Members of the Tribunal**

- |    |     |                                   |   |          |
|----|-----|-----------------------------------|---|----------|
| 2. | (a) | Mr. Justice Francis Xavier Rooney | - | Chairman |
|    | (b) | Mrs. Justice Kelello Justine Guni | - | Member   |
|    | (c) | Mr. Justice Thamsanqa Nomngongo-  |   | Member   |

**Terms of reference**

3. The terms of reference of the Tribunal are:
- (a) to investigate, examine and analyse whether Mr. Mafole Sematlane, a Commissioner of the Independent Electoral Commission (hereinafter called "the IEC") ought to be removed from office for inability to exercise the functions of his office

arising from infirmity of mind;

- (b) to investigate, examine and analyse whether Commissioner Mafole Sematlane ought to be removed from office for misbehaviour;
- (c) without detracting from the generality of the above, the Tribunal is required to investigate, examine and analyse several letters written by Commissioner Mafole Sematlane as more particularised in Annexure "A";
- (d) to examine and analyse the affidavit of Commissioner Mafole Sematlane sworn to on 11<sup>th</sup> January 2002 and filed before the High Court of Lesotho in case No. CIV/APN/413/2002 – BNP and 2 others and 12 respondents;
- (e) to investigate and analyse the conduct of Commissioner Mafole Sematlane inside the offices of the IEC and outside;
- (f) to investigate and examine the working relationship between Commissioner Mafole Sematlane and the other members of the Commission and the IEC staff generally;
- (g) to investigate, appraise and evaluate any other issue relevant to and which may impinge on the foregoing.

## **Reporting**

### **4. The Tribunal shall –**

- (a) make a written report and submit that report to the King not later than the 15<sup>th</sup> March 2003 or such other date as the King may prescribe; and

- (b) recommend to the King what action is to be taken in relation to Commissioner Mafole Sematlane.

### **Assistance to the Tribunal**

- 5. (1) In the performance of its functions the Tribunal shall be assisted by Counsel –
  - (a) H.P. Viljoen S.C.; and
  - (b) Dennis Peter Moulyneaux, Attorney.
- (2) The Tribunal may, with the approval of the Minister of Finance, engage the services of experts to assist in the performance of its functions.

### **Legal representation**

- 6. For the purposes of proceedings before the Tribunal Commissioner Mafole Sematlane shall have the right to defend himself before the Tribunal in person or by a legal representative of his own choice.

### **Decisions of the Tribunal**

- 7. Decisions of the Tribunal shall be by simple majority and in the case of equality of votes the chairman shall have a casting vote as well as a deliberative vote.

### **Honorarium**

- 8. The Chairman of the Tribunal shall be remunerated at a rate to be determined by the Minister of Law and Constitutional Affairs after consultation with the Minister of Finance.

### **Annexure A**

- 1. Letter dated 4<sup>th</sup> November 2002 to the President of Lesotho State Council from Commissioner Mafole Sematlane.

2. Letter dated 26<sup>th</sup> November 2002 to the President of Lesotho State Council from Commissioner Mafole Sematlane.
3. Letter dated 3<sup>rd</sup> December 2002 to the Honourable Minister of Home Affairs from Commissioner Mafole Sematlane.
4. Memo dated 3<sup>rd</sup> December 2002 to Leshele A. Thoahlane from Commissioner Mafole Sematlane.
5. Memo dated 3<sup>rd</sup> December 2002 captioned "Seriti sa ka Matsoalo a ba heso le ba ka ntlhokang lits'ebeletso to Ntate Mokhele Likate" from Commissioner Mafole Sematlane.
6. Letter dated 3<sup>rd</sup> January 2003 to the Honourable Minister of Law and Constitutional Affairs from Commissioner Mafole Sematlane.
7. Any other document or evidence which the IEC may wish to produce before the Tribunal after giving reasonable notice to Commissioner Mafole Sematlane.

**DATED:**

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**LETSIE III  
KING OF LESOTHO**

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**NOTE**

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<sup>1</sup> . Constitution of Lesotho 1993 as amended by Act No.7 of 1997

1. The first part of the report is a general introduction to the subject of the study.

2. The second part of the report is a detailed description of the methods used in the study.

3. The third part of the report is a discussion of the results of the study.

4. The fourth part of the report is a conclusion and a list of references.

5. The fifth part of the report is a list of appendices.

6. The sixth part of the report is a list of figures and tables.

7. The seventh part of the report is a list of footnotes.

8. The eighth part of the report is a list of references.

9. The ninth part of the report is a list of appendices.

10. The tenth part of the report is a list of figures and tables.

11. The eleventh part of the report is a list of footnotes.

12. The twelfth part of the report is a list of references.