



**MINISTRY JUSTICE AND CORRECTIONAL SERVICES
REPUBLIC OF SOUTH AFRICA**

Media Statement

For Immediate Release

16 March 2020

LAMOLA DECISION ON PAROLE FOR JANUSZ WALUS

In December 2019, the High Court of South Africa, Gauteng Division, ordered the Minister of Justice and Correctional Services to reconsider within 60 days the decision taken in January 2019 by former Minister, Advocate Michael Masutha, to refuse granting of parole to offender Janusz Walus.

Walus is incarcerated for the deliberate, cold blooded, meticulously planned assassination of former Secretary General of the South African Communist Party (SACP), Martin Thembisile Chris Hani, in 1993. He was sentenced to death. However, in the matter of *S vs Makwanyane*, the Constitutional Court found the death penalty unconstitutional in South Africa. As a result, his sentence was commuted to life imprisonment.

In delivering the judgment, Justice Jody Kollapen reviewed and set aside the above-mentioned January 2019 decision.

Walus had also asked the court to order his release on parole. Justice Kollapen denied the request and noted that it was not the courts' function to act as administrators of parole.

In explaining his rationale for remittal, Justice Kollapen explained that administrators are generally equipped by experience, access to resources and information to make such decisions. He further noted that parole decisions are notoriously difficult since the decision-maker is required to reconcile different interests and imperatives. This accords with the principle that underpins the separation powers doctrine.

Justice Kollapen further stated that offender Walus is serving a life sentence and while he is eligible for consideration for release on parole, it must be noted that a life sentence does not create an automatic entitlement to release after a designated period of incarceration.

Minister Lamola after acquainting himself with the judgment of Justice Kollapen and other judgments relating to the Walus matter is ready to pronounce himself on the application to consider placing Walus on parole. It is worth noting that parole is a conditional release of a sentenced offender, it is not a right, but a privilege.

Factors taken into consideration

When taking this decision, Minister Lamola had regard to the full record of this matter which includes the latest profile of the offender, previous judgments by the High Court and the Supreme Court of Appeal, all the relevant reports and submissions made by Mrs Limpho Hani and the SACP.

This also includes the following positive factors attributed to the offender such as:

- His behaviour and adjustment during his incarceration and the clean record he has within the correctional centre where he is incarcerated;
- The multidisciplinary programmes attended by the offender within the correctional centre which are aimed at his rehabilitation;
- The availability of support systems to the offender and employment prospects in the event of him being placed on parole;
- The fact that Walus is a first-time offender;

- The reports of psychologists and social workers;
- The remorse on the part of the offender for the crime of murder committed;
- The opinion of psychologists that the risk of the offender re-offending is low; and
- The fact that offender Walus has spent 27-years in prison and has made several applications to be considered for parole which were denied.

Notwithstanding the above, Minister Lamola also considered the negative factors such as the nature and seriousness of the crime of the cold-blooded political assassination committed by offender Walus and the fact that the court sought to impose the severest punishment that the law permits.

For instance, the following sentencing remarks were taken into account.

At the time of imposition of sentence, the trial court and the Supreme Court of Appeal made the following remarks, amongst others:

- i. *“The murder was a deliberate, cold-blooded one...It was preceded by weeks of planning”,*
- ii. *“The accused performed an act of assassination on a person who had attained prominence in public affairs in South Africa, whose killing was likely, to the knowledge of the accused, to cause far-reaching, highly emotive reactions, with very damaging, serious consequences and extremely harmful effects for the entire society in South Africa.”*
- iii. *“The killing was cold blooded...after the first bullet struck him, the accused came close up and administered the **coup de grace** from close range.”*

- iv. *“This was a cold-blooded assassination of a defenceless victim. The crime of the two appellants, Offender Walus and the late Clive Derby-Lewis was a calculated one. Well in advance of its commission, careful preparations were made both for the murder and for the concealment of the identity of its dastardly perpetrators. Their atrocious crime demands the severest punishment which the law permits.”*
- v. In imposing the death sentence, the trial court stated that it wished *“to send out the message loud and clear to any who contemplate assassination of political leaders as an acceptable option, what view the court takes of such conduct”*.

From this, it is clear that the political assassination of the late Hani was executed with the intention to create chaos and mayhem in the country.

Minister Lamola says, ***“the record before me clearly reveals that the court took this fact into consideration when sentencing Walus to death. The crime was intended and had the potential to bring about a civil war within the Republic at the time. It must also be noted that Walus was convicted of murder with no extenuating circumstances having been found to be present.”***

“I have also taken note of the legal regime applicable based on the date on which Walus committed the crime. This implies that should it be my decision to approve his placement on parole, he would be on parole for a maximum period of three years, less any possible remissions for which he might qualify,” added Lamola.

“Considering this fact, placing offender Walus on parole would negate the severity that the court sought when sentencing him. With this premise, and balancing both negative and positive factors, the placement on parole for offender Walus is not approved at this stage,” concludes Minister Lamola

Ends

Issued by the Ministry of Justice and Correctional Services

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