

Enhancing Corruption Investigation and Prosecution in South Africa

Introduction

1. **South Africa is currently reviewing its anticorruption institutional architecture as mandated by its National Anti-Corruption Strategy (NACS) 2020-2030, adopted in 2022.** On 29 August 2022, President Cyril Ramaphosa established the National Anti-Corruption Advisory Council (NACAC) to advise the government on the *preventative measures, institutional capabilities and resources* that are required to proactively curb a recurrence of state capture and to prevent fraud and corruption in South Africa. At the request of the NACAC, the World Bank has agreed to prepare a series of policy briefs on strengthening South Africa's anticorruption framework, including corruption prevention and enforcement functions.

2. **This policy brief addresses the anticorruption enforcement function, i.e. achieving accountability for corruption offences through the criminal justice processes of investigation and prosecution.** The analysis and recommendations are based on a review of South African legislation and consultations with South African practitioners and policymakers in May 2025. This policy brief complements a separate policy brief on corruption prevention supporting the establishment of an Office of Public Integrity (OPI) with the recommendation that the OPI's functions are limited to non-criminal law anticorruption standards relating to conflict of interest management, financial disclosure, public education, and lifestyle audits, among others.

3. **Both the National Development Plan and the NACS emphasize the need to strengthen dedicated anticorruption bodies rather than envisaging the establishment of a single overarching body.** The focus of this policy brief is accordingly on strengthening existing institutional capability to support anticorruption enforcement including criminal investigation of corruption and the prosecution of corruption cases. Such strengthening should address, among other issues, the institutional independence, mandates, operational coordination, access to case-related intelligence, and skills and professional standards of anticorruption entities. The policy brief builds on the relevant international standards, including the following:

- UN Convention Against Corruption (Article 36).¹
- European Partners Against Corruption, Anti-Corruption Authority Standards.²
- Jakarta Statement on Principles for Anti-Corruption Agencies.³
- Colombo Commentary on the Jakarta Statement on Principles for Anti-Corruption Agencies.⁴
- OECD Anti-Bribery Convention (Article 5) and peer review country monitoring reports by the OECD Working Group on Bribery, including reports on South Africa.⁵

Institutional arrangements for corruption investigation and prosecution

4. **South Africa's anticorruption institutional framework is characterised by a multiplicity of agencies and structures mandated with enforcing anticorruption legislation.** Prevention functions have been dealt with separately and this policy note examines the institutional architecture for investigating and prosecuting corruption. The first part of the policy brief deals with corruption investigation starting with the allocation of mandates among law enforcement agencies. This is

¹ www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf.

² www.epac-eacn.org/fileadmin/Documents/Recommendations/Anti-Corruption_Authority_Standards.pdf.

³ www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/JAKARTA_STATEMENT_en.pdf.

⁴ www.unodc.org/documents/corruption/Publications/2020/20-00107_Colombo_Commentary_Ebook.pdf.

⁵ See, in particular, July 2025 Phase 4 report on South Africa. www.oecd.org/en/publications/oecd-anti-bribery-convention-phase-4-report-on-south-africa_32776d08-en.html.

followed by an examination of the framework for coordinating corruption investigations, as well as access to resources and information needed for investigations. The second part of the policy brief address the prosecution of corruption cases including identifying opportunities to strengthen the institutional framework for the National Prosecuting Authority (NPA) including the appointment of senior officials, the NPA's financial independence, and skills within the NPA. The policy note ends with recommendations for strengthening anticorruption enforcement capabilities including the investigation and prosecution of corruption cases.

5. **The mandate for criminal investigation of corruption is distributed across a range of law enforcement entities.** This includes the Directorate for Priority Crime Investigation (DPCI), also known as the Hawks, an independent unit within the South African Police Service (SAPS) with the mandate to investigate "priority crimes" including serious organised crime and corruption. This is in contrast to SAPS's more general mandate to investigate crime, which would accordingly include low-level corruption. In turn, the Independent Police Investigative Directorate (IPID) reporting directly to the Minister of Police has the mandate to investigate misconduct and criminal activity within SAPS, including corruption within SAPS. The South African Revenue Service's (SARS) mandate to investigate tax-related offences and financial crimes similarly means that it has a role in many corruption cases with tax crimes as a predicate offence. The Financial Intelligence Centre's (FIC) mandate to gather and analyse financial data to identify suspicious transactions as well as its forensic capabilities makes the FIC a key partner for investigations into financial crimes. These criminal investigatory functions contrast to the Special Investigating Unit's (SIU) administrative inquiries into maladministration and corruption in the public sector. While the SIU does not have criminal investigatory powers, its investigations into maladministration in many cases likewise uncover criminal offences which are referred to either law enforcement agencies for further criminal investigation or to the NPA for prosecution.

6. **The Investigating Directorate Against Corruption (IDAC) located within the NPA straddles criminal investigation and prosecution functions with a mandate covering both aspects of corruption enforcement.** Legal amendments to the NPA Act in 2024 established IDAC as a permanent prosecution-led unit within the NPA with criminal investigative powers to pursue serious, high-profile or complex corruption cases. This confers criminal investigatory powers to IDAC to conduct prosecutor-led investigations compared to the mandate of the NPA which focuses on prosecuting cases on behalf of the State. The Asset Forfeiture Unit within the NPA similarly performs an important anticorruption function regarding the recovery and forfeiture of assets derived from criminal activities including corrupt activities. This generally requires working closely with a variety of law enforcement agencies to trace and confiscate assets with a mandate complimentary to the SIU's civil recovery procedures for financial maladministration.

7. **Multi-agency approaches to anticorruption require a clear delineation of responsibilities and mandates to avoid duplication and jurisdictional conflict between entities.** This further necessitates appropriate coordination mechanisms between entities to share resources, leverage complimentary capabilities and adjudicate between jurisdictional disputes. The limited number of corruption-related convictions in South Africa, particularly in reference to state capture cases, has called into question the adequacy of the current institutional framework, including the duplication of functions and gaps in the legal and regulatory framework governing key entities.

Mandates of corruption investigation authorities

8. **Under the United Nations Convention Against Corruption (UNCAC), States Parties are obliged to enact strong legal, institutional and policy frameworks to tackle corruption, including establishing specific bodies with mandates to combat corruption through law enforcement.** The Jakarta Principles recommend that anticorruption authorities (ACAs) *'be established by a proper*

and stable legal framework, such as the Constitution or a special law to ensure continuity of the ACA.⁶ The Colombo Commentary reinforces this view:

*‘Experience from around the world has shown that where ACAs are effective, their success can pose a threat to their very existence. Successful prosecutions of high-level corruption can sometimes lead to political calls to either abolish ACAs or substantially curtail their powers. In order to protect ACAs from encroachments on their mandates, it is important that the legal framework establishing ACAs be designed to withstand hasty amendment’.*⁷

Given the history of specialised anticorruption agencies in South Africa, a legal basis founded on the Constitution would be ideal and a statutory basis would be preferable over a Presidential Proclamation.⁸

9. **In the context of a multiplicity of institutions mandated to fight corruption through law enforcement, it can be particularly challenging to specify each agency’s substantive jurisdiction** (offences falling under their competence) in a manner that avoids conflict and ensures efficient cooperation and exchange of information. Where the mandate of the specialist anticorruption entity is limited to high-level corruption cases (so as not to overburden the body with low level corruption cases), it is crucial that the law prescribes precisely the factors for determining such jurisdiction to avoid abuse of discretion and conflicts of jurisdiction with other bodies.⁹

10. **The IDAC, the DPCI, the IPID and the SAPS each have a statutory mandate to address corruption and corruption-related offences:**

- the IDAC is responsible for ‘high profile and complex’ corruption offences;
- the DPCI – for ‘priority crime’ (serious, organised crime, crime that requires investigation at a national level, or crime which requires specialised skills to investigate);
- IPID – for corruption offences committed by members of the police; and
- the SAPS – for general corruption.

The laws establishing these entities and their associated regulations fail to define what might be regarded as ‘serious’, ‘complex’, ‘high profile’, or what might constitute a ‘complex corruption offence’ and ‘a crime which requires specialised skills in its investigation’, leading to significant overlap in investigative jurisdiction among these bodies.

11. **In line with the requirement of ‘adequate independence’ laid down by the Constitutional Court in the Glenister cases,¹⁰ the IDAC, DPCI and IPID heads each have authority to select any case falling within its jurisdiction.** The selection of a case by the head of a specialist corruption body like the IDAC or the DPCI would deprive a body with a more general mandate, such as the IPID or the SAPS, from asserting jurisdiction. However, the absence of clear demarcation of the mandates of the IDAC and the DPCI increases the potential for conflict over cases. If the two specialist agencies, the IDAC

⁶ Jakarta Statement on Principles for Anti-Corruption Agencies Jakarta, 26-27 November 2012, Principle 3 www.unodc.org/documents/corruption/Publications/2020/20-00107_Colombo_Commentary_Ebook.pdf

⁷ Colombo Commentary, p 21 para 32

⁸ The Khampepe Commission into the mandate and location of the Directorate of Special Operations (DSO or the Scorpions) established by President Thabo Mbeki in 2005, investigated the relationship and coordination between the DSO, the South African Police Service (SAPS), and intelligence agencies, especially as regards the investigation into organized crime and priority crimes. The ground for establishing the Commission and the reason cited for the subsequent dissolution of the Scorpions was unhealthy competition caused by their overlapping mandates. www.gov.za/sites/default/files/gcis_document/201409/khampeperptfinal-feb061.pdf

⁹ A report by the Organisation for Economic Cooperation and Development (OECD) (2013), Specialised Anti-Corruption Institutions: Review of Models: Second Edition, OECD Publishing. P24 <http://dx.doi.org/10.1787/9789264187207>

¹⁰ *Glenister v President of the Republic of South Africa and Others* 2011 (7) BCLR 651 (CC).

and the DPCI, both elect to investigate the same complaint, there is no mechanism in the law to determine which agency's selection prevails. No one agency can compel another to hand over the product of its investigation and instruct another to desist from any further investigation.

12. **The DPCI and the SAPS Detectives Units have developed internal criteria to be used for determining which body will handle a particular case.**¹¹ Criteria such as the scope, complexity, public interest and urgency of the case are each allocated points on a scale, and if the points add up to more than 80%, the cases must be referred to the DPCI. Where there is a disagreement about the appropriate entity to handle the matter, the determination by the head of the DPCI prevails. There is no such dispute resolution mechanism between the IDAC and the DPCI.

13. **The situation is further exacerbated by the fact that there is currently no central database of all reported criminal complaints relating to corruption that is accessible to all the anticorruption enforcement agencies.** SAPS requires its staff to record all criminal complaints in the national Case Administration System (CAS). In terms of the NPA Act, IDAC does not have automatic access to the CAS database and its case selections are not automatically registered on the CAS system. In addition, the DPCI is the body designated to receive reports from individuals in positions of authority obliged to make reports of certain known or suspected corrupt activities under section 34 of Prevention and Combating of Corruption Activities Act (PRECCA). The DPCI maintains a record of such reports but does not automatically share this information with other agencies. The NPA also receives referrals from non-criminal anticorruption investigation bodies like the SIU, the Auditor General and the Public Protector. Record of these referrals also do not make their way onto the CAS system, unless they are also reported to the SAPS.

14. **This means that the IDAC and the DPCI agencies may only discover that they are investigating the same matter once they have both taken statements from the same witnesses, or worse, they are ready to arrest a suspect,** only to find the suspect had already been offered immunity from prosecution in exchange for testimony in court from another entity. Duplicating investigations could happen unwittingly and still have dire consequences in court proceedings when witnesses are confronted with conflicting statements under oath made to different agencies. They could also happen deliberately, to thwart the efforts of another agency for nefarious purposes. Consequently, legislative amendments are needed to address jurisdictional overlaps.

Coordination of corruption investigations

15. **Multiple coordination structures have been established in South Africa to address enforcement of corruption.**

- **The National Priority Crimes Operational Committee (NPCOC)** was established in April 2023 in terms of Section 17J of the SAPS Act. The functions of the *Operational Committee shall be to: (a) review, monitor and facilitate the support and assistance of the respective Government departments or institutions to the DPCI as well as secondments to the DPCI, and address problems which arise regarding such support and assistance.*
 - **The Fusion Centre** (a sub-committee of the NPCOC) aims to bring together in one place investigators and prosecutors seconded to contribute their specialised expertise and experience to maximise the detection, prevention, investigation and prosecution of *corruption-related* cases. The Fusion Centre follows an intelligence-driven approach in investigating corruption and it uses data and information analysis. It also expedites the processing of cases, reducing delays in finalising cases. The agencies that form part of the Fusion Centre, work within their legislative mandates and enhance the quality and depth of each inquiry. The South African Anti-Money Laundering

¹¹ See presentation by the head of the DPCI to the Parliamentary Committee on Police: <https://pmg.org.za/committee-meeting/17552/>

Integrated Task Force (SAMLIT) facilitates the sharing of information, providing access to financial transactional information.

- **The OECD Task Team**, (a sub-committee of the NPCOC) established to enhance foreign bribery investigations, is coordinated by the DPSA and co-chaired by the NPA and the DPCI management. It convenes monthly to discuss foreign bribery cases, exchange feedback and address bottlenecks.
- **The Integrated Task Force** was introduced by the NPA early in 2022 to enhance the monitoring and collaboration on cases related to the Zondo Commission's recommendations. The meeting is chaired by a Deputy National Director in the NPA, is attended by all relevant units within the NPA (such as the Investigating Directorate (ID now IDAC), the Asset Forfeiture Unit (AFU), the National Prosecution Service (NPDS), Specialised Commercial Crimes Unit, etc) as well as the DPCI, Special Investigating Unit (SIU), Financial Intelligence Unit (FIC) and SARS. Initiatives flowing from this meeting include the conception of the Advisory Panel, which consists of experts within the ID, SCCU and DPCI as well as *ad hoc* experts who are invited in accordance with the needs of specific case requirements. This is supported by an integrated Top 10 Priority Committee that monitors specialised commercial crimes cases, as well as other priority cases in greater detail.
- **The Interdepartmental Committee on Anti-Money Laundering** chaired by National Treasury coordinates the process to exit the grey list, and has been reporting regularly to Cabinet, and the Justice and Crime Prevention and Security (JCPS) Cluster on its progress. This committee consists of many of the same participants as the DPCI's ACTT/NPCOC and the NPA's Integrated Task Force.

16. **On coordination, the NACS expressly envisages that the ACTT, or its replacement structure, [the NPCOC] should continue to 'coordinate operational matters related to investigations, prosecutions and criminal and civil recovery of assets.'** The NACS envisages an overarching coordinating structure that will support the implementing agencies by having each agency agree to an implementation, monitoring and evaluation schedule. This suggests that the aim of coordination is to improve accountability rather than to play any meaningful role in managing operations. The 'operational coordination activities' that the existing coordination bodies undertake appear to be limited to compiling lists of reported cases for purposes of receiving progress reports and addressing any resourcing challenges. They do not address jurisdiction disputes or allocate cases between agencies. Rather, they increase risks of information leaks and other integrity lapses.

17. **An approach to manage investigations, prosecutions or asset recovery cases through inter-agency coordinating structures presents risks to operational efficiency and potential undue interference in cases.**¹² Requiring investigators and prosecutors to report on their cases to persons outside of their organisational framework may well infringe on the exercise of autonomous decision-making required in serious corruption cases and risks subjecting them to undue outside influence. This

¹² A similar concern is raised in South Africa's OECD Anti-Bribery Convention Phase 4 Report, 2025 at para pp62-3 under the heading *Commentary*. 'The lead examiners thus recommend that, with a view to preserving the integrity and effectiveness of its investigations and enforcement actions, South Africa (i) reassess the relevance of the participation in the OECD Task Team, the NPCOC and the Fusion Centre of individuals and entities who are not playing a direct role in advancing cases and are not subject to the same confidentiality rules; and (ii) if the participation of non-state stakeholders in these forums is maintained, develop and implement specific procedures to regulate the sharing of information and prevent potential conflicts of interest when discussing foreign bribery across agencies and across forums,' accessible at www.oecd.org/en/publications/oecd-anti-bribery-convention-phase-4-report-on-south-africa_32776d08-en.html

function should be left to line management in the mandated agency. Clarifying the mandates of the respective bodies in the law as proposed above, will reduce, if not eliminate the need for an operational coordinating body. The entity mandated in the law to deal with a matter, will be responsible and accountable for the resolution of the matter.

18. **If there are cases that cut across agencies, they should be managed *ad hoc* based on a task force or joint investigation approach.** The need to establish a joint investigation task team is an issue that should be determined, in the first instance, by the head of the respective lead agency with jurisdiction in the matter. Through coordination or approval of the case prosecutor (or a higher-level prosecutor), other agencies should supply personnel and resources to the team. In this way, coordination can be managed by overarching guidelines for inter-agency cooperation where needed to ensure the exchange of information and resources in crossing cutting cases.

Access to intelligence on corruption, undercover operations and surveillance

19. **Access to reliable intelligence on the corruption threat in the country is critical to effectively addressing corruption.** In the context of limited resources and high levels of corruption, access to reliable intelligence on the scope and scale of the problem, must inform case selection and priority setting. Modern law enforcement agencies around the world rely heavily on crime intelligence capability, integrated with case-related information to produce analysis that informs pro-active case selection and the direction of on-going investigations. To be effective, anticorruption agencies must have legal powers to carry out covert surveillance, intercept communications, conduct undercover investigations, access financial data and information systems, monitor financial transactions, freeze bank accounts, and protect witnesses.¹³

20. **In the current institutional framework DPCI is granted crime intelligence powers while IDAC's powers are limited in this area despite its importance to detecting and investigating corruption cases.** The DPCI is entitled to '*gather, correlate, evaluate, coordinate and use crime intelligence in the performance of its functions*'. In addition to its access to the Crime Intelligence component within SAPS, the DPCI relies on its Priority Crime Management Centre (PCMC) to conduct a national threat assessment that informs its threat-based investigations. Section 7 of the NPA Act no longer authorizes the IDAC to *gather, keep and analyse information relating to offences*'.¹⁴ The result is that the head of IDAC may select cases of her own accord, but is not authorised to base the selection on the analysis of information gathered in-house. This undermines proactive case selection.

21. **Both prior to case selection and once cases are under investigation, access to financial information, intelligence, and evidence is critical.** This includes financial information produced by institutions including the Financial Intelligence Centre (FIC), the South African Revenue Service (SARS) and the Financial Surveillance Department at the Reserve Bank.¹⁵

22. **The FIC Act authorises the FIC to assist in the identification of the proceeds of unlawful activities;** the persons involved in money laundering activities and in combating money laundering activities. The FIC has extensive regulatory and administrative powers to access information from

¹³ A report by the Organisation for Economic Cooperation and Development (OECD) (2013), Specialised Anti-Corruption Institutions: Review of Models: Second Edition, OECD Publishing p 13
<http://dx.doi.org/10.1787/9789264187207>

¹⁴ The Scorpions, the IDAC's predecessor, was authorised by statute to '*gather, keep and analyse information relating to offences*' within its mandate. The Khampepe Commission however found that the Scorpions had in fact unlawfully established intelligence gathering capabilities, that went beyond the ambit of its information gathering mandate under section 7 of the NPA Act.

¹⁵ The FATF Recommendations emphasize the importance of inter-agency coordination in law enforcement to effectively combat money laundering with corruption as the predicate crime. [FATF guidance suggests](#) that countries should have mechanisms in place to facilitate the timely and secure exchange of information, including financial intelligence and investigative data.

domestic financial and other accountable institutions. It can also exchange information with international counterparts. It supports law enforcement agencies specified in the FIC Act by processing, analysing and interpreting information disclosed to it, and obtained by it, under the Act, and provides the reports it produces for use in investigations and prosecutions.¹⁶ The FIC is also authorized and has developed expertise in-house to produce forensic evidence, based on the application of specialised scientific methods and techniques, pertaining to the flow of financial transactions and the links between persons, and between persons and property.¹⁷

23. **SARS is empowered by various tax-related laws to conduct criminal investigation into statutory tax offences**, in addition to powers to conduct other administrative and audit related inquiries. SARS has jurisdiction over general offences concerning the wilful non-compliance of various obligations relating to tax administration as well as more serious tax evasion offences. Only a senior SARS official may authorise the investigation of a tax-related criminal offence within SARS, and only a senior SARS official may lay a complaint with the SAPS or the NPA regarding a statutory tax evasion offence.¹⁸ All tax-related investigations are triggered by information gathered by SARS, making SARS the complainant in all criminal investigations for tax related offences.

24. **In exercising their authority under the tax laws, senior SARS officials have extensive information gathering powers.** In the context of a criminal investigation a SARS official may request that material be provided under oath or solemn declaration, in accordance with the requirements of certain sections of the Criminal Procedure Act. SARS officials may conduct a formal enquiry before a presiding officer; authorise an application for a search warrant and conduct search and seizure operations. Laws, such as FICA¹⁹, POCA²⁰, and PRECCA²¹, and the Drugs and Drug Trafficking Act, oblige SARS to support the SAPS, the NPA, the and the FIC and other agencies in criminal investigations, particularly in the investigation of corruption and of money laundering activities. It does not, however, have a mandate to conduct these investigations on its own. South Africa is party to the Convention on Mutual Administrative Assistance in Tax Matters and has concluded more than 20 tax information exchange bi-lateral agreements and includes automatic exchange of information provisions in several double taxation agreements. These initiatives significantly extend SARS' information gathering reach, increasing the likelihood of information relating to tax non-compliance and serious corruption offenses coming to the attention of SARS.

25. **SARS is therefore an important partner in tackling serious corruption**, whether by supporting a tax investigation into an identified corruption suspect or by providing tax information to support a corruption and asset recovery investigation. SARS officials are uniquely suited to supporting inter-agency task teams on corruption.

26. **Anticorruption authorities around the world, regard the skills and capabilities to run complex undercover operations and surveillance, as critical to effectively combatting corruption.**²² The Directorate of Special Operations (DSO or Scorpions) disbanded in 2009, had developed capability to infiltrate its members into criminal organisations, identify and recruit sources in areas of interest and handled its own agents and informants. Undercover work was undertaken as reasonably necessary for the purposes of investigating and prosecuting the matters it was authorized to investigate. These same capabilities have not been granted to IDAC and the organisation requires speedy and reliable access to digital tools to securely remove and preserve the integrity of evidence in digital format. It needs the forensic capacity to access, analyse and present the product of this

¹⁶ In terms of section 3(1)a, aA and b of the Financial Intelligence Centre Act, 2001

¹⁷ Section 3(2)(aA) of the Financial Intelligence Centre Act, 2001

¹⁸ Section 245(1) of the Tax Administration Act, 2011

¹⁹ Financial Intelligence Centre Act, 2001

²⁰ Prevention of Organised Crime Act, 1998

²¹ Prevention and Combating of Corrupt Activities Act, 2004

analysis in court. It is unlikely to secure fully its own in-house capability. The Joint Initiative on Crime and Corruption Sub-Committee (JICC) of NPCOC, set up to mobilize business support for a Digital Evidence Unit to support prosecution of state capture cases as part of the country's efforts to be removed from the Financial Task Force (FATF) "grey list". Corruption investigations at all levels require access to this capability, but IDAC will need to work to secure priority access for its investigations.

27. **Corruption investigations often require expert testimony on a wide variety of topics, from complex procurement processes to prove corrupt influence to demonstrating complex financial flows set up to disguise their true nature, origin or destination.** A Shared Forensic Capability (SFC) Division is being established within the FIC to provide forensic analytical resources to law enforcement agencies within the NPCOC. Its primary focus will be on high-end, complex financial crime cases involving money laundering and terrorist financing. The Division's core mission is to produce forensic evidence derived from the analysis of financial transactions, to support law enforcement agencies in disrupting and prosecuting criminal networks. It will also provide forensic evidence through financial transactions analysis, as per recent amendments to the FIC Act. The Division will produce forensic reports or affidavits and support exhibits, annexures which will be used by law enforcement agencies (LEAs) in judicial or court processes. Electronic Case Management software that interfaces with court technology, particularly to support the discovery process in criminal prosecutions is an essential of the trade for a prosecuting anticorruption body. Priority access to these capabilities will be crucial to IDAC's ability to effectively and pro-actively investigate corruption cases.

28. **Appropriate training and specialised skills are mentioned both in Art 36 of UNCAC and in the Glenister II cases as a critical component to ensuring effectiveness of an anticorruption authority.** Specialisation requires a firm foundation in basic training. It becomes much more difficult to provide more advanced techniques required in more complex cases, if the basic foundation is absent. Specialist skill to investigate and prosecute high level corruption is in short supply in South Africa. The head of the NPA and IDAC have both publicly raised concerns about the dearth of applicants for its special investigator posts.²³ The DPCI, IPID and SAPS receive more applicants for low level posts, filling specialist posts remains a challenge. There is intense competition for investigative skills among various public sector bodies such as the SIU, various regulatory bodies, and in the private sector where investigators can command much higher salaries.

29. **When the Scorpions was first established, a critical component of the resourcing strategy was to recruit young graduates, with a promise of advanced training at Quantico in the United States and at Scotland Yard in the UK.** These training programmes produced a cadre of young Scorpions with the basic skills required to conduct corruption investigations. New IDAC recruits, particularly if they are not recruited from the SAPS, will need to undergo basic operational skills, such as tactical driving, physical fitness, physical and electronic surveillance, and conducting operations; and investigation techniques, such as conducting witness interviews, crime scene and evidence handling and testifying in court. None of this training is currently available in IDAC and may well explain the lack of applicants to investigator posts, quite apart from issues of remuneration. IDAC currently offers neither basic nor advanced training for new recruits.

The National Prosecuting Authority

30. **The National Prosecuting Authority (NPA) plays a pivotal role in the administration of criminal justice.** It is the only body with authority, derived from the Constitution, to institute, conduct and discontinue criminal proceedings on behalf of the State.²⁴ IDAC, located within the NPA, is the

²³ Exodus of NPA financial investigators to private sector and SIU fuelled by salary disparity – Batohi see <https://www.dailymaverick.co.za/article/2024-11-20-exodus-of-npa-financial-investigators-to-private-sector-and-siu-fuelled-by-salary-disparity-batohi/>

²⁴ Section 179(2) of the Constitution empowers the NPA to institute criminal proceedings on behalf of the State and to carry out any necessary functions incidental to instituting criminal proceedings. The National

only body in South Africa with the statutory authority²⁵ to conduct both its own investigations and institute its own criminal proceedings relating to *serious, high-profile or complex corruption, commercial or financial crime cases* and any contravention of a list of common law and statutory offences involving dishonesty (including all corruption offences under PRECCA). Prosecutors in the Specialised Commercial Crimes Unit (SCCU) typically prosecute *priority* corruption cases that are investigated by the DPCI. All prosecutors may prosecute police corruption cases dealt with by IPID and *general* corruption cases investigated by the SAPS committed in the jurisdiction in which they are authorised to prosecute.

31. **The effectiveness of the NPA has, however, been undermined by a history of leadership instability and undue influence with the State Capture Commission finding that the NPA was not spared efforts to weaken and undermine its role and function.** Given the institution's history and its current levels of effectiveness in dealing with serious corruption cases, various proposals have put forward to amend the NPA Act to enhance the independence of the institution. Ensuring the independence of the NPA is even more critical in the context of the NPA housing IDAC.

Appointment, Removal and Security of Tenure of Senior Officials

32. **The South African Constitutional Court has considered the importance of safeguarding prosecutorial independence by guaranteeing an appropriate selection process and preventing arbitrary dismissal of the National Director of Public Prosecutions (NDPP).**²⁶ In a key ruling on the issue, the Court quoted from a Venice Commission report²⁷ stating:

'It is important that the method of selection of the general prosecutor should be such as to gain the confidence of the public and the respect of the judiciary and the legal profession. Therefore professional, non-political expertise should be involved in the selection process. However, it is reasonable for a Government to wish to have some control over the appointment, because of the importance of the prosecution of crime in the orderly and efficient functioning of the State, and to be unwilling to give some other body, however distinguished, carte blanche in the selection process. It is suggested, therefore, that consideration might be given to the creation of a commission of appointment comprised of persons who would be respected by the public and trusted by the Government.'

More recently the Consultative Council of European Prosecutors²⁸ added: "[t]he appointment/election of prosecutors general should not only be transparent, following established, objective criteria for the choice of candidates and free of undue interference, but also be perceived as such by the judicial and prosecutorial communities in particular, in addition to the public in general. This is important to foster not only trust within the judiciary and prosecution services but also, crucially, public trust in the justice system".

Prosecuting Authority Act, 1998, is the law giving effect to the constitutional injunction that prosecutors exercise their functions without fear, favour or prejudice.

²⁵ National Prosecuting Authority Act, 1998 (Act 32 of 1998) and National Prosecuting Authority Amendment Act, 2024 (Act 10 of 2024)

https://www.justice.gov.za/legislation/acts/acts_full.html

²⁶ *Democratic Alliance v President of the Republic of South Africa and others* (263/11) [2011] ZASCA 241; 2012 (1) SA 417 (SCA) (1 December 2011) at para [78]

²⁷ Established in May 1990, the European Commission for Democracy through Law, known as "the Venice Commission", acts as the Council of Europe's advisory body on constitutional matters.

²⁸ Consultative Council of European Prosecutors (CCPE) *Opinion No. 19 (2024) on Managing Prosecution Services to ensure their Independence and Impartiality*, Strasbourg, 29 October 2024 accessible at <https://rm.coe.int/opinion-no-19-2024-of-the-ccpe/1680b25297>

33. **When appointing the incumbent NDPP in December 2018, the President²⁹ departed from previous practice by enlisting the assistance of a panel of individuals from the legal fraternity and other independent institutions** established in terms of chapter 9 of the Constitution to advise him on the appointment of suitable candidates. Following a process of nominations, shortlisting and interviews that were open to the media, the advisory panel proposed five candidates for the NDPP position. The President selected a candidate from the list provided and appointed the NDPP in terms of section 179 of the Constitution. In October 2022,³⁰ the President, in his response to the recommendations of the Zondo Commission, announced that legislative amendments would be introduced to ensure greater transparency and consultation in the process for selection and appointment of the NDPP, drawing on the process adopted for the selection of the current NDPP. NACAC recommends that a process for the appointment of the NDPP be adopted that ensures the candidate's 'apolitical stance, impartiality, neutrality, integrity and competence'.

34. **Appointment processes for the head of IDAC should include similar provisions to ensure adequate oversight and independence.** The Constitutional Court in the Glenister II decision concluded that political involvement in the leadership selection and direction of the police, while an imperative under the Constitution,³¹ is not consistent with the level of independence required for a specialised unit dealing with priority corruption cases. Glenister III³² emphasised that ensuring that Parliament can exercise effective oversight of an executive decision to appoint or dismiss the head of an independent corruption agency is critical.

35. **Adequate independence requires special measures ensuring their employment security to enable them to carry out their duties vigorously.** The court left it to the legislature to provide for this level of parliamentary involvement in the appointment and dismissal of the head of the DPCI, which it has yet to affect. In addition to the corruption *investigation* functions of the head of the DPCI, which was the subject matter of judicial scrutiny in the Glenister decisions, the IDAC head also exercises full prosecutorial powers over serious corruption offences, in addition to investigation responsibility. This places the head in a special category of officials in the NPA, deserving of appointment and removal protections equal to those of the NDPP, and perhaps even more insulated from executive control. The same selection, tenure and removal processes adopted for the NDPP should consequently be applied to the head of the IDAC. The NDPP, as the person responsible for the NPA should be included in the selection process, as is the case of all other NPA Act senior management appointments.

36. **Practices around the appointment, removal and discipline management of senior NPA leadership are similarly critical.** While international norms are not prescriptive about the precise relationship between the prosecution and the executive branch of government, this being a matter for the domestic legal culture and norms to determine, appropriate safeguards must be put in place to protect the prosecution from undue interference.³³ The behaviour of prosecutors toward high-level public officials might be influenced by the role of political authorities in determining prosecutors'

²⁹ Press Statement by the President accessible at www.gov.za/news/media-statements/president-cyril-ramaphosa-appointment-national-director-public-prosecutions

³⁰ Response by President Cyril Ramaphosa to the Recommendations of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud, October 2022

³¹ Section 207(1) of the Constitution bestows upon the President the responsibility to appoint the National Commissioner of the police service, and section 207(2) requires the National Commissioner to exercise control over the police in accordance with the national policing policy and directions of the Cabinet member responsible for policing. Glenister II para [30]

³² *Helen Suzman Foundation v President of the Republic of South Africa and Others; Glenister v President of the Republic of South Africa and Others* [2014] ZACC 32

³³ The appropriate degree of independence was discussed extensively in the judgment of *Glenister v President of the Republic of South Africa and Others* (CCT 48/10) [2011] ZACC 6; 2011 (3) SA 347 (CC) ; 2011 (7) BCLR 651 (CC) (17 March 2011) and *McBride v Minister of Police* [2016] ZACC 30; 2016 (2) SACR 585 (CC); 2016 (11) BCLR 1398 (CC) at para 31.

careers. Decisions on appointment, promotion, discipline and dismissals determined by politicians can decrease independence. If prosecutors may be removed by representatives of the executive or the legislature, both direct and indirect political pressure is enhanced.³⁴

37. The NPA Act currently provides for extensive executive involvement in and control over the appointment and removal of senior leadership positions in the NPA.

- The President, after consultation with the Minister responsible for Justice and the NDPP, appoints all senior managers of the NPA, including up to four deputy national directors and (approximately nine provincial) directors of prosecution. The Directors are vested with original power to make prosecutorial decisions within defined territorial boundaries. (s10, 11 and 13)
- The Minister for Justice, after consultation with the NDPP appoints all deputy directors of public prosecutions. Deputy Directors constitute the core of middle-management in the NPA, along with Chief Prosecutors who manage prosecutors in the lower courts. (s15)
- The President may suspend any NDPP, Deputy NDPP or Director, for misconduct; (ii) on account of continued ill-health; (iii) on account of incapacity to carry out his or her duties of office efficiently; or (iv) on account thereof that he or she is no longer a fit and proper person to hold the office concerned.(s12(6) and (7)
- The President may remove a director after obtaining approval from Parliament. (s12(7)
- The Minister of Justice may from time to time, in consultation with the NDPP and after consultation with the Directors, prescribe the appropriate legal qualifications for the appointment of a person as prosecutor in a lower court. (s16(3))
- The Minister, after receiving advice from the National Director shall, create a structure, by regulation, in terms of which any person may *report* to such structure *any complaint* or any alleged improper conduct or any conduct which has resulted in any impropriety or prejudice on the part of a member of the prosecuting authority, *and determining the powers and functions of such structure.* S22(5)

38. South Africa's well documented history of political interference in the functioning of the NPA during the period of state capture, suggests that more robust safeguards from political control are appropriate. Consideration should be given to the establishment of a National Prosecutorial Council, such as that recommended by the Venice Commission,³⁵ with a composition including prosecutors from all levels, but also with substantive representation of other actors such as lawyers or legal academics, to take control of appointment, professional standards, career progression and dismissal.

³⁴ The United Nations Guidelines on the Role of Prosecutors adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 07 September 1990 accessible at <https://www.ohchr.org/en/instruments-mechanisms/instruments/guidelines-role-prosecutors> and the International Association of Prosecutors (IAP) Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors accessible at www.icj.org/wp-content/uploads/2014/03/IAP-Standards-of-professional-responsibility-duties-rights-prosecutors-instruments-1999-eng.pdf The standards serve as benchmarks for prosecutors' ethics, independence, and professional duties.

³⁵ The *Independence of Prosecutors in Eastern Europe, Central Asia and Asia Pacific*, OECD (2020) See also the Consultative Council of European Prosecutors (CCPE) CCPE Opinion No. 18 (2023) on *Councils of Prosecutors as key bodies of prosecutorial self-governance* accessible at rm.coe.int/opinion-no-18-2023-final/1680ad1b36

39. **The NPA's Office for Ethics and Accountability (OEA), established in 2023, is a newly created internal mechanism aimed at promoting ethical conduct and accountability among prosecutors in South Africa.** The OEA has two primary functions: to manage and investigate complaints against members of the NPA, and to cultivate a culture of ethics within the organisation. These functions are carried out through two internal divisions: the Ethics Management and Advocacy Division (EMAD), which focuses on promoting ethical norms and preventive strategies, and the Complaints Management and Investigation Division (CMID), which handles the intake, processing, and resolution of complaints from the public and NPA staff. Efforts to cultivate a culture of ethics within the organisation by promoting ethical norms and preventive strategies can be undertaken internally. The proposed National Prosecutorial Council can, however, play an important independent oversight role in setting the framework for ethical conduct, vetting of staff dealing with high-level corruption, merit-based recruitment of prosecutors including competence and integrity evaluation, and overseeing discipline management.

Financial Independence of the NPA

40. **The NPA Act prescribes that the budget of the NPA must be prepared by the Department of Justice, in consultation with the NDPP and that the Director-General of the Department of Justice serves as the Accounting Officer for the NPA.** The Auditor-General as far back as 2002 has called for the financial independence of the NPA from the Department of Justice and this view has been supported by a variety of stakeholders including the NPA. Amendments to section 36(1), (2) and (3) of the NPA Act could be affected by using language provided for in laws governing institutions established in terms of chapter 9 of the Constitution. In relation to the budget of the NPA, provision could be made for its approval directly by Parliament. In relation to the appointment of its own accounting officer, the amendment could simply provide for the appointment of a suitably qualified and experienced official for the purpose of assisting the National Director in the performance of all financial and administrative functions pertaining to the NPA. Separate accounting for IDAC expenditure should also be reinforced.

Prosecution Skills

41. **Merit-based recruitment of prosecutors, including competency and integrity evaluation, is an essential safeguard against improper influence over the exercise of prosecutorial discretion.** The stakes in prosecuting society's most powerful demand the highest level of skill and competence the state can muster. Criteria for qualification as a prosecutor, compared to the qualifying standards for legal practitioners in the private sector practising as attorneys and advocates, reveals the following disparity:

- No more than a recognised three-year legal degree obtained at a university in South Africa is sufficient to secure appointment as a prosecutor in the magistrate's court;³⁶ while a minimum four-year LLB qualification is required for entry into the legal profession as a legal practitioner.³⁷
- A prosecutor may acquire the right to appear in any court (including the high court, supreme court of appeal and the Constitutional Court, after three years' experience as a prosecutor of a magistrates' court of a regional division.³⁸ No further vocational training, additional practice-related training or examinations are required. By comparison, a person intending to be

³⁶ Section 16(2) and (3) of the NPA Act provides that a person who obtains such legal qualifications may be appointed as a prosecutor and in terms of the Regulation which provides that – *'The appropriate legal qualifications for the appointment of a person as a prosecutor in a lower court as contemplated in section 16(3) of the Act are a recognised three-year legal degree'*

³⁷ Section 26 of the Legal Practice Act sets out the 26. *Minimum qualifications and practical vocational training for legal practitioners.*

³⁸ Section 25(2) of the NPA Act

admitted and enrolled as an advocate in private practice must serve under a practical vocational training contract with an advocate of at least 3 years-experience as an advocate for an uninterrupted period of 12 months and a candidate attorney can be admitted by the court as legal practitioner only after serving under a contract of articles with an attorney with at least three years in practice for an uninterrupted period of 24 months, (alternatively 12 months and an additional number of hours of structured course work).

- Legal practitioners wishing to practice must, in addition, pass a rigorous competency-based examination or assessment for candidate legal practitioners and pupil advocates. Courses in subjects such as constitutional practice; professional legal ethics; high court magistrate's court and criminal court practice are examined. The training provided is standardized by the Legal Practice Council in terms of norms and standards.

42. **The NPA aspirant prosecutor programme is a 6-month practical legal training programme for newly qualified prosecutors but not all prosecutors who join the NPA undergo basic training to become prosecutors.** The training has not been benchmarked or approved by the Legal Practice Council and is not recognised by the Council as constituting equivalent legal training or recognised as a period of vocational training for purposes of prosecutors entering into legal practice as a private practitioner. This greatly limits the career mobility of prosecutors. Working with the Legal Practice Council to develop a practical vocational training and competency-based assessments for prosecutors that allow for their greater mobility in the profession, will attract more high-quality applicants to the NPA.

43. **The lack of competitive salaries is often raised as a reason for failing to attract quality candidates from outside the NPA.** Prosecution services around the world are seldom able to compete with private sector salaries. They, however, make up for lower salaries with other attractions, such as excellent training opportunities, opportunities to gain experience faster than in the private sector and a belief in the worthiness of the cause of fighting for victims of crime. Strengthening the professional training for prosecutors so that professional training for prosecutors should be brought on par with that of their counterparts in the private sector, will provide a more solid foundation for building prosecutorial competence across the board. It would further provide the kind of foundation upon which to build the specialist skills required to address complex corruption cases.

Recommendations

44. **Recommendations draw on the findings emerging from the review of the institutional framework for anticorruption enforcement and stakeholder consultations.** This includes recommendations related to reforms to the institutional framework for law enforcement agencies with a role in criminal investigation of corruption. Key issues include clarifying mandates, establishing processes for interagency coordination, access to intelligence, and capacity building. The final set of recommendations deal with reforms to the NPA as the last link in the anticorruption accountability chain. Proposals include strengthening appointment practices for senior officials, securing the financial independence of the NPA, and expanding on the professional standards for prosecutors to build capacity within the NPA.

Recommendations regarding corruption investigation

Clarify investigation mandates

1. **Legislative amendments are needed to address jurisdictional overlaps.** It is recommended that the NPA Act be amended to clearly define the mandate of IDAC to exclusively investigate corruption at the highest levels of government and in the private sector. One option is to include in its mandate cases that match one of the following conditions: 1) a corruption crime committed by certain categories of public officials (politicians serving in the executive and

legislative branches, senior members of the judiciary, the security, law enforcement and prosecution sectors and senior public servants and senior management in state owned enterprises and private sector institutions); or 2) public-sector corruption with the bribe or crime proceeds above a monetary threshold regardless of the perpetrator's position. The specific criteria should be clearly framed in the law.³⁹

- **Such amendments would give IDAC exclusive jurisdiction to investigate these cases and decide over the selection of cases falling within its mandate.** The law should expressly preclude other law enforcement bodies from investigating cases falling within the mandate of the IDAC, unless IDAC has specifically referred the case to that authority for investigation. IDAC should also be able to take over other corruption cases (not within its primary jurisdiction), if they are important and instrumental in detecting or investigating cases in its core jurisdiction (for example, when investigating a petty bribe or low level official can uncover a larger corruption scheme or a high-level public official involved). The power to take over such cases outside of the IDAC's core jurisdiction should be limited by the clear link to the main jurisdiction and the need to properly justify it.
- **The DPCI corruption mandate should be defined as those cases falling outside the mandate of the IDAC,** and in addition meet the criteria for priority corruption investigations, i.e. corruption that is serious, organised, crime that requires investigation at a national level, or crime which requires specialised skills to investigate. IPID and SAPS could retain the mandate to investigate police corruption and general corruption respectively (except for cases within IDAC's and DPCI's mandates). The criteria developed between the DPCI and SAPS for determining which body will handle a particular case can continue to govern allocation of cases between the DPCI and SAPS.

Interagency coordination

2. **The NPA should set up a protocol (guidelines) governing joint investigative task teams and clarifying issues such as the objectives, plans, resources, modalities of operation and reporting.** Addressing overlapping mandates and the jurisdiction of agencies should reduce reliance on overly bureaucratic interagency coordination structures. After delineation of the investigative mandates, the entity mandated in the law to deal with a case, should be responsible and accountable for the investigation, prosecution and asset recovery resolution of the matter. Interagency coordination structures are not suited for managing investigations, prosecutions or asset recovery in specific cases. If personnel and other resources of other entities is required, the lead agency should convene a joint investigative task team with the prosecutor's approval.
 - **The NPA's guidelines should also determine procedures for the communication and transfer of information on matters within the operational scope of another institution,** and for the formal transfer of investigations between institutions. In the event of a genuine dispute arising from more than one entity asserting jurisdiction over a case, the law should assign responsibility to prosecutors above a certain rank in the NPA to determine which entity will assume responsibility for the matter.

³⁹ See for example Article 216, part 5, of the Criminal Procedure Code of Ukraine regulating the exclusive jurisdiction of the National Anti-Corruption Bureau of Ukraine as an example of an ACA whose jurisdiction specifies its focus on high-level public officials and other serious corruption offences. See also the mandate of the Indonesian Corruption Eradication Commission (KPK) Art 16 of the Law No.30/2002 on the Corruption Eradication Commission sets a financial threshold.

Access to intelligence for investigations

3. **To strengthen proactive detection and investigation of high-level corruption, IDAC's capabilities to access intelligence and financial information, conduct undercover operations and surveillance should be upgraded.** This will require amendments to the NPA Act to provide for the IDAC's capacity to gather, keep and analyse information relating to offences falling within its mandate. This includes empowering IDAC to rebuild basic capability in house to conduct undercover operations and surveillance, recruit sources in areas of interest and handle its own agents and informants. In line with Justice Khampepe's recommendations, legislation governing the gathering of strategic intelligence on the country's corruption threat should provide for IDAC input into and access to intelligence products; and legislation should provide for IDAC's formal participation within the National Intelligence Coordinating Committee (NICOC).
4. **Conclude a Memorandum of Understanding between the IDAC and the FIC** to facilitate collaboration on the exchange of financial intelligence in the following areas:
 - the role of the FIC in producing financial intelligence on serious corruption threats to feed into the IDAC's proactive case selection and case prioritization processes,
 - agree protocols to ensure that intelligence falling within the IDAC mandate is speedily directed to IDAC,
 - agree to dedicate analyst capacity to fast-track requests from IDAC for information and access to data held by the FIC,
 - otherwise providing priority assistance on requests for information in specific corruption and money laundering cases emanating from IDAC,
 - provide for secondment of personnel in joint operations,
 - agree protocols to be followed by FIC forensic specialists conducting forensic analysis for IDAC court-directed investigations,
 - ensure secure channels of communication for sharing financial intelligence and confidential case-related information between the two institutions, and
 - share access to tools and technology in the analysis of big data; and otherwise share training and other opportunities to improve knowledge, skills and expertise of personnel in both institutions.
5. **Conclude a Memorandum of Understanding between the IDAC and SARS** to ensure the IDAC can harness the information and capability available in SARS in the interests of addressing high profile, complex corruption cases. In particular,
 - provide for criteria to facilitate the speedy and secure exchange of tax-related information as envisaged by section 73 of POCA, at the request of IDAC,
 - ensure secure channels of communication for sharing tax-related information and confidential case -related information between the two institutions,
 - agree on mechanisms to avoid duplication of activities and ensure optimal utilisation of resources,
 - agree on protocols for conducting joint tax/serious corruption investigations, alternatively provide for governance protocols in respect of SARS officials forming part of an IDAC investigation task team, and
 - conduct joint training and provide other opportunities to improve knowledge, skills and expertise of personnel in both institutions.

Law enforcement capabilities

6. **Secure IDAC's expeditious access to digital evidence capability and forensic analytical resources.** This includes concluding a service level agreement with the SAPS's Digital Evidence

Lab to prosecute state capture cases and priority access to the services of the FIC's Shared Forensic Capability (SFC).

- Provide IDAC, either through in-house capacity or through government-wide procurement, with effective access to secure private forensic accounting and other expert/specialist services.
- IDAC should procure Electronic Case Management software that interfaces with court technology, particularly to support e-discovery processes in criminal trials.

- 7. In the short term, explore with international partners the renewal of training opportunities for new IDAC recruits.** In the longer term, the IDAC and the DPCI should join forces to develop a training programme for new recruits into high level or specialised investigation posts.

Recommendations regarding prosecution

NPA appointment practices

- 8. Amend the NPA Act to provide for a transparent, competitive and merit-based appointment process for the NDPP.** The process adopted by the Judicial Services Commission for the appointment of judges, provides useful guidance precedent.⁴⁰
- The law should provide for the establishment of an Appointment Commission to advise the President on the appointment of suitable candidates. The Appointment Commission should be comprised of persons with *professional, non-political expertise* and include individuals widely respected by the public, and individuals trusted by government.
 - In selection of persons to serve on the Appointment Commission, due consideration must be given to *'whether a reasonably informed and reasonable member of the public will have confidence'* that the selection process will yield a suitably independent candidate, because *'the appearance or perception of independence plays an important role in evaluating whether independence in fact exists.'* Public confidence in mechanisms that are designed to secure independence is indispensable.
 - The amendment should specify the nomination process, evaluation criteria, standards or benchmarks to be applied in the assessment of the characteristics required in section 9(1) of the NPA Act, i.e. *'experience, conscientiousness and integrity to be entrusted with the responsibilities of the office concerned'* that will be applied by the Appointment Commission.
 - Assessment of the candidate's integrity should be an essential part of the selection process. The candidate should fail the assessment if there are reasonable doubts in their integrity, including financial integrity (e.g. assets and expenses disproportionate to the lawful income). Any conclusions of other bodies should not be prejudicial for the Commission's assessment.
 - Commissioners should be required to apply assessment ratings for each criterion applied in respect of each candidate and that the ratings of each assessed candidate be made available to the President and to the public for purposes of selecting the final candidate.
 - Consideration should also be given to limiting the term of the NDPP's appointment to 7 years from the current 10 years. This will bring the tenure of the NDPP in line with that of the Public Protector, provided for in section 183 of the constitution.

⁴⁰ The JSC website sets out the process in detail, accessible at <https://www.judiciary.org.za/index.php/judicial-service-commission/about-the-jsc>

9. **Apply the same selection, tenure and removal processes adopted for the NDPP to the head of the IDAC**, in line with international standards. Include the NDPP in the selection process.

Financial independence

10. **Amend sections 36(1), (2) and (3) of the NPA Act to provide for the financial independence of the NPA** in line with international standards, using language provided for in laws governing institutions established under chapter 9 of the Constitution.
- In relation to the budget of the NPA, stipulate its approval directly by Parliament.
 - In relation to the appointment of its own accounting officer, provide for the NDPP to appoint an Accounting Officer; alternatively, the repealed provisions of the NPA Act that provided for an accounting officer for the Directorate of Special Operations (DSO) could serve as a template for the amendment.

Professional standards in the NPA

11. **Develop a practical vocational training and competency-based assessments for prosecutors** that allows for increasing their expertise and improving their mobility in the profession, in order to attract more high-quality candidates to the NPA. The NPA should reassess and bring on par professional qualification for prosecutors with that of their counterparts in the private sector.
12. **Consider establishing a National Prosecutorial Council as recommended by the Venice Commission and international standards on prosecutorial governance bodies.** The proposed National Prosecutorial Council or a similar governance body should introduce a framework for ensuring ethical conduct of prosecutors, through vetting of staff dealing with high-level corruption, their merit-based recruitment, including competence and integrity evaluation, and discipline. The respective governance body should comprise external legal professionals and persons of high ethical standing.