

Dealing with fraud and corruption in municipalities in the Eastern Cape

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National Prosecuting Authority
South Africa

14 June 2022

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Tackling fraud and corruption in ECD

- The NPA continues to make progress in bringing high-profile national corruption cases to court
- The Eastern Cape Division has registered a number of cases in the Eastern Cape.
- In many of these cases, the *modus operandi* is the same as that seen in some of the high-profile cases elsewhere in the country, i.e.:-
 - Public servants working in informal consortiums and collaborating with service providers to siphon money from the public purse.
 - They also give insight into the way in which corrupt public officials have managed to manipulate financial management systems, either on their own or in collaboration with others

Key cases in the past year

› **Milongani Eco-Consulting**

- › R25,6-million loss for municipality - **R11m restraint order** obtained on 27 July 2021.
- › Charges relate to 3-year tender contract for environmental impact assessment awarded to Milongani
- › In terms of contract, Milongani was to be paid R350- p/hr for its services
- › However, first invoice submitted = R1-million, within 24-hours of appointment.
- › The probe assessed 42 invoices, which had been submitted for over R25,6-million.
- › Investigation found complicity in abuse of official power (i.e. corruption) between municipal employees and Milongani

› **Current Case Status:**

- › Case enrolled for 15 July 2022
- › Prosecution finalising racketeering charges

Nelson Mandela Bay Municipality

- **Integrated Public Transport System (IPTS) matter**
 - Accused charged for racketeering, procurement fraud, money laundering, corruption and various charges under MFMA.
 - The 10 accused include municipal officials, local business people, political office bearers who corruptly used their influence to have contracts awarded as well a local attorney and the firm he represented.
 - Total amount involved in the charge sheet is R100 million.
- **Current Case Status:**
 - Racketeering charges authorised in March 2022
 - Restraint papers have been drafted
 - Case transferred to the high court for pre-trial procedures

Nelson Mandela Bay Municipality

- **Department of Human Settlements (DHS)**
- Appeal by Bishop Mzukisi Samuel Banzana against a 12-year sentence for corruption relating to housing contracts dismissed in March 2022
- Banzana was sentenced on 14 September 2017 after a corruption and maladministration investigation into Mzingisi Development Trust, awarded a contract by DHS to build 1 211 RDP houses in PE northern areas in 2007
- SIU investigation found that:
 - Banzana entered into corrupt relationships with suppliers, project managers and government officials associated with the project
 - He forced an implementing company, MOM Construction CC, to use his preferred suppliers. These included Duranco Blocks (Pty) Ltd, of which he is a director
 - Payments made out to Banzana used to buy luxury vehicles and settle a R1.4 million bond

Nelson Mandela Bay Municipality

➤ **Mandela Funeral Case**

- The case was transferred towards the end of 2021 to the high court
- 14 people and entities accused of defrauding the Buffalo City Municipality (BCM) pleaded not guilty in February 2022.
- State was due to start leading evidence on 11 April 2022, but has been delayed as a result of interlocutory applications by some of the accused.
- At the time of going to press the high court was still hearing argument on some of these applications

Nelson Mandela Bay Municipality

➤ **Mandela Funeral Case**

- R5.9 million for transporting mourners to various venues for the memorial services were misappropriated when the BCM's procurement procedures were captured by the accused.
- AFU recovered and repaid R4.1 million to National Treasury in 2014/15.
- One of the accused, attorney Zintle Nkuhlu, is paying monthly instalments of R5 000 towards settlement of R350 000 benefit received from the funds.
- A restraint dated 01 August 2014 is in place and a conviction is awaited for the recovery of the outstanding balance.

Eastern Cape Training Centre (ECTC)

- In Gqeberha former ECTC creditor's clerk Estelle Burgess (65) was jailed after being found guilty in the Specialised Commercial Crimes Court of defrauding the centre of R13 million over a ten-year period.
- Burgess pleaded guilty to the crimes, involving:
 - Abuse of ECTC's online internet payment system
 - Changing banking details of creditors and making their payments into her own bank accounts.
 - She was found to have access to 9 bank accounts at 4 different banks
 - The fraud had a crippling effect on ECTC.
 - The court heard that the company, as a result, was unable to pay its employees during the hard lockdown in 2020 and no recovery of the money was possible

EC Department of Social Development

- S v Chetty & Others: another procurement fraud-matter
- Amount involved = just under R30 million.
- Case transferred to the high court, where trial is due to commence during 4th term of 2022.
- A restraint dated 27 August 2020 for R26 million is in place and a conviction is awaited for the recovery thereof.

Amathole District Municipality (Siyenza)

- 10 people & three companies, in connection with a tender for the accelerated sanitation programme appeared in East London Magistrates' Court on 02 December 2019
- Grahamstown High Court granted AFU a restraint order effectively freezing their assets, with estimated value of R60 million.
- Restraint order stems from serious charges of corruption, fraud and money laundering in the 'toilet' scam.
 - For supply, delivery and installation of 66 700 toilets in various villages of Eastern Cape
- Amathole District Municipality (ADM) irregularly awarded the tender to Blue Nightingale Trading 397 (Pty) Ltd t/a Siyenza Group, with its sole director, Bongani Mpeluza
- Mpeluza's Gauteng house remains preserved from 31 July 2020, as proceeds from the scam
- Only R16 million has been proven to have been utilised to erect the toilets

Amathole District Municipality (Siyenza)

- Group face eight charges, including corruption, fraud, money laundering, conspiracy to commit crime and the contravention of the MFMA.
- Some will also face charges of conspiracy and inducing another person to commit an offence, assisting another to benefit from proceeds on unlawful activities, and acquisition, possession or use of proceeds of unlawful activities.
- Accused include former ADM municipal manager Chris Magwangqana, former CFO Nkosinathi Soga, former ADM director of engineering Mpumelelo Shezi, and district's former director of corporate services, Lulama Taleni.
- They will re-appear on 03 May 2022 for a trial date (update?)

Closing Remarks

- As can be seen, corruption among municipal and provincial officials is a cause for real concern in the province.
- It is increasingly the focus of the NPA's activities in the province, with a growing number of charges being laid – and an ever-growing list of asset seizures and convictions to confirm the success of the close collaboration between the Hawks and the NPA.
- There are a few matters in court for longer than 5 years
 - due to delaying tactics by accused / defence as they know long term imprisonment awaits them when convicted
- Use of asset forfeiture and recovery processes by the AFU has proven to be very effective in claiming back proceeds of fraud and corruption



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Thank you

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