

MEDIA RELEASE

24 April 2019

APARTHEID'S BANKS NO CLOSER TO FACING JUSTICE

It has been one year since CALS and Open Secrets brought to light evidence that European banks collaborated with the apartheid government and profited from one of the worst crimes against humanity in world history. We have yet to receive a decision on whether these banks will face investigation.

For nearly two decades, evidence suggests, Belgium's Kredietbank (now known as KBC Group) and its sister bank in Luxembourg played a vital role in supporting and strengthening the system of apartheid in South Africa. Together, they were responsible for facilitating illegal transactions that allowed the apartheid regime to secretly buy weapons and continue its rule through violence – despite mandatory arms sanctions introduced by the United Nations in the 1970s. These banks have never been held accountable for their involvement in a global money-laundering scheme that effectively sustained apartheid and turned a profit from gross human rights violations.

In April last year, CALS and Open Secrets launched a complaint to try to change that. Using evidence of economic crimes uncovered over years of research, we presented a detailed complaint against the KBC Group and Kredietbank Luxembourg (KBL) to the Organisation for Economic Co-operation and Development (OECD). The OECD is one of the few international mechanisms available to hold businesses accountable for human rights abuses, with national contact points in member countries worldwide.

On the eve of South Africa's annual commemoration of freedom on 24 April 2018, representatives from our organisations delivered the complaint in person to the contact points in Belgium and Luxembourg. Our complaint was supported by a UN Independent Expert, Juan Pablo Bohoslavsky, who also emphasised that the banks may be guilty of crimes under international law. The contact points were initially meant to respond within three months with a decision on whether or not they would investigate the banks' conduct as outlined in the complaint. After a number of postponements, the contact points assured us that a decision would finally be made by 31 March 2019. To date, we have received no such decision.

Over and above this excessive delay, we have also exposed serious conflicts of interest within the composition of Belgian contact point members. Two business federations involved in deciding whether or not to proceed with an investigation against KBC Group, in fact have representatives from the bank in the federations. These members can therefore not possibly make an impartial decision in the process, as they have a clear and direct interest in dismissing the complaint – a conflict which goes

against the OECD's own Guidelines. Though we brought this to the attention of the contact points and the OECD General Secretary as early as June 2018, nothing has been done to resolve the situation and, perhaps as a result of this, the delays have only continued. Indeed, the decision, the complaint process and the Belgian contact point are all tainted as a result.

CALS and Open Secrets have given the contact points until 26 April 2019, the anniversary of the complaint's submission, to come to a decision about the investigation and to address our concerns about the conflict of interest within the Belgian contact point.

"The bar here is very low," says Tumelo Matlwa, attorney at CALS. "All the contact points are being asked to do is decide whether to investigate further based on the main facts of the case. What could have reasonably stalled such a decision if not a conflict of interest? A year-long process is excessive and creates the unavoidable impression that our complaint is not being taken seriously."

"The message is clear," says Hennie van Vuuren, Director at Open Secrets. "Corporations have nothing to fear. We cannot allow this to continue. We cannot allow corruption and delay tactics to prevent corporations from being held to account for their actions, for contributing to the suffering of millions living under apartheid and continuing to deal with its legacy of poverty and inequality to this day."

Read the full complaint to the OECD [here](#) or find out more about it [here](#).

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ABOUT OPEN SECRETS

Open Secrets is an independent non-profit with a mission to promote private sector accountability for economic crime and related human rights violations in Southern Africa. Our vision is to promote the right to truth and contribute towards social justice by using research, advocacy and litigation to hold powerful private actors to account for violations of human rights. Read more about our work at <https://www.opensecrets.org.za/>.

ABOUT CALS

The Centre for Applied Legal Studies (CAL S) is a public interest law organisation based at the School of Law at the University of the Witwatersrand. Founded in 1978 by Professor John Dugard, CAL S continues to use a combination of research, advocacy and litigation to advance human rights and social justice. Read more about our work at <https://www.wits.ac.za/cals/>.