



NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL

NEDLAC CERTIFICATE ON THE SECTION 77 (1) (B) NOTICE FILED BY THE CONGRESS OF SOUTH AFRICAN TRADE UNIONS WESTERN CAPE IN RESPECT OF WATER CRISIS IN THE WESTERN CAPE

1. INTRODUCTION

- 1.1. NEDLAC received a notice, dated 02 March 2017, in terms of Section 77 (1) (b) of the Labour Relations Act (LRA) 66 of 1995, from the Congress of South African Trade Unions (Cosatu) in the Western Cape.
- 1.2. The notice outlined the Applicant's demands in respect of the water crisis in the Western Cape.
- 1.3. It cited the following parties as Respondents:
 - 1.3.1. City of Cape Town;
 - 1.3.2. Cape Chamber of Commerce;
 - 1.3.3. Western Cape Government;
 - 1.3.4. Department of Water and Sanitation.

2. PROCESS AT NEDLAC

- 2.1. The Section 77 Standing Committee convened meetings with the Applicant and Respondents as follows:
 - 2.1.1. 09 May 2017;
 - 2.1.2. 07 August 2017;
 - 2.1.3. 24 November 2017.

2.2. Summary of engagements:

2.2.1. At the meeting held on 09 May 2017:

2.2.1.1. The Applicant stated:

- (a) That no more water should be allowed for private swimming pools, and that all pool water must be returned to the dams with tanks. In this regard, water from the swimming pools should be recycled or returned to the dams;
- (b) That the water used for watering private gardens could be preserved for use by the people of Cape Town;
- (c) That there should be restrictions on car washes and alternatively explore dry washes;
- (d) All taps should be put on a drip-system. It was concerning that Mitchell's Plain and Khayelitsha residents are subjected to the drip-system; but not the wealthier suburbs;
- (e) There was a need to reduce water supply to every household, not only to poor households. The reduction in pressure must be effected across the board. Furthermore, the City should not be disconnecting water to households as is currently being undertaken;
- (f) The desalination plants must be set up to make sea water drinkable;
- (g) The aquifers across the city should be accessed, for water supply;

- (h) Effective water recycling to all areas was needed. This water could be used by industries, and depending on the quality of the recycled water, this could then go back into communities.

2.2.1.2. Responded stated:

- (a) A plan was in process of being developed by the Western Cape Government. The City had implemented level 4 water restrictions which included:
 - i. No topping up of swimming pools.
 - ii. The watering of gardens was prohibited
- (b) Portable water will be used for watering gardens. This included grey water or rain water, or even the excess water from the swimming pools should be used for that purpose.
- (c) There were people whose livelihood depended on car washes. In this regard, the introduction of dry car washes and its impact on jobs and small businesses in the informal sector must be taken into consideration.
- (d) The fine and the drip-system applied across the City. The implementation thereof was electronic, and when picked up on the system, a request would automatically be generated for a disconnection or for the household to be reverted to the drip-system.
- (e) Furthermore, the City was dropping the pressure gradually to communicate water saving measures.
- (f) Engagements with industry were underway to identify high industrial base users and businesses. The water restrictions and recycling measures would be applied differently in comparison to domestic

consumption. This was an ongoing project that was being taken care of within the City's infrastructure development programme.

2.2.1.3. The Applicant proposed the establishment of a subcommittee to engage further on the issues. It was agreed that the Applicant and the Respondent would engage in bilaterals and revert to the Standing Committee with a progress report.

2.2.1.4. The Applicant reverted and stated that the Respondents did not attend a scheduled bilateral and therefore requested that the Secretariat schedule a bilateral in order for them to engage on the issues. Subsequently, a bilateral facilitated by the Secretariat was held on 07 August 2017.

2.2.2. At the meeting held on 07 August 2017, the Respondents undertook to provide more information on the following:

2.2.2.1. Communicating the full scope of the supply schemes, setting out the details of the number of expected litres of water from alternative sources of supply, and reporting back on the Request for Information (RFI).

2.2.2.2. Feedback on the communication strategy to residents.


2.2.2.3. The percentage of the additional capacity that was planned to be brought on stream.

2.2.2.4. The updated percentage of proportion of usage of water in high usage industries.

2.2.2.5. An update of the implementation of measures that had been put in place to mitigate the situation.

2.2.2.6. A clear indication of the expected situation in May 2018.

2.2.3. The Respondents reverted on the specific matters and the Applicant requested that a plenary session should be convened to finalise the engagement session.



2.2.4. At the meeting held on 24 November 2017 the following was demanded by the Applicant:

2.2.4.1. That the Respondent table the proposal for the inclusion of Cosatu in the existing Section 80 Parliamentary Committee. Thereafter, the City of Cape Town should invite Cosatu to formally participate.

2.2.4.2. The City of Cape Town should consider reducing the 87 litres to 30 litres per day per person.

2.2.4.3.

2.2.4.4. The off the record statement regarding the pressure increase in disadvantage areas must be put on record for absolute certainty.

2.2.5. The Respondent responded as follows:

2.2.5.1. On the issue of the inclusion of Cosatu in the Section 80 Committee, a name for the preferred candidate from Cosatu should be submitted. The Respondent did not have a challenge with the demand.

2.2.5.2. The City of Cape Town would implement restrictions in order to adhere to targets set by the National Department of Water and Sanitation. The City has therefore raised the restrictions to Level 6 water restrictions effective from 1 January 2018. Consumption limits will remain at below 87 litres per person per day.

2.2.5.3. During Phase One of the Disaster Risk Management Plan, all pressure zones were being lowered and informal settlements will form part of these zones (this do not comprise separate zones).

2.2.5.4. However, when Government became aware that informal settlements were experiencing a pressure reduction related loss of supply, or extended low or no-pressure, it would slightly increase the pressure until there is a more consistent supply to those zones. Any leaks would be fixed as a matter of urgency as this may be affecting supply.

2.3. The Secretariat forwarded the communication from the Respondent to the Applicant to request for its response, and whether the response had addressed the issues raised as demands.

m. v. e.

2.4. The Applicant stated that the response from the Respondent did not address its demands, and it was clear that the some of its demands were not resolvable.

3. DECLARATION

Given these circumstances, the Standing Committee agreed on 24 January 2018 that the demands by Cosatu could not be resolved; therefore the Standing Committee deemed this Section 77 (1) (b) notice filed by Cosatu as having been considered in terms of the Section 77 (1) (c) of the LRA. Any protest action arising from the notice would not be protected under the Act.

Signed at ROSEBANK on this 29 day of January 2018.



MADODA VILAKAZI
EXECUTIVE DIRECTOR