



NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL

**NEDLAC CERTIFICATE
IN RESPECT OF THE CONGRESS OF SOUTH AFRICAN TRADE UNIONS SECTION 77
1(B) NOTICE ON STATE CAPTURE AND CORRUPTION**

1. INTRODUCTION

- 1.1. NEDLAC received a notice, dated 17 July 2017, in terms of Section 77 (1) (b) of the Labour Relations Act 66 of 1995, from the Congress of South African Trade Unions (Cosatu).
- 1.2. The notice outlined Applicant's demands in respect of State Capture and Corruption.
- 1.3. It cited the following as its Respondents:
 - 1.3.1. Department of Arts and Culture
 - 1.3.2. Department of Basic Education
 - 1.3.3. Department of Police
 - 1.3.4. Department of Communications
 - 1.3.5. Department of Cooperative Governance & Traditional Affairs
 - 1.3.6. Department of Justice and Correctional Services
 - 1.3.7. Department of Defence and Military Veterans
 - 1.3.8. Department of Energy
 - 1.3.9. Department of Environmental affairs
 - 1.3.10. Department of Health
 - 1.3.11. Department of Higher Education & Training

- 1.3.12. Department of Home Affairs
- 1.3.13. Department of Human Settlement
- 1.3.14. Department of International Relations & Cooperation
- 1.3.15. Department of Planning, Monitoring & Evaluation
- 1.3.16. Department of Public Service & Administration
- 1.3.17. Department of Public Works
- 1.3.18. Department of Rural Development & Land Reform
- 1.3.19. Department of Science & Technology
- 1.3.20. Department of Small Business Development
- 1.3.21. Department of Social Development
- 1.3.22. Department of Telecommunications and Postal Services
- 1.3.23. Department of Tourism
- 1.3.24. Department of Water & Sanitation
- 1.3.25. Department of Mineral Resources
- 1.3.26. Department of Women in the Presidency
- 1.3.27. Business Unity South Africa
- 1.3.28. Black Business Council

2. PROCESS AT NEDLAC

2.1. The Section 77 Standing Committee convened a meeting with the Applicant and Respondents as follows:

2.1.1. 15 August 2017

2.2. Summary of engagements:

2.2.1. Input from the Applicant:

2.2.1.1. It clarified its demands to the Respondent and the Standing Committee and stated that the demands needed to be implemented as soon as possible.

2.2.1.2. It stated that the Respondent needed to implement the demands within four weeks as the State Capture and Corruption was affecting the jobs of the workers.

- 2.2.1.3. In order to remedy or address the matter the recommendation made by the former Public Protector of establishing a Judicial Commission of Inquiry on her report should be implemented.
- 2.2.1.4. Another Judicial Commission of Inquiry with a different mandate aimed at dealing with “corruption in general” should be established as a matter of urgency.
- 2.2.1.5. The Asset Forfeiture Unit must as soon as possible seize the assets of the Gupta’s as they were obtained illegally.
- 2.2.1.6. An investigation of all the parties involved in the State Capture report should be launched, and they must be charged. The monies recovered from those parties should be redirected into addressing challenges that were faced by workers and the poor.

2.2.2. Response from the Respondents:

- 2.2.2.1. With regards to the issue of establishing a Commission of Inquiry, the President has committed to it, however it would not be able to be established in four weeks, as the matter was still with the Constitutional Court.
- 2.2.2.2. The National Prosecution Authority (NPA) has appointed a team of prosecutors to assist the Hawks to investigate the issue of Asset Forfeiture, and when enough evidence has been obtained the demand would be addressed.
- 2.2.2.3. There was a need to have a legitimate and legal process to identify and investigate individuals that were involved in state capture, evidence should be obtained and those individuals would be prosecuted.
- 2.2.2.4. There was a Criminal Recovery Asset Act which addressed the issue of recovered monies. However a case has to be advanced in order for that process to be enforced.

- 2.2.3. The Applicant raised its concern that the response from the Respondents was not satisfactory, as it was not committing into addressing the issues at the stipulated time.
- 2.2.4. The Respondent requested to consult with its principals with regards to the demands, and revert to the Standing Committee by 18 August 2017.
- 2.2.5. The Standing Committee agreed that the Respondents should consult further on the issue and revert, once the response was obtained from the Respondents, the Standing Committee would circulate it to the Applicant.
- 2.2.6. The Applicant would therefore revert before the end of business day on 21 August 2017, if the response was addressing its demands.
- 2.2.7. On 21 August 2017, the Standing Committee received a response from the Respondents, and it submitted to the Applicant.
- 2.2.8. However the Applicant reverted and stated that the response did not address its demands and therefore requested the Standing Committee to consider the matter.

3. DECLARATION

Given these circumstances, the Standing Committee agreed that the issues raised by Cosatu could not be resolved and therefore the Standing Committee subsequently deemed this Section 77 (1) (b) Notice by Cosatu as having been considered.

Signed at ROSEBANK on this 22nd day of AUGUST 2017.



MADODA VILAKAZI
EXECUTIVE DIRECTOR