



NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL

**NEDLAC CERTIFICATE
IN RESPECT OF THE FEDERATION OF UNIONS SOUTH AFRICA SECTION 77 1(B)
NOTICE ON LACK OF COMPETENCY ON THE LEADERSHIP OF PASSENGER RAIL
AGENCY SOUTH AFRICA (PRASA)**

1. INTRODUCTION

- 1.1. NEDLAC received a notice, dated 14 February 2019, in terms of Section 77 (1) (b) of the Labour Relations Act 66 of 1995, from the Federation of Unions South Africa (FEDUSA).
- 1.2. The notice (attached) outlined Applicant's demands in respect of Lack of Competency on the Leadership of PRASA.
- 1.3. It cited the following as its Respondents:
 - 1.3.1. The Presidency
 - 1.3.2. The office of the Deputy President
 - 1.3.3. Department of Public Enterprise(DPE)
 - 1.3.4. Department of Transport (DoT)
 - 1.3.5. Ministry of Police (SAPS)
 - 1.3.6. Department of Defence and Military Veterans (SANDF)
 - 1.3.7. PRASA
 - 1.3.8. Railway Safety Regulator (RSR)

2. PROCESS AT NEDLAC

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

2.1.1. 07 March 2019

2.1.2. 09 May 2019

2.1.3. 31 May 2019

2.2. Summary of engagements:

2.2.1. Input from the Applicant at the meeting on 07 March 2019:

2.2.1.1. Employees had the right to safe working environment; however that was not the case with the employees at PRASA as their lives were in danger.

2.2.1.2. There were murders and other employees were injured due to lack of security in the railway system.

2.2.1.3. It proposed that PRASA needed to introduce a security system that would be able to protect the workers, such as trained security and closing wall/yard around the stations and next to the rail road.

2.2.1.4. Another challenge was cable theft that affected the workers, as it caused some trains not to move. This challenge in some instances resulted on workers being unfairly dismissed or not being paid when they are not at work.

2.2.1.5. PRASA needed to be transparent about its challenges to the Railway Safety Regulator as they were in charge of safety and regulating the railway industry.

2.2.1.6. More manpower was also needed to ensure the efficiency of PRASA.

2.2.1.7. The reporting of PRASA needed to be reviewed, where PRASA reports to DPE and RSR to DoT.

2.2.1.8. Senior positions at PRASA needed to be filled to ensure that there was accountability and quality overall performance of the institution.

2.2.1.9. Regular engagements between PRASA and Fedusa/United National Transport Union (UNTU) regarding safety were needed.

2.2.1.10. The Court decision on safety issues at PRASA must be implemented.

2.2.2. Response from the Respondents:

2.2.2.1. It agreed with the Applicant that the employees were entitled to a safe and normal work environment. In that regard measures were being taken to address the challenge.

2.2.2.2. Safety would need to be included to the Annual Improvement Plan.

2.2.2.3. Regarding the issue of security, there were 100 armed officers that were deployed in Cape Town to address the issue.

2.2.2.4. The court order was being implemented and there was a Standing Committee that was engaging in this regard.

2.2.2.5. Senior vacancies were advertised to address the challenge of human resources shortages. A process of shortlisting had just commenced, a report would be furnished at the next meeting.

2.2.2.6. On the reporting it stated that it had no mandate to engage on the issue.

2.2.2.7. PRASA would ensure that the safety meetings with Fedusa were being convened.

2.2.3. Standing Committee:

2.2.3.1. The Applicant would correspond or engage with DoT to ensure its participation on the Standing Committee.

2.2.3.2. The Applicant and Respondents were mandated to engage in Bilaterals to ensure that these issues were resolved and revert to the Standing Committee on 08 April 2019.

2.2.3.3. The DoT would therefore be in charge of the Bilaterals as the lead department, and a report would be submitted by 08 April 2019 regarding the bilaterals.

2.2.4. Respondents on the meeting held on 16 May 2019 on the Bilaterals:

- 2.2.4.1. The discussions were held between Applicants and Respondents.
- 2.2.4.2. The Applicant and Respondents mutually discussed and agreed on some issues.
- 2.2.4.3. There were areas of agreement, areas of disagreement and areas for further engagements.
- 2.2.4.4. There were also issues that needed to be referred to the office of the Private Office of the President.
- 2.2.4.5. It sought clarity whether those issues should be referred by DoT or Nedlac.
- 2.2.4.6. During the discussions information was shared with the Applicant such as Medium Term Expenditure Framework (MTEF) that talked to the re-allocation and prioritisation of PRASA funding.
- 2.2.4.7. A report of non-compliance by PRASA was sent to the judge by RSR and the parties agreed with the report.
- 2.2.4.8. It was further agreed that DoT would seek mandate on the reasons why there was a R3 billion re-allocation from PRASA to South African National Road Agency Ltd (SANRAL).
- 2.2.4.9. The Applicant was of the view that the interventions by PRASA were not adequate to resolve the issue of safety and security and the Respondent disagreed.
- 2.2.4.10. The Applicant believed that PRASA was not adequately funded and the Respondent disagreed as it was adequately funded in terms of the Corporate Plan for 2019/2020
- 2.2.4.11. The Applicant was of the view that South African National Defence Force (SANDF) needed to be deployed to safeguard the assets and safety of commuters.
- 2.2.4.12. Even though there were still areas of disagreement it believed that there was more room for engagements.

2.2.5. Applicant responded:

- 2.2.5.1. It appreciated that the Respondents was showing that it was committed to the process as the issues it raised were of importance.
- 2.2.5.2. The fundamental issue were the issues of safety and security of its members and commuters.
- 2.2.5.3. There were positive changes that had happened, such as meeting between the Applicant and the Chief Executive Officer (CEO) of PRASA. The CEO requested that the Applicant should submit its issues however the CEO had not responded.
- 2.2.5.4. At the meeting, the CEO presented on the work of PRASA regarding its turn-around strategy, which was appreciated.
- 2.2.5.5. It believed that the defence force should be involved to safeguard the infrastructure.
- 2.2.5.6. It requested that Nedlac should be the one to write to Presidency, instead of DoT.
- 2.2.5.7. Proposed that a national Bill should be developed around railway safety, it recognised the work that was being done in Western Cape; however railway safety was a national issue that needed to be resolved.
- 2.2.5.8. PRASA was not adequately funded and that needed to be addressed.
- 2.2.5.9. It was concerned that South African Police Service (SAPS) was not willing to assist in terms of safeguarding the commuters.
- 2.2.5.10. It remained committed to engage further.

2.2.6. Standing Committee stated:

- 2.2.6.1. It was noted that the parties were committed to engage further, however there were issues that needed the absent Respondents which was Ministry of Police, Department of Defence and Military Veterans and Presidency.
- 2.2.6.2. The Secretariat would therefore at the next meeting invite Defence and Military Veterans and Presidency.

2.2.6.3. The Applicant would submit its inputs on the PRASA Corporate plan to the Respondents, and the Respondents would augment the plans as per the inputs from the Applicant.

2.2.6.4. All the parties should be fully mandated to engage at the next meeting.

2.2.7. At the meeting of 31 May 2019:

2.2.7.1. It was noted that SAPS, Presidency and SANDF were absent and that was impeding on resolving the issues raised by Fedusa.

2.2.7.2. There were gaps that needed to be addressed by SAPS, Presidency and SANDF and they would not be able to be resolved as these Respondents were not present.

2.2.7.3. The Applicant would provide inputs to the Respondents on the PRASA corporate plan.

2.2.7.4. Standing Committee stated:

- (a) The issues raised by the Applicant were sensitive issues and the Standing Committee would have liked that these issues be resolved.
- (b) It however stated that some of these issues could not be resolved due to the absence of SAPS, Presidency and SANDF.

3. DECLARATION

Given these circumstances, the Standing Committee agreed that the issues raised by Fedusa could not be resolved as some of the Respondents were not available. The Applicant was advised to explore other available avenues to resolve the issues. Therefore on 31 May 2019 the Standing Committee deemed this Section 77 (1) (b) notice by Fedusa as having been considered. Any protest action arising from this notice would be protected.

Signed at Rosebank on this 06 day of June, 2019

M 06/06/19
TEBOHO THEJANE
ACTING EXECUTIVE DIRECTOR

