



NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL

NEDLAC CERTIFICATE IN TERMS OF SECTION 77 OF THE LABOUR RELATIONS ACT IN RESPECT OF THE CONGRESS OF SOUTH AFRICAN TRADE UNIONS SECTION 77 1(B) NOTICE ON VIOLENT CRIMES IN THE WESTERN CAPE

1. INTRODUCTION

- 1.1. NEDLAC received a notice, dated 11 September 2018, 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), herein referred to as the Applicant, on Violent Crimes in the Western Cape. Find attached as **ANNEXURE A**.
- 1.2. The notice outlined the Applicant's concerns pertaining to violent crimes in the Western Cape including gang violence, substance abuse and crimes against women and children.
- 1.3. The Applicant cited the following Respondents:
 - 1.3.1. National Minister of Safety and Security
 - 1.3.2. Provincial MEC Safety
 - 1.3.3. South African Police Service (SAPS)
 - 1.3.4. South African National Defence Force (SANDF)
 - 1.3.5. Security Industry Association
 - 1.3.6. City of Cape Town
 - 1.3.7. Civil Society

2. PROCESS AT NEDLAC

2.1. The meetings were held as follows:

- 2.1.1. 28 September 2018
- 2.1.2. 01 November 2018
- 2.1.3. 01 March 2019
- 2.1.4. 29 July 2019
- 2.1.5. 02 September 2019
- 2.1.6. 11 March 2020
- 2.1.7. 15 May 2020
- 2.1.8. 15 July 2020
- 2.1.9. 09 Mar 2021

2.2. Summary of engagements:

2.2.1. Plenary meeting held on 28 September 2018:

2.2.1.1. The Applicant presented its demands to the Standing Committee and the Respondents.

2.2.1.2. The Standing Committee noted that the Applicant in its presentation had new demands which were not originally in its notice. Therefore, it was agreed that the Applicant would amend its Section 77 1(B) notice to include the new demands and submit it to the Secretariat.

2.2.1.3. The Applicant submitted its revised Section 77 1(B) notice with a full list of demands on 03 October 2018, attached as **ANNEXURE A**.

2.2.2. Plenary meeting held on 01 November 2018:

2.2.2.1. The key Respondents, namely the City of Cape Town and SAPS were not present at the meeting of 01 November 2018 despite having confirmed their attendance with the Secretariat. Consequently, the engagements could not continue. It was agreed that the Secretariat would try to ensure that the Respondents were present at the next meeting.

2.2.3. Plenary meeting held on 01 March 2019:

2.2.3.1. The Secretariat reported that it engaged with the office of the Minister of Police to be represented and a confirmation was received that the representatives of the Minister would attend the meeting. It was noted that the representatives were not in the meeting and no apology was received by the Secretariat for their non-attendance.

2.2.3.2. The Provincial Police Office presented its responses to the Applicant's demands, however, it indicated that it did not have a mandate to engage further on the issues at that stage.

2.2.3.3. The Respondent indicated that an anti-gang strategy was developed to address the challenge of gang violence in the Western Cape.

2.2.3.4. The Standing Committee agreed that a facilitated process by the Nedlac Secretariat should be initiated to engage further on the demands.

2.2.3.5. The facilitated process comprised of representatives of COSATU, Government: National, Provincial Police, Office of the MEC on Safety and Security, Civil Society and City of Cape Town

2.2.3.6. The purpose of the process was to:

- (a) Consider and engage on the demands made by COSATU Western Cape in its Section 77 notice and attempt to resolve them.
- (b) Consider and engage on recommendations, presentations and additional information provided by participants relating to violent crimes.
- (c) Develop a report for submission to the Standing Committee to determine a way forward.

2.2.4. Plenary meeting held on 29 July 2019:

2.2.4.1. No progress was made at this meeting due to non-attendance by the City of Cape Town and SAPS.

2.2.4.2. It was agreed that the Nedlac Executive Director would write a letter to the Ministry of Police, expressing the challenges and requesting the Minister's intervention in ensuring that duly appointed representatives avail themselves. At the meeting it was established that the South African National Defence Force (SANDF) should also participate in this process.

2.2.4.3. The letters were written to the Ministry of Police and SANDF. A response was subsequently received from SAPS committing to participate in the Section 77 process; however, no response was received from SANDF despite the follow ups made by the Secretariat.

2.2.5. Plenary meeting held on 02 September 2019:

2.2.5.1. The SAPS presented the anti-gang strategy which was aimed at addressing gang-related violence through the establishment of a dedicated and adequately resourced policing capability, involving stakeholders through a collaborative and consultative approach to policing. It was reported that an anti-gang unit was established to implement the strategy.

2.2.5.2. The following agreements were reached at the meeting:

- (a) The parties would develop the curriculum together and it would focus on strategies to respond to crime, including roles and responsibilities of participants.
- (b) The curriculum would then be submitted to the National Commissioner and Ministry of Police for sign-off once it had been finalised.
- (c) The Applicant would submit this curriculum to Parliament.

- (d) An update would then be communicated to the Secretariat, following submission of the curriculum to Parliament in order for the Standing Committee to determine a way forward.

2.2.5.3. The Secretariat followed up with the Applicant regarding the progress of developing the curriculum, no response was received on this matter.

2.2.6. Plenary meeting held on 11 March 2020:

2.2.6.1. The focus of the meeting was on the following issues:

- (a) Development of the curriculum on violent crimes;
- (b) Feedback from SAPS regarding decriminalisation of drugs in communities; and
- (c) Feedback on collaboration between different Government agencies.

2.2.6.2. The following issues pertaining to criminal activities were raised during engagements:

- (a) Alcohol-related crimes;
- (b) Crimes against women, children, the elderly and homeless
- (c) Robberies.
- (d) Gang related crimes
- (e) The sale of drugs in communities
- (f) Graffiti conveying inappropriate messages to the youth.

2.2.6.3. The Respondents responded and indicated that:

- (a) By working closely with SAPS, communities can also play a big role in preventing and reporting crime, for instance, through community police forums.
- (b) With regard to alcohol related crime, communities could police their areas by, for instance, reporting places that do not have a licence for selling alcohol but were allowing people to come in with their own alcohol and a fee.
- (c) All police stations in South Africa had a crime profile. The crime would be recorded in a crime information management centre after which it would be analysed and necessary action taken.

- (d) Currently there was no legislation pertaining to drugs.
- (e) The SAPS Amendment Bill would be gazetted for public comments and the issues raised at the meeting could be included there.

2.2.6.4. Therefore, on the development of the curriculum, it was agreed that a 3-aside sub-group would be established consisting of the Applicant, Civil Society and Government (National, Provincial and Local). The 3-aside would engage with the intent of developing and consolidating the curriculum and then have it presented to the Standing Committee plenary.

2.2.6.5. On decriminalization of drugs, the Applicant was of the view that more could be done by law enforcement agencies in this regard.

2.2.6.6. Finally, on collaboration between the different Government agencies, the Applicant stated that this was not adequately addressed as the Government representatives in attendance did not have a mandate to engage on behalf of other Government departments who were absent at the meeting.

2.2.6.7. The Applicant sought an improved collaboration between Government agencies in addressing crime.

2.2.7. Plenary meeting held on 15 May 2020:

2.2.7.1. Inputs were made towards developing the curriculum. However, the SAPS and the City of Cape Town were absent, and this hindered progress in this regard.

2.2.7.2. It was therefore agreed that the City of Cape Town, Department of Social Development, Department of Health and Department of Justice and Correctional Services would be invited to the next meeting to engage on the curriculum.

2.2.7.3. The Standing Committee considered progress on this matter and was of the view that Nedlac should not be involved with the process of

developing the curriculum as that was not its expertise, therefore, the engagements on the curriculum were suspended.

2.2.8. Plenary meeting held on 15 July 2020:

2.2.8.1. The City of Cape Town representatives did not attend the meeting.

2.2.8.2. Parties raised concerns about the City of Cape Town not being present, as they deemed it essential for the City to be present to effectively engage on the Applicant's demands.

2.2.8.3. The Applicant indicated that although the matter had been going on for a very long time, efforts were still required to get the other Respondents to attend meetings, as receiving inputs from them would assist in a process of solving the challenge of violent crimes.

2.2.8.4. The meeting agreed that there should be a facilitation process, where a facilitator would assist with closing off the process including attempting to get all parties to attend, especially the City of Cape Town.

2.2.9. Plenary meeting held on 09 March 2021:

2.2.9.1. A presentation was received from the City of Cape Town on Operational Coordination pertaining to safety and security.

2.2.9.2. The Applicant indicated that the work being done by the City of Cape Town on safety and security did not have adequate coverage to the areas where it was needed the most.

2.2.9.3. Furthermore, the Applicant expressed discontent as the representatives from SAPS that were present did not have mandate to engage in the issues tabled.

2.2.9.4. It was agreed that the Secretariat would circulate a matrix containing the demands of the Applicant in order for responses to be consolidated

and for the Applicant to provide its comments on whether each of its demands were addressed satisfactorily.

2.2.9.5. The matrix was consolidated and inputs from Respondents and Applicants were subsequently considered by the Standing Committee at its meeting on 27 May 2021.

2.2.9.6. Having considered the responses as contained in the matrix, as well as progress from the previous meetings, the Standing Committee determined that a facilitation process would not assist in resolving the Applicant's demands. The Committee further determined that the process of considering this notice should be closed as the issues remained unresolved despite several interventions to resolve them through the Section 77 process.

3. DECLARATION

Given the above-mentioned circumstances, the Standing Committee agreed that the matters raised by COSATU could not be resolved. Therefore, on 27 May 2021 the Standing Committee deemed this Section 77 (1) (b) notice filed by COSATU as having been considered. Any protest action arising from this notice, in line with the provisions of the LRA would be protected.

Signed at **Rosebank** on 03 day of **June 2021**.



LISA SEFTEL
EXECUTIVE DIRECTOR