

Serfontein Viljoen & Swart
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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NUMBER: 86507/16

In the matter between:

SOLIDARITY 1st APPLICANT

AFRIFORUM NPC 2nd APPLICANT

And

MINISTER OF SPORTS AND RECREATION 1st RESPONDENT

**SOUTH AFRICAN RUGBY (PTY) LTD
t/a SOUTH AFRICAN RUGBY UNION** 2nd RESPONDENT

CRICKET SOUTH AFRICA 3rd RESPONDENT

ATHLETICS SOUTH AFRICA 4th RESPONDENT

NETBALL SOUTH AFRICA 5th RESPONDENT



NOTICE OF MOTION

KINDLY TAKE NOTICE THAT an application will be made by the above named applicants to the above Honourable Court on 1 day of March 2017 at 10:00 or as soon as thereafter for the matter to be heard for an order in the following terms:

1. The first respondent is to comply with the applicants' request in terms of section 18 of the Promotion of Access to Information Act 2 of 2000 dated 30 June 2016 by providing the following documents to the applicant:
 - 1.1. The memoranda of agreements concluded between the Department of Sport and Recreation with the South African Rugby Union, Cricket South Africa, Netball South Africa and Athletics South Africa;

- 1.2. The agenda and minutes of meetings wherein the aforementioned parties concluded the memoranda of agreements;
 - 1.3. The transformation plans of the South African Rugby Union, Cricket South Africa, Netball South Africa and Athletics South Africa.
2. The first respondent is to provide both physical copies and electronic copies of the aforesaid documents within 10 (TEN) days of the order of the Honourable Court;
 3. Costs of this application;
 4. Further and/or alternative relief.

KINDLY TAKE NOTICE FURTHER that the accompanying affidavit of **ANTONIE JASPER VAN DER BIJL** together with the documents referred to in Rule 3(3) of the Promotion of Access to Information Rules will be used in support of this application.

KINDLY TAKE NOTICE FURTHER that the Applicants have appointed SERFONTEIN VILJOEN & SWART ATTORNEYS as the address at which it will accept notice and service of all process in these proceedings.

KINDLY TAKE NOTICE FURTHER that should you intend opposing this application you are required:

- a) To notify the Applicants' attorneys in writing within **15 (FIFTEEN)** days after receipt hereof and file same with the Registrar of the Court located at CNR PAUL KRUGER & MADIBA STREETS, PRETORIA.

- b) Within **15 (FIFTEEN)** days after you have so given notice of your intention to oppose the application, to deliver your Answering Affidavit and file same at court, if any; and
- c) To appoint in your Notice of intention to oppose an address within **8 (EIGHT)** kilometres of the Court to which the application is brought and at which you will accept notice and service of all documents in these proceedings.
- d) If no such Notice of intention to oppose be given, the application will without further notice, be placed on the roll for hearing after the expiry of the period mentioned in a) above, on a date fixed by the registrar of the Court.
- e) If such Notice of intention to oppose is served and filed but no answering affidavit served and filed within the time prescribed above, the application will without further notice, be placed on the roll for hearing after the expiry of the period mentioned in a) above, on a date fixed by the registrar of the Court.

KINDLY TAKE NOTICE FURTHER that the information office of the Department of Sport and Recreation must:

- a) Immediately after receipt of this application, notify, in writing, all other persons affected, of the application and attach a copy of the application to such notice; and
- b) Within 15 (FIFTEEN) days of receipt of the application:
 - i. File with the registrar of Court 2 (TWO) true copies of the request and the notification sent to the requester in terms of section 25(1)(b) of Promotion of Access to Information Act 2 of 2000;

- ii. Notify the applicant in writing that the requirements of subparagraph (i) have been complied with; and
- iii. Serve on the applicant a true copy of the reasons, if they have not yet been provided.

SIGNED AT PRETORIA ON THIS THE 3rd DAY OF NOVEMBER 2016.



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REF: MR CLAASSEN/N VENTER/CS0246

**TO: THE REGISTRAR OF THE HIGH COURT
PRETORIA**

AND TO: STATE ATTORNEY – PRETORIA
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AND TO: **INFORMATION OFFICER OF THE DIRECTOR-GENERAL OF SPORT
AND RECREATION OF SOUTH AFRICA**
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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NUMBER: 86507/16

In the matter between:

SOLIDARITY

1st APPLICANT

AFRIFORUM NPC

2nd APPLICANT

And

MINSTER OF SPORTS AND RECREATION

1st RESPONDENT

**SOUTH AFRICAN RUGBY (PTY) LTD
t/a SOUTH AFRICAN RUGBY UNION**

2nd RESPONDENT

CRICKET SOUTH AFRICA

3rd RESPONDENT

ATHLETICS SOUTH AFRICA

4th RESPONDENT

NETBALL SOUTH AFRICA

5th RESPONDENT

FOUNDING AFFIDAVIT

I, the undersigned,

ANTONIE JASPER VAN DER BIJL

do hereby make oath and say that-

DEPONENT, AUTHORITY AND KNOWLEDGE

1. I am the Head of the Labour Court Department of the first applicant in this application ('Solidarity'), the details of which are set out below.
2. I am duly authorised to represent the applicants in these proceedings and to depose to this affidavit, as appears from annexures 'FA1' and 'FA2' hereto.



3. Save where specifically stated or where the context indicates otherwise, I have personal knowledge of the facts herein stated or I have ascertained and determined them from the records of Solidarity that are under my personal control. I confirm that the facts referred to are true and correct.
4. Where I make legal submissions, I do so on the advice of Solidarity's legal representatives, which advice I accept.

PARTIES

The applicants

5. The first applicant is Solidarity, a trade union duly registered in terms of the Labour Relations Act 66 of 1995 ('the LRA'). Solidarity has its head office at the corner of Eendracht and D F Malan Avenues, Kloofsig, Centurion.
 - 5.1. The primary function of Solidarity is to protect its members in the work environment. Solidarity achieves this through its Labour Services Department which protects individual and collective members in various industries throughout South Africa.
 - 5.2. Solidarity currently has approximately 140 000 members in all occupational fields.
 - 5.3. As an organisation within the broader Solidarity movement (which includes Afriforum), it pursues the protection and promotion of constitutional rights.
6. The second applicant is Afriforum NPC ('Afriforum'), a non-profit company registered as such in terms of the Companies Act 71 of 2008. Prior to the enactment of this statute, Afriforum was registered as a s 21 company in terms



of the Companies Act of 1973. Afriforum has its principal place of business at Afriforum Building, corner DF Malan and Union Streets, Kloofsig, Centurion.

7. Afriforum is an active non-governmental organisation involved in the protection and development of civil rights within the context of the Constitution and it was created to promote democracy through public participation. In order not to burden these papers unduly, I do not attach a copy of Afriforum's articles of association (which in any event is in the public domain), but a copy will be made available to the court, if it is required.
8. The Civil Rights Manifest adopted by Afriforum records that Afriforum is *'inspired by the republican tradition, which is based on democratic participation and accord among the citizenry, rather than a mentality of slavish submission'* and that it is *'committed to the continuous monitoring of that status of civil rights in South Africa and to take appropriate action when such rights are violated'*. In it, it is recognized that *'the constitutional rights of citizens will remain paper rights only if all the grand symbolic gestures and pronouncements emanating from the Constitution do not agree with the realities experienced by citizens'* and accordingly Afriforum commits itself to *'do everything possible to ensure that the rights contained in the Constitution are actualized and promoted in practice'* and strives particularly for the realization of constitutional rights, including the right to fair administrative process. A copy of the Civil Rights Manifest will be made available to the court if it is required.
9. By 30 June 2016, Afriforum had 176 456 members.



The respondents

10. The first respondent

- 10.1. The first respondent is the Minister of Sport and Recreation (**'the Minister'**), who, for the purposes of this application, is represented by the offices of the State Attorney located at 8th floor, Old Mutual Centre, 167 Andries Street, Pretoria.
- 10.2. For the time being the office of the Minister is occupied by Mr Fikile Mbalula. References to the conduct of the Minister described in this affidavit are to be taken to be references to the conduct of Mr Mbalula in his official capacity.
- 10.3. The Minister is cited herein in his official capacity as the executive head of the Department of Sports and Recreation (**'the Department'**), situated at 66 Regent Place, corner Queen and Madiba Streets, Pretoria. The Department is a department of state established and regulated by the National Sports and Recreation Act 110 of 1998 (**'the NSRA'**).
- 10.4. The Minister is empowered by the NSRA to determine general policy to be pursued with regard to sport and recreation which shall be binding on all sport or recreation bodies. The Minister is specifically required by the NSRA to issue guidelines or policies to promote equity, representivity and redress in sport and recreation.




11. The second respondent

11.1. The second respondent is South African Rugby Union ('**SARU**').

11.2. SARU is an association of persons with perpetual succession and juristic personality and it has its headquarters in Cape Town with physical address at SARU House, Tygerberg Park, 163 Uys Krige Drive, Platteklouf, Cape Town.

11.3. SARU is bound by the provisions of its constitution ('**the SARU constitution**') which regulates its affairs and establish its objectives as the national governing body of the sport of rugby within the Republic of South Africa.

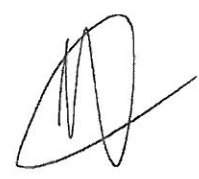
11.4. Article 4 of the SARU Constitution defines SARU's main object as the promotion, development and support of all levels of rugby in the Republic of South Africa.

11.5. Under article 5, it is stipulated that it is an ancillary object of SARU to:

11.5.1. act as the controlling and coordinating body of its members (article 5.5); and

11.5.2. adopt measures governing the activities of its members and the administration of the game in South Africa, including measures which will promote and develop rugby (article 5.6).

11.6. SARU is cited herein by virtue of its status as the national governing body responsible for the organisation and administration of rugby at all levels of the game as well as the body responsible for the control and co-ordination of its members operating at the various playing levels.



12. The Third Respondent

- 12.1. The third respondent is Cricket South Africa ('**CSA**'), a non-profit company incorporated as such under the company laws of the Republic of South Africa with registration number 2002/002641/08 and with registered address at Wanderers Club, North Street, Illovo, Gauteng.
- 12.2. CSA is the recognised national governing body for the sport of cricket in South Africa and administers all aspects of South African cricket, men and women, both in the professional and amateur spheres.
- 12.3. CSA is cited herein by virtue of its status as the national governing body for the sport of cricket as well as the coordinating body of its members.

13. The fourth respondent

- 13.1. The fourth respondent is Athletics South Africa ('**ASA**'), a non-profit company incorporated as such under the company laws of the Republic of South Africa under registration number 2006/034767/08 and with its registered address at Unit 3, Boskruin Park, Corner Kelly and Bosbok Streets, Randpark Ridge.
- 13.2. ASA is the sole organisation responsible for administering and controlling athletics within the boundaries of South Africa and is the sole South African member federation affiliated to the international athletics federation known as IAAF. As such, ASA controls athletics in the Republic of South Africa.
- 13.3. ASA is cited herein by virtue of its status as the national governing body of athletics and the coordinator and administrator of its members operating at various levels of the sport.



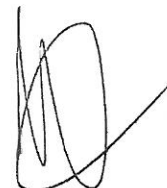
14. The fifth respondent

The fourth respondent is Netball South Africa ('NSA'), a non-profit company incorporated as such under the company laws of the Republic of South Africa with its main place of business situated at 846 Park Street, Pretoria.

15. The second to fifth respondents are referred to collectively as '**the sporting bodies**' in this affidavit.
16. No relief is sought against the second to fifth respondents who have been cited as parties to this application on the basis of any interest they may have in the relief sought against the first respondent and / or any affect the relief sought may have on any obligation held by them to the first respondent or any other party.

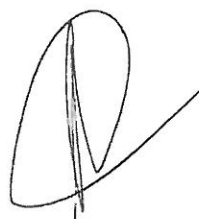
THIS APPLICATION

17. This is an application under and in accordance with the provisions of the Promotion of Access to Information Act 2 of 2000 ('**PAIA**').
18. On 25 April 2016, the Minister announced that the Ministry of Sport and Recreation had resolved to revoke the privileges of SARU, CSA, ASA and the NSA to host or bid for major and mega international tournaments in South Africa as a consequence of the aforementioned bodies failing to meet certain pre-set transformation targets. I attach a transcription of this address taken from the Polity.org.za website marked as '**FA3**'.
19. It appears from the contents of this address that the pre-set transformation targets derive from the conclusion of certain memoranda of agreement between the Minister on the one hand, and SARU, CSA, ASA and NSA on the other,



which memoranda establish transformation targets and goals to be achieved over a five-year period by each sporting body.

20. It was in accordance with these memoranda that the Minister alleges that he was authorized to revoke the privileges of SARU, CSA, ASA and the NSA to host or bid for major or mega tournaments in South Africa in accordance with the agreed punitive measures contained in the agreements in the event that any of the sporting bodies failed to meet their transformation targets.
21. The targets agreed to and the memoranda in which they are contained, are not in the public domain. Members of the public and organisations such as Solidarity and Afriforum are accordingly unable to discern from public documents the nature of the agreement reached, the targets set and/or the punitive measures set for non-compliance with the agreed targets.
22. Clearly, given the constitutional commitment to transformation and need to adopt constitutionally compliant measures to protect and advance persons, or categories of persons, who have been disadvantaged by discrimination, the transformational commitments of the various sporting bodies concern matters that are of relevance to the public.
23. Solidarity and Afriforum are both committed to a proper evaluation of transformation measures (whether self-imposed or imposed externally). In pursuit of their effort to ensure constitutional compliance in the adoption and implementation of measures loosely referred to as '*affirmative action measures*' or '*transformation measures*' Solidarity routinely seek and gain access to, for example, employment equity plans adopted by employers under the Employment Equity Act 55 of 1998 ('**the EEA**'). Solidarity engages employers on the content of their employment equity plans and other affirmative measures and it has litigated against employers whose plans have been considered to be unlawful under the EEA and/or the Constitution.



- 24. In the present instance, having learnt of alleged non-compliance with transformation targets, seeks to gain access to the memoranda in which the targets relied on by the Minister have been agreed to. This, in an effort to gain an understanding of their contents and to evaluate the lawfulness or otherwise of the targets as transformational measures.
- 25. In the circumstances, the applicants called for production of the memoranda in accordance with the provisions of PAIA, as is explained more fully below. The applicants' non-litigious attempts to gain access to the relevant documents have proven unsuccessful and they now apply to this court for an order that they be released to the applicants.

JURISDICTION

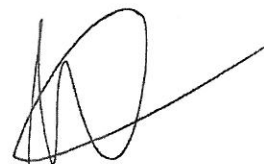
- 26. This court enjoys the necessary jurisdiction to adjudicate upon the claim for access to the documents sought from the Minister.

LOCUS STANDI

- 27. The applicants brings this application in their own interest, as well as in the interests of their beneficiaries, members and supporters (in terms of ss 38(a) and (e) of the Constitution of the Republic of South Africa Act 108 of 1996 ('the **Constitution**'). They also bring the application in the public interest (in terms of section 38(d) of the Constitution).. Clearly, the interest in the adoption of transformational measures by sporting bodies extends well beyond the interests served by any particular organisation.
- 28. The applicants bring this application in circumstances where they have exhausted non-litigious means of gaining access to the documents sought.

APPLICATION IN TERMS OF S 18 OF PAIA

29. On 30 June 2016, Solidarity submitted a request to the information officer of the Department in terms of s 18(1) of PAIA in which it sought:
- 29.1. the various memoranda of agreement concluded between the Department and the sporting bodies;
 - 29.2. the agenda and minutes of meetings where the Minister and the representatives of the sporting bodies concluded the memoranda of agreement;
 - 29.3. the transformation plans of the sporting bodies.
30. This request was made by Solidarity's legal representatives on its behalf, in compliance with the provisions of s 18(1) of PAIA and in the accordance with the prescribed form referred to in the section. I attach a copy of this request marked as annexure 'FA4'.
31. The request was transmitted to the designated information officer by way of fax transmission to fax number 086 644 9583, being the identified fax number of the information officer appointed by the Department. I attach a copy of the fax transmission report marked as annexure 'FA5' which reflects that the fax was successfully transmitted.
32. On 29 July 2016, Solidarity's legal representatives received an email from a Mr Manase Makwela who:
- 32.1. advised that, in accordance with s 26(1) of PAIA, the information officer to whom a request for access has been made or transferred, may



extend the period of 30 days referred to in s 25(1) once for a further period of not more than 30 days;

32.2. notified Solidarity's legal representative that the information officer wished to extend the 30-day period for a further period of not more than 30 days from the date of his email; and

32.3. indicated that Solidarity was entitled to challenge the extension by way of an internal appeal as prescribed by sections 74 to 82 of PAIA.

33. I attach a copy of this email marked as annexure 'FA6'.

34. At this juncture it must be noted that in his letter, Mr Makwela erroneously referred to five national federations. It is accepted that this was an incorrect reference to the four sporting bodies cited in the application.

35. On 4 August 2016, Solidarity delivered notice of its intention to lodge an internal appeal against the information officer decision to extend the original period in accordance with s 26(1) of PAIA. I shall address this internal appeal in further detail below.

36. On 1 September 2016, Mr Makwela responded to Solidarity's legal representatives, as appears from annexure 'FA7'.

36.1. He stated that the national federations were not in favour of releasing the requested information to Solidarity on the basis that the federations were of the view that the confidentiality clause contained in the agreement concluded with the Minister should be respected.

36.2. Mr Makwela went on to state that the information officer has, in the spirit of the promotion of access to information, deemed it necessary to

engage with the federations further in order to understand their reservations better and it would only be after this engagement process that the information officer would be able to provide a final response to Solidarity's request.

37. Notwithstanding the information officer's expressed concerns, the 30-day extended period lapsed and no further response was received from Mr Makwela on behalf of the Department's information officer.

INTERNAL APPEALS IN TERMS OF S 74 OF PAIA

38. On 4 August 2016, Solidarity lodged an internal appeal against the extension in terms of s 26(1) on the grounds that:
- 38.1. It was clear to Solidarity that the purpose of PAIA is to '*foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information*' and to '*actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights.*'
- 38.2. The requested memoranda are documents which should be made readily available to any person or organisation and accordingly, there can be no reasonable justification for the withholding of the requested documentation.
- 38.3. Chapter 4 of PAIA sets out the grounds upon which an application of this nature can be justifiably refused. None of the grounds for refusal as set out in chapter 4 of PAIA could be validly claimed by the Minister in support of the decision to extend the time period as aforesaid.



39. A copy of this notice of internal appeal dated 4 August 2016 is attached marked 'FA8'.
40. To date, no response has been received in respect of this internal appeal and Solidarity accepts that the internal appeal has been refused in accordance with the provisions of s 77(7) of PAIA.
41. Furthermore, no further response to Solidarity's request in terms of s 18 of PAIA was forthcoming. Therefore, on 2 October 2016, Solidarity accepted that its request had been refused in accordance with s 27 of PAIA. Accordingly, it lodged an internal appeal against the deemed refusal. A copy of this internal appeal is attached marked as annexure 'FA9'.
42. The grounds upon which Solidarity sought to appeal against the deemed refusal were:
- 42.1. It was clear to Solidarity that the purpose of PAIA is to *'foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information'* and to *"actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights.'*
- 42.2. The requested memoranda are documents which should be made readily available to any person or organisation and accordingly, there can be no reasonable justification for the withholding of the requested documentation.
- 42.3. Chapter 4 of PAIA sets out the grounds upon which an application of this nature can be justifiably refused. None of the grounds for refusal as

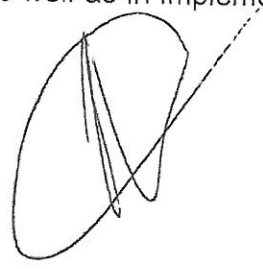


set out in chapter 4 of PAIA could be validly claimed by the Minister in support of the decision to refuse access.

- 43. At the time of the issuing of the present application, no response had been received from the relevant authority and accordingly, Solidarity accepts that the internal appeal lodged on 2 October 2016 is deemed to have been refused in accordance with s 77(7) of PAIA.

THE RELEVANCE OF THE DOCUMENTS SOUGHT

- 44. I have been advised that in order to succeed with this application, I am required to establish the relevance of the documentation sought.
- 45. The documents sought are as described in the s 18 application. These documents appear to be the source of the Minister's decision to impose sanctions upon the sporting bodies as communicated in the address of 25 April 2016. It is believed that the information contained in the documents will place that decision in the appropriate factual context which will enable Solidarity to form a proper understanding of the Minister's decision and the policies and agreements upon which it was enabled.
- 46. On the face of it and in the absence of any factual evidence to the contrary, it appears that the Minister, with the cooperation of the sporting bodies, has taken measures to enforce selection policies akin to quotas that have been held to be unconstitutional in the employment context. That the documents apparently contain provision for sanctions and that these sanctions are apparently being enforced, supports the conclusion that the 'targets' are more appropriately termed 'quotas', given the state of the law on this topic.
- 47. In the circumstances it is imperative that the documents relied upon by the Minister in enforcing the policies, as well as in implementing punitive measures



in the face of non-performance with those policies, be obtained and assessed with a view of determining the content and ultimately the constitutionality thereof.

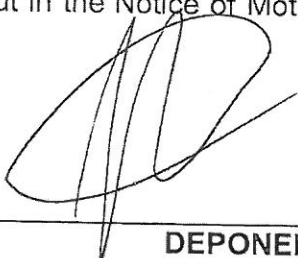
48. That these policies should be made available for public consumption appears to be an incontrovertible proposition: the Minister's policy-making power concerning transformation issues is not a private power. Rather, it is a public power conferred under a statute. Policies of this nature ought not to be kept from the public, particularly in circumstances where the public has such a keen interest in lawful transformation measures. The sporting bodies, when concluding an agreement of this nature with the Minister or the Department, are not acting privately, but rather in a public capacity (that is the administration and regulation of the various sporting codes that they manage and represent). Clearly, athletes (in the broad sense of the word) have an interest in knowing the content of the transformational objectives imposed on or agreed to by the sporting bodies that represent them or who might represent them, in order to be aware of the potential effect on their careers in their chosen sport. Supporters of the various sports codes also have such an interest - an interest starkly illustrated by the decision of the Minister to prevent bidding for the opportunity to host sporting events in South Africa. In these circumstances, it is wholly inappropriate to rely on a confidentiality clause that ought never to have been inserted in the agreements in the first place.
49. In the face of the Department's deemed refusal to provide the requested documents, Solidarity is compelled to approach this court for relief in obtaining the requested documents.



CONCLUSION


50. In circumstances where Solidarity has sought the documents and where its non-litigious attempts to gain access to the documents have been unsuccessful, it has no alternative but to approach this court for relief.
51. It is submitted that an appropriate case has been made out for the grant of the relief sought in the notice of motion.

WHEREFORE the applicant prays for relief in the terms set out in the Notice of Motion to which this affidavit is attached.



DEPONENT

I certify that the above named Deponent has acknowledged that he knows and understands the contents of this Affidavit which was signed and sworn to before me at PRETORIA on this ^{4TH}..... day of NOVEMBER 2016 and that the provisions of the Regulation contained in Government Notice R.1258 dated the 21st July 1972, as amended, have been complied with.



COMMISSIONER OF OATHS

TERTIUS PAULUS KRUGER
 Kommissaris van Ede • Commissioner of Oaths
 Praktiserende Prokureur RSA
 Practising Attorney RSA
 H/V D.F. Malanrylaan & Unionlaan
 Kloofsig, Centurion

IT IS HEREBY RESOLVED AND/OR RATIFIED THAT:

In my capacity as Chief Executive Officer, I hereby authorise that:

1. **SOLIDARITY** will bring an application wherein The Minister of Sports and Recreation is to comply with Solidarity's request in terms of section 18 of the Promotion of Access to Information Act 2 of 2000 dated 30 June 2016 by providing the following documents to Solidarity:
 - 1.1. The memoranda of agreements concluded between the Department of Sport and Recreation with the South African Rugby Union, Cricket South Africa, Netball South Africa and Athletics South Africa;
 - 1.2. The agenda and minutes of meetings wherein the aforementioned parties concluded the memoranda of agreements;
 - 1.3. The transformation plans of the South African Rugby Union, Cricket South Africa, Netball South Africa and Athletics South Africa.

Alternatively such relief as may be appropriate in the circumstances of the matter, and do all things necessary to bring about such application in the High Court including, but not limited to, the bringing of the application as set out above or any related applications therein.

2. **ANTONIE JASPER VAN DER BIJL** who is employed by Solidarity as Head of the Labour Court Department of Solidarity, is authorised to take all steps necessary, including deposing to any affidavits or signing any documents on behalf of Solidarity and/or any further action required in order to give effect to paragraph 1 above, and to proceed with same until finalisation of all such disputes.
3. **SERFONTEIN VILJOEN & SWART ATTORNEYS** is authorised to act on Solidarity's behalf in the matter and to take all other action required in this regard and to proceed with same until the finalisation thereof.

CERTIFIED A TRUE COPY

CHIEF EXECUTIVE OFFICER

"FAZ" 24

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NUMBER: 86507/16

In the matter between:

SOLIDARITY	1st APPLICANT
AFRIFORUM NPC	2nd APPLICANT
And	
MINSTER OF SPORTS AND RECREATION	1st RESPONDENT
SOUTH AFRICAN RUGBY (PTY) LTD t/a SOUTH AFRICAN RUGBY UNION	2nd RESPONDENT
CRICKET SOUTH AFRICA	3rd RESPONDENT
ATHLETICS SOUTH AFRICA	4th RESPONDENT
NETBALL SOUTH AFRICA	5th RESPONDENT

CONFIRMATORY AFFIDAVIT

I, the undersigned,

CARL MARTIN KRIEL

hereby make oath and state the following:

1.

1.1 I am an adult male and Chief Executive Officer of Afriforum NPC, a non-profit company registered as such in terms of the Company Laws of the Republic of South Africa and having its principal place of business at Afriforum Building, C/O DF Malan – and Union Streets, Kloofsig, Centurion.

- 1.2 The further particulars of Afriforum NPC, (hereinafter referred to as "the second applicant"), are set out hereinafter.
- 1.3 The contents of this affidavit fall within my personal knowledge, save where the context indicates otherwise.
- 1.4 I am duly authorised by the applicant to depose to this affidavit.
- 1.5 Where this affidavit contains legal matter or legal submissions, they have been made on the advice of the applicant's legal representatives, which advice I verily believe to be correct.

2.

THE SECOND APPLICANT AND *LOCUS STANDI*

- 2.1 The second applicant is a non-profit company registered as such in terms of the Companies Act, 71 of 2008. Prior to the enactment of the new Companies Act, 71 of 2008, the applicant was registered as a section 21 company in terms of the Companies Act of 1973.
- 2.2 Applicant's name was originally registered as "Solidarity Civil Movement" in terms of section 21 of the repealed Companies Act of 1973.
- 2.3 The applicant's name change was effected in the Companies Register of the Companies and Intellectual Property Commission (CIPC) on 7 February 2013.
- 2.4 The main purpose and objective of the applicant as stated in its Memorandum of Incorporation are, *inter alia*, the promotion and advocacy of democracy, equality, civil human rights and constitutional rights.



- 2.5 For the purposes of advancing its objective, namely the promotion of democracy, civil human rights and constitutional rights, the applicant is a civil rights organisation whose *locus standi* in this regard had been recognised by the courts.
- 2.6 The applicant brings this application in terms of section 78 read with section 82 of the Promotion of Access to Information Act, No 2 of 2000 ("PAIA").
- 2.7 This application is brought after a request was made for access to records in terms of section 18(1) of PAIA by the applicant and which request was refused by the first respondent.
- 2.8 The applicant subsequently exercised the remedy of an internal appeal which appeal was not upheld by the second respondent.
- 2.9 Following the refusal of the internal appeal, the applicant brings this application in its own interest.
- 2.10 However this application also involves the public interest.
- 2.11 It concerns the right to access information as provided for in section 32(1)(a) of the Constitution and certain important values of the Constitution and the promotion of the purpose of PAIA. More particularly this application concerns certain fundamental constitutional principles found in the Constitution and PAIA such as: open and transparent government; a free flow of information concerning the affairs of the State; the fostering of a culture of transparency and accountability in public bodies; and the promotion of a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect their rights.

The image shows three handwritten signatures in black ink. The first signature on the left is a stylized, somewhat illegible scribble. The second signature in the middle is a large, circular, looping scribble. The third signature on the right is a smaller, more distinct scribble.

- 2.12 To the extent that this application and the relief sought, is concerned with the right to access to information in terms of section 32(1) (a) of the Bill of Rights and the interpretation of legislation, namely certain provisions of PAIA, this application also involves section 39(2) of the Constitution to the effect that in interpreting PAIA, the courts must promote the spirit, purport and objects of the Bill of Rights.
- 2.13 In the circumstances I respectfully submit that this application not only involves the interests of the applicant given its stated objects, and the interests of its members most of whom are taxpayers, but also involves a broader public interest. Therefore the applicant has the required standing and *locus standi* by virtue of the provisions of sections 38(a); 38(d) and 38(e) of the Constitution.

3.

I herewith confirm that I have read the Founding Affidavit deposed to by Antonie Jasper van der Bijl under case number 86507/16 and confirm the contents thereof, insofar as it pertains to the involvement of second applicant in the matter, to be true and correct.



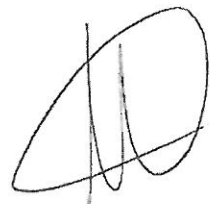
DEPONENT

I certify that the above named Deponent has acknowledged that he knows and understands the contents of this Affidavit which was signed and sworn to before me at PRETORIA on this ^{4TH}..... day of ...~~NOVEMBER~~... 2016 and that the provisions of the Regulation contained in Government Notice R.1258 dated the 21st July 1972, as amended, have been complied with.



COMMISSIONER OF OATHS

TERTIUS PAULUS KRUGER
 Kommissaris van Ede • Commissioner of Oaths
 Praktiserende Prokureur RSA
 Practising Attorney RSA
 H/V D.F. Malanrylaan & Unionlaan
 Kloofsig, Centurion



FULL NAMES
CAPACITY
ADDRESS


TERTIUS PAULUS KRUGER
Kommissaris van Ede - Commissioner of Oaths
Praktiserende Prokureur RSA
Practising Attorney RSA
H/V D.F. Malanrylaan & Unionlaan
Kloofsig, Centurion



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"FA3"

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POLITY

PUBLISHED: 26 APR 2016

SRSA: Fikile Mbalula: Address by Minister of Sport and Recreation, on the release of the third report of the Eminent Persons Group on transformation in sport, Hatfield, Pretoria (25/04/2016)

Deputy Minister of Sport and Recreation, Mr Gert Oosthuizen,
MECs for Sport and Recreation,
Director-General of Sport and Recreation, Mr Alec Moemi,
President of SASCOC, Mr Gideon Sam,
CEO SASCOC, Mr Tubby Reddy,
Representatives of Federations and Sports bodies,
Members of the Eminent Persons Group on Sports Transformation,
Ladies and gentlemen of the media,

Today I am pleased and delighted to receive the results of the third Eminent Persons Group (EPG) on Transformation in Sport Report for 2014/2015.

This occasion also presents me with the opportunity to pronounce on the Transformation Barometer as submitted to me by the EPG in its dual capacity as an Advisory Committee and Transformation Commission.

The findings and outcomes of the report are presented to the 19 federations and the South African citizenry for public scrutiny, critical reflections and flawless execution by our federations and sport bodies.

It is my intention to afford an opportunity to all the 19 sporting codes mentioned above to consider the findings and recommendations with a view to revert to me with individual barometers clearly spelling out transformation targets covering the next five years.

I have written to the 14 additional federations inviting them to present to me their barometer and prepare themselves for signing Memoranda of Agreements with the Department of Sport and Recreation South Africa as a matter of urgency.

These federations and sport bodies are Basketball, Chess, Table Tennis, Softball, Volleyball, Boxing, Hockey, Gymnastic, Swimming, Baseball, Rowing, Bowls, Juskai and Tennis.

You will recall, ladies and gentlemen, that the transformation status report referred to above covered

Athletics South Africa, Cricket South Africa, South African Football Association, Netball South Africa and South African Rugby Union.

These 'big five' federations provided the EPG Secretariat with information and data that was analysed and thus enabling the EPG to interpret the data in line with our multi-dimensional scorecard embedded in our transformation charter. It is on this basis that the EPG made its findings and recommendations to the Minister of Sport and Recreation South Africa.

The findings and recommendations were announced at a public event in May 2015. Thereafter the five federations, had out of their own volition, signed a Memoranda of Agreements (MoA) with the Department of Sport and Recreation South Africa in 2015.

The MoA is premised on the transformation barometer with clear and concrete transformation targets and goals over the next five years. The MoA further delineates roles and responsibilities of each party to the agreement and stipulates punitive measures to be taken in the event of non-compliance.

I take this opportunity to remind you what these punitive measures entail. In the event of a federation failing to meet its own set transformation targets, it is within my right and prerogative to consider applying any of the following penalties:

- I may suspend or withdraw Government's funding to the said federation due to noncompliance;
- I may withdraw Government's recognition of the particular federation as a National Federation and where after I will publish such a decision in the Government Gazette;
- In essence, I may revoke the privilege of a federation to host and bid for major and mega International tournaments in the Republic and withdraw recognition of the said federation;
- I may withdraw the federation's opportunity to be awarded national colours via SASCO to players who participate under the auspices of that particular federation in order to represent the Republic internationally and nationally;
- I may terminate the relationship and any cooperation between SRSA and the said federation due to non-compliance.
- Finally, I may withdraw political support and endorsements for sponsorships.

Ladies and Gentlemen I am applying these measures informed by the urgent task for the sport sector to reconstruct the fragmented and deeply discriminatory sport and recreation landscape by establishing a unified sports system that is underpinned by the principles of democracy, equity, transparency, demographic representation, access and increased participation.

The third EPG Report reminds us and confirms that social reconstruction of our sport and recreation system has linkages to economic development in t h e context of global economies and competitiveness. This report offers respite from the suffocating prism through which we as South Africans view our past and present.

At this hour of destiny, South Africa needs more than ever before, sport for development and peace. This report is about the future of South African sport provisioning and quality of opportunities to all sport-loving people of our beloved country.

The Transformation Charter, is the loadstar of the sport movement that draws our attention to the immediate and inevitable necessity for the Sport System to Transform for both Moral and Strategic imperatives:

- Morally: Because it is "the right thing to do" considering the grave injustices of the past; and
- Strategically; because of the reality that 84% of the country's under 18 year old population grouping is Black African and only 16% is white, Coloured and Indian. To ignore this strategic reality from sustainability perspective alone would be suicidal. Thus the reasons for sport organisations to transform rapidly have not only become compelling it had become fundamental.

I have applied my mind to the aforementioned reality and have taken into account the strides made by men and women within the sports movement to achieve transformation goals.

- I recognise and acknowledge the political will and tremendous efforts made by federations and sport bodies in the implementation of National Sport and Recreation Plan and its attendant Transformation Charter.
- It is not my intention to disrupt the momentum gained from the implementation of the Transformation Barometer and the global competitive edge of some federations and sports bodies.
- However, I am mindful of the urgent task for federations to move with speed in the direction of providing quality of opportunities and access to the youth of our country.



On the basis of the aforementioned reasons I have therefore resolved not to revoke punitive measures that may either paralyse our federations financially or deny opportunities to our athletes to compete continentally and globally.

I have therefore resolved to revoke the privilege of Athletics South Africa (ASA), Cricket South Africa (CSA), Netball South Africa (NSA) and South African Rugby (SARU) to host and bid for major and mega international tournaments in the Republic of South Africa as a consequence of the aforementioned federation, not meeting their own set transformation targets with immediate effect. I will review this decision when considering the results of the 2016/2017 Transformation Barometer.

In respect of the South African Football Association, I am delighted that the SAFA has met its transformation targets. I will however issue a Ministerial directive to SAFA as a consequence of their poor drive to penetrate and roll-out football in former model C schools and private schools.

I am directing all federations and sport bodies to establish transformation committees and appoint transformation officers as cricket and rugby has done. These structures must be mainstreamed and be integrated in all business units of the federations and sport bodies.

I have issued the Director-General to convene a Special Heads of Department s meeting (HEDCOM) to consider the EPG Report implications on the recommendations pertaining to Government. These include but not limited to school sport, club development, funding for sport and facilities.

Ladies and Gentlemen, the transformation project must succeed as our Government directed the sport sector to among others:

- Promote social cohesion and nation building across society through increased interaction across race and class through sport.
- Advocate for transformation in sport and recreation.
- Develop talented athletes by providing them with opportunities to excel.
- Support high performance athletes to achieve success in international sport competitions.
- Increase by 10% annually the number of citizens accessing sport and recreation activities.

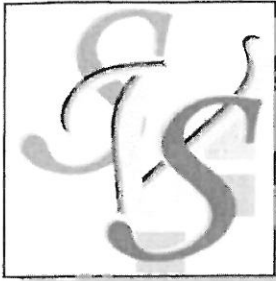
I end by expressing my gratitude and word of appreciation to Members of the Eminent Persons Group on Transformation in Sport, their invaluable contribution to the sport and recreation community.

Their steady hand and unremitting endeavors places the sport movement on a progressive growth and development trajectory.

The production of the third EPG transformation status report would not be possible had it not been for the diligent behind the scene work driven by Dr Basson and his team. The Director-General of Sport and Recreation SA has been a pillar of strength and support to the EPG in the last three years.

I am looking forward to the successful implementation of the EPG on Sport Transformation findings and recommendations.

I believe that given the political will and support from Government at all spheres and the South African Sport Confederation and Olympic Committee (SASCOC), we will achieve an accessible, adequately funded, demographically representative and equitable, democratic and non-racial sporting landscape.



Serfontein Viljoen & Swart

"FA4" 32

Attorneys, Conveyancers & Notaries

165 Alexander Street, Brooklyn, Pretoria
PO Box 11512, Hatfield, 0028 • Docex 9 Brooklyn
E-mail: svs@svslaw.co.za

Tel: (012) 362 2556 • Fax: (012) 362 2557
GPS Co-ordinates: S25 75'94.8" E028 24'05.2"
Deeds Lodgement No: 451

Also at: Bronkhorstspuit (013) 932 3034 & Cullinan / Rayton (012) 734 4894
Website: www.serfonteinviljoenandswart.co.za

Our ref : Mr. Claassen/fc/CS0246
Date : 30 June 2016

TO: THE DIRECTOR-GENERAL OF SRSA
BY EMAIL: DG@srsa.gov.za
ATT: INFORMATION OFFICER – MR ALEC MOEMI

CC: MINISTER OF SPORT & RECREATION
BY FAX: (012) 363 7196 / 086 644 9583
BY EMAIL: abongile@srsa.gov.za / cello@srsa.gov.za
ATT: MINISTER FIKILE MBALULA

Dear Sir,

IN RE: REVOKING OF PRIVILEGES TO HOST AND BID FOR INTERNATIONAL TOURNAMENTS
APPLICATION FOR DOCUMENTATION IN TERMS OF SECTION 18(1) THE PROMOTION OF ACCESS TO INFORMATION ACT, ACT 2 OF 2000

1. We refer to the above matter and confirm that we act herein on behalf of Solidarity Trade Union (hereinafter referred to as our client).
2. We refer to the request for access to the records of a public body in terms of Section 18(1) of the Promotion of Access to Information Act, Act 2 of 2000. We attach hereto Form A, Request for Access to Record of Public Body, herewith for your kind attention.
3. We reiterate the request for the following documentation:

Partners: Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein BProc
Professional Assistant: Annette Johanna Louw LLB • Dawie Coetzer LLB
Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency)

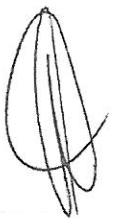
- 3.1 Memorandum of Agreement between the Department of Sport and Recreation with the sporting bodies, which includes SARU, SA Cricket, SA Netball and SA Athletics;
 - 3.2 Agenda and minutes of meetings wherein the Sporting bodies and the Minister concluded the memorandum of agreement;
 - 3.3 The transformation plans of all four sporting bodies.
4. Kindly take further note that the aforesaid documentation is requested in hard copy and electronic copy.
 5. Kindly provide us with the bank details of where we can make the relevant payments as envisaged in the practise manual.
 6. We trust you find the above in order, and await your response.

Yours faithfully

SERFONTEIN, VIJJOEN & SWART

Pp: Mr. Jan-Daniël Claassen (jd@wvs.co.za)

Partners: Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein BProc
Professional Assistant: Annette Johanna Louw LLB • Dawie Coetzer LLB
Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency)





J750

REPUBLIC OF SOUTH AFRICA

FORM A
REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY
(Section 18(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))
[Regulation 6]

FOR DEPARTMENTAL USE

Reference number:

Request received by (state rank,
name and surname of information officer/deputy information officer) on (date)
at (place).

Request fee (if any): R

Deposit (if any): R

Access fee: R

.....

SIGNATURE OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER

A. Particulars of public body

The Information Officer/Deputy Information Officer:

Ms MM Raswiswi
Deputy Information Officer
Access to Information and Records Management
Department of Justice and Constitutional Development
Private Bag x81
PRETORIA
0001

Tel. no: 012 315 1730
Fax no: 012 357 8004

Email: mrswiswi@justice.gov.za

B. Particulars of person requesting access to the record

1) The particulars of the person who requests access to the record must be given below.
(b) The address and/or fax number in the Republic to which the information is to be sent, must be given.
(c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname: STEPHANUS PETRUS SWART

Identity number: 6 4 0 6 2 2 5 0 8 3 0 8 1

Postal address: 165 ALEXANDER STREET, BROCKLYN, PRETORIA

Telephone number: (012) 362 2556 Fax number: (012) 362 2557

E-mail address: Panus@wvs.co.za jd@wvs.co.za

Capacity in which request is made, when made on behalf of another person:

C. Particulars of person on whose behalf request is made

This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname: Solidarity Trade Union

Identity number:

D. Particulars of record

(a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
(b) If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1. Description of record or relevant part of the record:

Memorandum of Agreement between the Department of Sport and Recreation with the sporting bodies, which includes

FORM A: REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

2. Reference number, if available:

3. Any further particulars of record:
Specifically SARU, SA Cricket, SA Netball and SA Athletics.

E. Fees

- (a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:
.....
.....
.....

F. Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 below, state your disability and indicate in which form the record is required.

Disability:	Form in which record is required:
Mark the appropriate box with an X.	
NOTES:	
(a) Compliance with your request for access in the specified form may depend on the form in which the record is available.	
(b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.	
(c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.	

1. If the record is in written or printed form:				
	copy of record*	<input checked="" type="checkbox"/>	inspection of record	
2. If record consists of visual images - (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):				
	view the images		copy of the images*	<input checked="" type="checkbox"/>
				transcription of the images*

FORM A: REQUEST FOR ACCESS TO RECORD OF PUBLIC BODY

3. If record consists of recorded words or information which can be reproduced in sound:					
	listen to the soundtrack (audio cassette)		transcription of soundtrack* (written or printed document)	X	

4. If record is held on computer or in an electronic or machine-readable form:					
	printed copy of record*	X	printed copy of information derived from the record*		copy in computer readable form* (stiffy or compact disc)

*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.	YES X	NO
--------------------------------------------------------------------------------------------------------------------------------------------------	----------	----

Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available.

In which language would you prefer the record? ENGLISH

G. Notice of decision regarding request for access

You will be notified in writing whether your request has been approved / denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

.....

Signed at Pretoria this day 30th of June year 2016

SIGNATURE OF REQUESTER / PERSON ON WHOSE BEHALF REQUEST IS MADE

STEPHANUS PETRUS SWART
Kommissaris van Ede/Commissioner of Oaths
Praktiserende Prokureur/Practising Attorney RSA
Serfontein Viljoen & Swart Attorneys
165 Alexander Street, Brooklyn, Pretoria

"FAS" 38

TX Result Report

P 1
2016.06.30 11:35
Serial No. A45X041102273

Destination	Start Time	Time	Prints	Result	Note
0866449583	06-30 11:30	00:04:36	006/006	OK	

Result OK : Communication OK S-OK : Stop Communication Busy : Busy No Ans : No Answer
Cont : Continue LOVR : Receiving Length Over SOVR : Exceed Broadcast No. M-Full : Memory Full
NG : Other Error IL-PJL : PJL Error LGN-ER : Login Error

Note TMR : Timer TX PC : PC-Fax POL : Polling Call : Manual TX
FWD : Forward Fcode : F-Code BUL : Bulletin I-Fax : Internet Fax



"FAB" 39

Niekie

From: Manase Makwela <Manase@srsa.gov.za>
Sent: 29 July 2016 04:10 PM
To: fanus@wvs.co.za; jd@wvs.co.za
Subject: Subject: Extension of period to deal with your request lodged on behalf of Solidarity

Dear Mr Swart

In terms of PAIA,

26. (1) The information officer to whom a request for access has been made or transferred, may extend the period of 30 days referred to in section 25(1) (in this section referred to as the "original period") once for a further period of not more than 30 days.

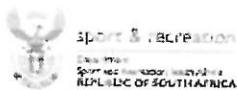
The Department has signed agreements with the five National Federations listed in your request in terms of PAIA. Part of the sections of the agreement, relates to its confidentiality. Therefore, in considering your request for information, the Department's Information Officer found it desirable to consult the aforesaid sport organisations. It is expected that the sport organisations will use their internal decision-making processes, to consider your request as it pertains to them, and send for consideration by the Information Officer, their feedback. The consideration of your request can therefore not reasonably be completed within the original period set by the Act.

The Information Officer therefore wishes to extend for a further period of not more than 30 days (as per the Act) from the date this mail was sent to you, his consideration of your request.

In case you wish to challenge the extension, you may do so by lodging an internal appeal to the Department's Appeal Authority as prescribed in section 74-82 of the Act.

Regards

Mr Manase Makwela
SRSA Deputy Information Officer
manase@srsa.gov.za



#teamSArise



<http://www.srsa.gov.za>

"FA7" 40

Niekie

From: JD <jd@wvs.co.za>
Sent: 02 September 2016 04:16 PM
To: Anton vd Bijl; 'Johan Kruger'; Niekie
Cc: 'Fanus Swart'; Margaretha Engelbrecht
Subject: FW: Your Ref: Mr. Claassen/fc/CS0246

Fyi.

From: Manase Makwela [mailto:Manase@srsa.gov.za]
Sent: 01 September 2016 01:51 PM
To: fanus@wvs.co.za; jd@wvs.co.za
Cc: Matjane, Kgabo <Kgabo@srsa.gov.za>
Subject: Your Ref: Mr. Claassen/fc/CS0246



Dear Mr Swart,

Department:
Sport and Recreation South Africa
REPUBLIC OF SOUTH AFRICA

Sent by e-mail to: fanus@wvs.co.za / jd@wvs.co.za

Your Ref: Mr. Claassen/fc/CS0246

SUBJECT: SOLIDARITY TRADE UNION'S REQUEST FOR DOCUMENTATION RELATING TO THE 'REVOKING OF PRIVILEGES TO HOST AND BID FOR INTERNATIONAL TOURNAMENTS'

As explained in the notice for extension, the Information Officer engaged the affected sport federations with regards to your request for information.

The responses received from some of the federations are not in favour of us releasing the requested information to your client. These federations are of the view that the confidentiality clause contained in the agreement we signed with them, should be respected.

There is also a view that these federations do not have formal relations or affiliations with your client – which raises the question of capacity in which your client is requesting the said information.

While the Information officer could on the basis of the response from the federations, decline your client's request, he has in the spirit of promotion of access to information, now deemed it necessary to engage these federations further in the form of a meeting, in order to understand their reservations better.

It could help the Information Officer to go to the aforesaid meeting armed with a response to the capacity question raised in paragraph 3 above.

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It is only after the aforesaid process that the Information Officer will be in a position to provide the final response to your client.

Regards

Mr Manase Makwela
SRSA Deputy Information Officer
manase@srsa.gov.za
Date: 1/9/2016



<http://www.srsa.gov.za>



Serfontein Viljoen & Swart

"FA8" 42

Attorneys, Conveyancers & Notaries

165 Alexander Street, Brooklyn, Pretoria
PO Box 11512, Hatfield, 0028 • Docex 9 Brooklyn
E-mail: svs@wvs.co.za

Tel: (012) 362 2556 • Fax: (012) 362 2557
GPS Co-ordinates: S25 75'94.8" E028 24'05.2"
Deeds Lodgement No: 451

Also at: Bronkhorstspruit (013) 932 3034 & Cullinan / Rayton (012) 734 4894
Website: www.serfonteinviljoenandswart.co.za

Our ref : Mr Claassen/N Venter/CS0246
Your ref : Appeal: Extension of period – Solidarity
Date : 4 August 2016

TO: SOUTH AFRICAN RUGBY UNION (SARU)
ATT: President Mr Oregan Hoskins
E-MAIL: hoskins@sarugby.co.za ; khayam@sarugby.co.za

AND TO: NETBALL SOUTH AFRICA
ATT: President Ms. Mimi Mthethwa
E-MAIL: mimi@netball-sa.co.za

AND TO: CRICKET SOUTH AFRICA
ATT: President Mr Chris Nenzani
E-MAIL: chris@cricket.co.za ; Amandaf@cricket.co.za ; maxj@cricket.co.za

AND TO: ATHLETICS SOUTH AFRICA
ATT: President: Mr Aleck Skhosana
E-MAIL: askhosana@qinet.co.za ; skhosita@gmail.com

BY E-MAIL

Dear Sirs,

RE: NOTICE OF INTERNAL APPEAL: IN RE REVOKING THE PRIVILEGES TO HOST AND BID FOR INTERNATIONAL TOURNAMENTS: IN RE APPLICATION FOR ACCESS TO DOCUMENTATION IN TERMS OF SECTION 53(1) OF THE PROMOTION OF ACCESS TO INFORMATION ACT, NO 2 OF 2000 ("the PAIA act")

Partners: Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein BProc
Professional Assistant: Annette Johanna Louw LLB • Dawie Coetzer LB
Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency)

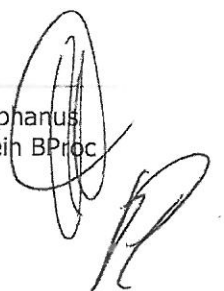
1. We refer to the above matter and confirm our appearance on behalf of Solidarity Trade Union ("the Appellant").
2. We on behalf of the Appellant filed an application in terms of section 18 (1) the PAIA act on 30 June 2016. The aforesaid application was filed in order to obtain the memorandum of agreement between the Department of Sport and Recreation with the sporting bodies, with specific regard to SARU, SA Cricket, SA Netball and SA Athletics. A copy of the said application is attached hereto for ease reference.
3. We received a letter from the Deputy Information Officer Mr M Makwela on 29 July 2016, indicating that the request to extend the period of not more than 30 days in terms of section 56(1) of the act. The letter is attached herewith for your ease of reference.
4. We refute that the reasons set out in the letter constitutes adequate reasons for extension as contemplated in the aforesaid section (s 56), and we therefore proceed to record on behalf of the Appellant an internal appeal as contemplated in section 74 (1) of the act.
5. Our grounds for appeal are, *inter alia*, set out as follows:

5.1 It is clear that the purpose of PAIA is to "*foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information*" and to "*actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights*". (Own emphasis added)

5.2 The requested memorandums are documents which should be made readily available to any person of organisation. There can be now reasonable justification for the withholding of the requested documentation.

5.3 Chapter 4 of PAIA sets out the grounds upon which an application of this nature can justifiably be refused. We submit that none of the grounds for refusal as set out in chapter 4 of PAIA could validly be claimed by the Respondent in support of their decision to extend the time period as aforesaid.

Partners: Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein BProc
 Professional Assistant: Annette Johanna Louw LLB • Dawie Coetzer LB
 Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency)



- 6. In conclusion, we submit that in order to foster a culture of transparency and accountability, the requested information should be furnished to us without delay.

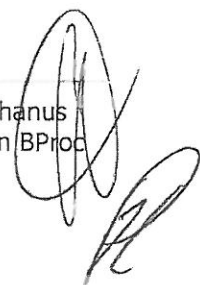
- 7. We trust you find the above in order, and await your urgent reply.

Yours faithfully

SERFONTEIN, VIJJOEN & SWART

Per: *Kvd Berg*
Nicolaas C Venter
niekie@wvs.co.za

Partners: Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein BProc
Professional Assistant: Annette Johanna Louw LLB • Dawie Coetzer LB
Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency)





Serfontein Viljoen & Swart

"FA9" 45

Attorneys, Conveyancers & Notaries

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PO Box 11512, Hatfield, 0028 • Docex 9 Brooklyn
E-mail: svs@svslaw.co.za

Tel: (012) 362 2556 • Fax: (012) 362 2557
GPS Co-ordinates: S25 75'94.8" E028 24'05.2"

Deeds Lodgement No: 451

Also at: Bronkhorstspuit (013) 932 3034 & Cullinan / Rayton (012) 734 4894
Website: www.serfonteinviljoenandswart.co.za

Our ref : Mr. Claassen/N Venter/CS0246
Date : 2 October 2016

TO: THE DIRECTOR-GENERAL OF SRSA
BY EMAIL: DG@srsa.gov.za
ATT: INFORMATION OFFICER – MR ALEC MOEMI

CC: MINISTER OF SPORT & RECREATION
BY FAX: (012) 363 7196 / 086 644 9583
BY EMAIL: abongile@srsa.gov.za / cello@srsa.gov.za
ATT: MINISTER FIKILE MBALULA

Dear Sir,

RE: NOTICE OF INTERNAL APPEAL: IN RE REVOKING THE PRIVILEGES TO HOST AND BID FOR INTERNATIONAL TOURNAMENTS: IN RE APPLICATION FOR ACCESS TO DOCUMENTATION IN TERMS OF SECTION 18(1) OF THE PROMOTION OF ACCESS TO INFORMATION ACT, NO 2 OF 2000 ("the PAIA act")

1. We refer to the above matter and more specifically to the letter dated 4 August 2016, and furthermore to your response dated 1 September 2016.
2. We on behalf of the Appellant filed an application in terms of section 18(1) the PAIA act on 30 June 2016. The aforesaid application was filed in order to obtain the memorandum of agreement between the Department of Sport and Recreation with the sporting bodies, with specific regard to SARU, SA Cricket, SA Netball and SA Athletics. A copy of the said application is attached hereto for ease reference.

Partners: Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein BProc
Professional Assistant: Annette Johanna Louw LLB • Dawie Coetzer LLB
Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency)

- 3. We received a letter from the Deputy Information Officer Mr M Makwela on 29 July 2016, indicating that the request to extend the period of not more than 30 days in terms of section 56(1) of the act. The letter is attached herewith for your ease of reference.
- 4. We refute that the reasons set out in the letter constitutes adequate reasons for extension as contemplated in the aforesaid section (section 56), and we therefore proceed to record on behalf of the Appellant an internal appeal as contemplated in section 75 of the act.
- 5. Our grounds for appeal are, *inter alia*, set out as follows:
 - 5.1 It is clear that the purpose of PAIA is to “*foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information*” and to “*actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights*”. (Own emphasis added)
 - 5.2 The requested memorandums are documents which should be made readily available to any person of organisation. There can be now reasonable justification for the withholding of the requested documentation.
 - 5.3 Chapter 4 of PAIA sets out the grounds upon which an application of this nature can justifiably be refused. We submit that none of the grounds for refusal as set out in chapter 4 of PAIA could validly be claimed by the Respondent in support of their decision to extend the time period as aforesaid.
- 6. In conclusion, we submit that in order to foster a culture of transparency and accountability, the requested information should be furnished to us without delay.
- 7. We trust you find the above in order, and await your urgent reply.

Yours faithfully
SERFONTEIN, VILJOEN & SWART

Per: ~~Nicolaas C Venter~~
~~niekie@wvs.co.za~~

Partners: Stephanus Gabriël Serfontein Proc (SA) • Marthinus Jakobus Viljoen B Proc • Stephanus Petrus Swart Biur LLB • Johannes Barnard Luttig BLC LLB • Jan Lodewyk Serfontein BProc
 Professional Assistant: Annette Johanna Louw LLB • Dawie Coetzer LLB
 Associates: Conrad Swart Bcom (Law) LLB Hdip (Insolvency)

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REPUBLIC OF SOUTH AFRICA

FORM B
NOTICE OF INTERNAL APPEAL
(Section 75 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000))
[Regulation 8]

STATE YOUR REFERENCE NUMBER: INTERNAL APPEAL

A. Particulars of public body

The Information Officer/Deputy Information Officer:

TO: THE DIRECTOR-GENERAL OF SRSA
BY EMAIL: DG@srsa.gov.za;
ATT: INFORMATION OFFICER - MR ALEC MOEMI

CC: MINISTER OF SPORT AND RECREATION
BY FAX: (012) 363 7196 / 086 644 9583
BY E-MAIL: abongile@srsa.gov.za / cello.gov.za
ATT: MINISTER FIKILE MBALULA

B. Particulars of requester/third party who lodges the internal appeal

(a) The particulars of the person who lodge the internal appeal must be given below.
(b) Proof of the capacity in which appeal is lodged, if applicable, must be attached.
(c) If the appellant is a third person and not the person who originally requested the information, the particulars of the requester must be given at C below.

Full names and surname: STEPHANUS PETRUS SWART (LEGAL REPRESENTATIVE)

Identity number:

6	4	0	6	2	2	5	0	8	3	0	8	1
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Postal address: PO BOX 11512, HATFIELD, PRETORIA, 0028

Telephone number: (.012) 362 2556 Fax number: (.012) 362 2557

E-mail address: jd@wvs.co.za / fanus@wvs.co.za

Capacity in which an internal appeal on behalf of another person is lodged: SOLIDARITY TRADE UNION

C. Particulars of requester

This section must be completed ONLY if a third party (other than the requester) lodges the internal appeal.

Full names and surname:

Identity number:

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D. The decision against which the internal appeal is lodged

Mark the decision against which the internal appeal is lodged with an X in the appropriate box:

X	Refusal of request for access
	Decision regarding fees prescribed in terms of section 22 of the Act
	Decision regarding the extension of the period within which the request must be dealt with in terms of section 26(1) of the Act
	Decision in terms of section 29(3) of the Act to refuse access in the form requested by the requester
	Decision to grant request for access

E. Grounds for appeal

If the provided space is inadequate, please continue on a separate folio and attach it to this form. You must sign all the additional folios.

State the grounds on which the internal appeal is based:

See letter attached hereto marked Annexure "A" for the ground on which the internal appeal is based.

State any other information that may be relevant in considering the appeal:

See letter attached hereto marked Annexure "A".



F. Notice of decision on appeal

You will be notified in writing of the decision on your internal appeal. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

State the manner: EMAIL: jd@wvs.co.za / fanus@wvs.co.za

Particulars of manner:

Signed at Pretoria this day 2nd of October year 2016

SIGNATURE OF APPELLANT

FOR DEPARTMENTAL USE:

OFFICIAL RECORD OF INTERNAL APPEAL:

Appeal received on (date) by (state rank, name and surname of information officer/deputy information officer)

Appeal accompanied by the reasons for the information officer's/deputy information officer's decision and, where applicable, the particulars of any third party to whom or which the record relates, submitted by the information officer/deputy information officer on (date) to the relevant authority

OUTCOME OF APPEAL:

DECISION OF INFORMATION OFFICER/DEPUTY INFORMATION OFFICER CONFIRMED/NEW DECISION SUBSTITUTED

NEW DECISION:

DATE RELEVANT AUTHORITY

RECEIVED BY THE INFORMATION OFFICER/DEPUTY INFORMATION OFFICER FROM THE RELEVANT AUTHORITY ON (date):

Handwritten signature