



traditional affairs

Department:
Traditional Affairs
REPUBLIC OF SOUTH AFRICA

MEMORANDUM

THE MINISTER

SECOND QUARTERLY PERFORMANCE REPORT OF THE COMMISSION ON TRADITIONAL LEADERSHIP DISPUTES AND CLAIMS FOR 2012-2013 FINANCIAL YEAR

1. PURPOSE



To present the second quarterly performance report of the Commission on Traditional Leadership Disputes and Claims (CTLDC) for the period 01 July to 31st September 2012.

2. BACKGROUND

The Commission on Traditional Leadership Disputes and Claims was established in terms of section 22 of the Traditional Leadership and Governance Framework Act, 2003 (Act 41 of 2003). Furthermore, the Commission is required to submit quarterly performance reports to the Minister in terms of legislation covering all aspects of its activities per quarter. The said Commission is appointed to be in place for a period of five years.

3. DISCUSSION

- 3.1 The Commission held an induction meeting with all its Committees in Pretoria. The aim of the induction was to ensure that all members have a uniform approach on public hearings, operation of the Commission and understanding of the pieces of legislation applicable to the Commission. The Minister gave a key note address and was well received by the audience.
- 3.2 The Commission re-adopted twenty six kingship and kings claims and forwarded same to both the President of the Republic of South Africa and the Minister as per the requirements of the Act and guidance from the Minister.
- 3.3 The Minister will process the said reports to the President of the Republic of South Africa in terms of governmental processes and procedures.
- 3.4 The Commission received a letter from the Gauteng MEC indicating that she has accepted its reports. She is in the process of implementing the recommendations as contained in the reports.
- 3.5 The Commission has successfully defended three cases as follows:
- 3.5.1 The review case by Bapedi ba Marota Mamone (Mampuru) was successfully defended and the judge ruled in favour of the Commission. However, the claimant has appealed against the judgment.
- 3.5.2 The review case by King Mpondombini Justice Sigcau was successfully defended both in High Court and High Court of Appeal. King Mpondombini has made further appeal to the Constitutional Court.
- 3.5.3 The VhaVenda case was successfully defended as well. However, the claimant lodged an appeal in the High Court which will be argued at a date still to be determined.
- 3.6 The Eastern Cape has finalized 09 disputes and claims and have processed them to the Premier of the Eastern Cape Province for a decision.
- 3.7 The Mpumalanga Provincial Committee has finalized and processed 07 cases of disputes and claims to the Premier of Mpumalanga Province.
- 3.8 The Provincial Committee of KwaZulu-Natal has completed three disputes and claims and is in the process of forwarding them to the Premier for a decision.

4. RECOMMENDATIONS

It is recommended that the Minister-

- 4.1 takes note of the second quarterly performance report of the Commission on Traditional Leadership Disputes and Claims for 2012-13 financial year.

B. J. Tolo

MR. B. J. Tolo

CHAIRPERSON: COMMISSION ON TRADITIONAL LEADERSHIP DISPUTES AND CLAIMS

Date:



Prof. M.C Nwaila

DIRECTOR-GENERAL: DEPARTMENT OF TRADITIONAL AFFAIRS

Date: *16/10/12*

M. Baloyi

Noted

MR. MR BALOYI, MP

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

Date: *2012/10/26*



traditional affairs

Department:
Traditional Affairs
REPUBLIC OF SOUTH AFRICA

QUARTERLY (JULY TO SEPTEMBER 2012) REPORT OF THE COMMISSION ON TRADITIONAL LEADERSHIP DISPUTES AND CLAIMS

1. Background

This report is submitted in terms of section 24B (2) of the Traditional Leadership and Governance Framework Act, 2003 (Act 41 of 2003) (The Act). The report covers the period from 01 July to September 2012.

The Commission on Traditional Leadership Disputes and Claims was established in terms of section 22 of the Act to resolve all disputes and claims of all levels of traditional leadership within the period of five years starting from 01 January 2011 to 31 December 2015.

The Commission operates nationally in plenary and provincially in committees. The provincial committees deal with disputes and claims delegated to them by the Commission in terms of section 25(6) of the Act.

2. Mandate

The mandate of the Commission is derived from sections 25 and 28(10) and (11) of the Framework Act read with the relevant sections of the Commissions Act, 1947, (Act No. 8 of 1947).

3. Performance of the Commission

3.1 Meetings of the Commission

The Commission held two meetings during the quarter under review. The aim of those meetings was amongst others to:

- consider the previous quarterly report;
- discuss progress of the provincial committees of the Commission;
- re-adopt all the reports processed by the CTLDC;
- prepare for the interview sessions with ~~all~~ kingship claimants; and
- prepare for the MINEXCO meetings.

3.2 The CTLDC

The Commission met with all committee members for an induction. The aim of the meeting was to solicit ~~an~~ common understanding and approach towards handling disputes and claims. The Minister gave a key note address which was well received by all present during the meeting.

The Commission met during August to re- adopt reports and forwarded them to the President of the Republic of South Africa and the Minister. Furthermore, the Commission reviewed its programme and decided to conduct interviews ahead of public hearings in some cases.



With regard to accountability to Premiers, the Commission notes that the Premier of Western Cape accepted the report and endorsed the recommendations of the Commission. Furthermore the Premier is in the process of implementing the recommendations. Similarly, the Premier of Gauteng has accepted the report and recommendations of the Commission and is also in the process of implementing the said recommendations.

3.3 Provincial Committees

3.3.1 Mpumalanga

The Committee has finalized seven disputes and claims for senior traditional leadership and one ~~for~~ disputes. The finalized disputes and claims has been processed to the Premier of the province for a decision

3.2.3 Meetings with claimants of Senior Traditional Leadership position

The Committee arranged briefing sessions for all remaining claimants. During the briefing sessions, the committee circulated a questionnaire to all claimants.

3.4 Eastern Cape

The Eastern Cape Provincial Committee has attended to twelve disputes and claims. The Committee managed to complete nine of the targeted twelve disputes and Claims for senior traditional leadership. All the completed disputes and claims were processed to the Premier for a decision

3.5 North West Provincial Committee

The Provincial Committee of North West has been conducting briefing sessions with the claimants and disputants during the quarter under review. The Committee is furthermore conducting research on the claims for senior traditional leadership, recognition of a traditional community and a boundary disputes.

3.6 Limpopo

The Limpopo Provincial Committee conducted briefing sessions with all claimants in the province. It further ensured that each committee member understood his/her role towards the realization of the targeted number of disputes and claims to be processed by the end of March 2013. The Committee has developed the questionnaire to source more information from the claimants.

3.7 KwaZulu-Natal

The Provincial Committee of KwaZulu-Natal screened the files of various claimants so as to understand the actual challenge at hand and what is being claimed. The Committee is currently analyzing all files, conducting research and planning for the public hearings and or interviews with the claimants. Parallel to the process outlined above, the KwaZulu-Natal Committee has identified priority matters that need urgent

attention. The Mngomezulu Senior Traditional Leadership Dispute dates back to 1973 and it has had a devastating ripple effect in the community to the extent that development programmes in the area are at a stand-still. This dispute has now been finalized and the report has been compiled for the attention of the Premier.

3.6 Progress on Kingships referred to court for review

The CTLDC is defending all review cases emanating from the decision of the President of the Republic of South Africa. The following is the progress regarding the cases heard in High Court:

Name	Progress
AmaMpondo of Qaukeni	The case was successfully defended by the CTLDC and Department. However, after the Appeal of Mpondombini Sigcau was dismissed at the Supreme Court of Appeal, the Applicant proceeded to lodge a case with the Constitutional Court. The CTLDC through its legal representatives has responded to the Applicant's papers and a date for arguments is awaited.
VhaVenda	The matter was successfully defended by the CTLDC and the Department. However, the claimant has lodged an appeal. A date for the appeal is awaited.
Bapedi Ba Marota Kgoshikgolo KK Sekhukhune and Mohlaletsi Traditional Council	The matter was successfully defended in the High Court. The claimant has lodged an appeal against the decision of the High Court. A new case was lodged by Kgoshikgolo KK Sekhukhune and Mohlaletsi Traditional Council in the High court. The legal representatives of the Bapedi ba Marota Mamone indicated that they want to approach the Constitutional Court to join all the cases in this regard. The CTLDC and the Department are

	defending the decision of the president of the Republic of South Africa.
Nxumalo (AmaShangane)	The legal representatives of the CTLDC have filed the Heads of Arguments and the
Queen Noloyiso Sandile (AmaRharhabe Kingship).	The legal representatives of the CTLDC have received the Applicant's supplementary affidavit and a consultation with Senior Counsel is being arranged.
Matiwane case (AmaHlubi)	The case is set down for hearing at Mthatha High Court before the end of November 2012. The legal representatives of the Commission and the Department have filed their Heads of Arguments in this regard.

4 Challenges

4.1 Delay in government due process

The legislation provides that the executive must pronounce within sixty days after receipt of the Commission recommendation. In the period under review, this requirement has not been complied with in terms of the recommendations of the Commission.

4.2 Inadequate Research Capacity of the CTLDC

The Minister's directives with regard to securing required research capacity for the Commission on Traditional Leadership Disputes and Claims remains unimplemented.



Mr. BJ Tolo

Chairperson: Commission on Traditional Leadership Disputes and Claims

Date:

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.....
g) Who has been identified by the royal family to be the King should your claim be successful?
.....
.....

The information provided is to the best of my ability correct and in terms of the history of
.....traditional community.

.....
Name of the claimant

.....
Signature of a claimant

Thank you for completing the questions to the best of your ability and knowledge to assist the Commission to come to a conclusion regarding your claim for Kingship/Queenship and King/Queen.



PLEASE FAX YOUR RESPONSES TO:

The Secretary to the Commission

Fax: 086 211 7246