**Report of the Portfolio Committee on Sport, Arts and Culture on a petition received from Mr TW Mhlongo, MP, on behalf of artists and members of the public, calling on the Assembly to investigate the commissioning by the Department of Sport, Arts and Culture of the Mzansi National Philharmonic Orchestra at an estimated cost of R54 million, dated 03 March 2023.**

The Portfolio Committee on Sport, Arts and Culture (the Committee), considered the petition of Mr TW Mhlongo, Member of Parliament (MP), on behalf of artists and members of the public. The petition calls on the [National] Assembly to investigate the commissioning by the Department of Sport, Arts and Culture (DSAC) of the Mzansi National Philharmonic Orchestra (MNPO) at an estimated cost of R54 million. The Committee, having been briefed by the responsible MP (supported by Hon. V van Dyk), the DSAC and having received input from the Auditor-General of South Africa (AGSA), recommends that the petitioner’s request may be granted at a later date subject to the Committee’s recommendations stipulated below.

**The Committee wishes to make the following observations:**

The Revised White Paper on Arts, Culture and Heritage recommends, inter alia, the establishment of a national orchestra with the outcome of increasing increased market share of and job opportunities created in sport, cultural and creative industries with aim of the Government priority of economic transformation and job creation.

In March 2019 the Minister Mthethwa appointed a task team made up of experts from the sector to conceptualise and guide the process. An amount of R1 million was allocated through the National Arts Council (NAC) for this purpose, i.e. the conceptualisation and registration of a legal entity. A feasibility study was completed by the task team based on research conducted and recommendations on the formation of a national orchestra. The resulting report was submitted to the DSAC. Following the conclusion of the conceptualisation process, an advisory board was appointed.

The DSAC requested the NAC to provide funding towards supporting the MNPO, as follows;

* R11 515 600 allocated in the 2019/20 financial year cycle;
* R21 583 000 allocated in the 2020/21 financial year;
* R21 583 000 based on the 2021/22 financial year cycle allocation;

The total amount allocated is R 54 681 600, minus 5% which would be levied by the NAC for the administration of the project.

During the 2021/2022 financial year, the NAC entered into a Memorandum of Agreement (MoA) with DSAC as well as a Memorandum of Understanding (MoU) with the MNPO.

The MNPO was officially registered as a non-profit company (NPC) with the Companies and Intellectual Property Commission (CIPC) in September 2021 with enterprise number K2021902146. The affairs of the MNPO are controlled by a Board of Directors and is managed by Mr Bongani Tembe, who is also the Chief Executive and Artistic Director of the KwaZulu-Natal and Johannesburg Philharmonic Orchestras.

The first instalment of R41 557 256.00 was transferred by the NAC to the account of the MNPO in December 2021. The MNPO subsequently implemented its planned programmes, with the organisation having had submitted a progress report in June 2022, and an annual report in January 2023. At the time of the Committee’s meeting to consider the petition, the DSAC noted that the financial statements for the MNPO are due for submission at the end of March 2023.

During the 2021/22 financial year, the AGSA raised a finding regarding non-compliance with legislation regarding the transfer of the first instalment of R41.5 million which is still under investigation by the AGSA. This is because the AGSA was not satisfied that the disbursement of the MNPO funding was made in accordance with prescribed legislative framework. The AGSA recommended that NAC with the DSAC should revisit the transfer of R41.5 million to establish whether there were indeed any irregularities.

The DSAC noted that the AGSA has not as yet raised any issues related to non-compliance matters. Currently, the AGSA has not had a problem with the transfer. Additionally, audits for the past five financial years, including the audit for the last financial year, no matters of non-compliance have been raised. The DSAC added that AGSA raised no issues of non-compliance related to the transfer made by the DSAC to the entity.

The Special Investigating Unit (SIU) has been approached by the petitioner to investigate the alleged irregularities regarding the establishment and funding of the MNPO. The NAC has stated that the SIU has been in contact with the entity through the DSAC. The DSAC confirmed that the SIU has requested documentation to assess if the allegations fall within the mandate of the investigating body. Subsequently, the requested dossier will be collected by an SIU investigator on 02 March 2023. Following this, the DSAC will await further direction.

**The Committee wishes to make the following recommendation:**

The Committee recommends that the work currently under way by the Auditor-General of South Africa reach its conclusion before any further action is taken. In addition, the Committee has resolved to await the outcomes of the efforts within the SIU to evaluate the merit of these allegations. Furthermore, the Committee has requested to be supplied with all outstanding reports.

The Committee thus recommends to set aside the decision to embark on a parliamentary investigation until such time that all relevant information has been submitted to Parliament.

The Committee will in the interim continue to implement its oversight mandate over the Department of Sport, Arts and Culture and the National Arts Council.

**Conclusion**

Having deliberated on the matter, the Committee concluded that the petitioner’s request may be reconsidered subject to the Committee’s recommendations. Therefore, communication will be made to the Member to relate the decision of the Committee to the signatories.

Report to be considered.