**NATIONAL ASSEMBLY**

**QUESTION No. 2727-2021**

**FOR WRITTEN REPLY**

**INTERNAL QUESTION PAPER NO. 31-2021 dated 03 December 2021:**

**Mr T W Mhlongo (DA) to ask the Minister of Sport, Arts and Culture:**

(1). Whether he will provide Mr T W Mhlongo with a list of all forensic investigation cases undertaken in his department over the past three years, indicating the (a) cost of each investigation and (b) outcome and/or status of each investigation; if not, why not; if so, what are the relevant details;

(2). whether he will provide Mr T W Mhlongo with (a) a list of all court cases that have been brought by the arts sector against (i) his department and (ii) the entities reporting to him and (b) the reasons for each of the cases; if not, why not; if so, what are the relevant details? **NW3242E**

**REPLY**

1. &(2). Yes, I will provide Mr.Mhlongo with the required information, see attached documents

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| **CASES BY ARTS SECTOR** | **REASON FOR EACH CASE** |
| Timbila TA Afrika // Minister of Arts and Culture | The matter emanates from the contract MOA between the Department and Limpopo Arts and Culture Youth Forum in August 2018. The plaintiff was contracted by the Beneficiary to supply the sound system, jumping castles and security. |
| Golola Consultancy (Pty) Ltd // Department of Arts and Culture | Department awarded a tender on 06 July 2004 to a consortium of which Golola (Pty) Ltd was a member. The tender was for the rendering of professional and technical services to the department regarding the project known as Telephone Interpreting Services of South Africa (TISSA). Golola Consultancy is suing the Minister of Arts and Culture for the alleged outstanding invoices for the services rendered in 2005.  The Plaintiff withdrew the matter and tendered wasted costs and party costs.  The Department is recovering the wasted cost |
| Government Employees Pension Fund (GEPF) // South African Broadcasting Corporation (SABC) & Others wherein the DAC has been joined as a third party | This matter concerns a 2005 lawsuit wherein the GEPF is suing the SABC for payment of arrear rental (including damages) owed by the former Bophuthatswana (BOP) Broadcasting Corporation (now part of the SABC). The lease was for a period of 20 years starting on 1/12/91 and terminating on 30/11/11. It is alleged that the National Government through the Department of Communications and the former DACST were obliged to implement Cabinet Resolutions relating to the settlement of this intergovernmental dispute. Cabinet has in fact instructed DOC and DAC to establish an adjudication and evaluation panel to ensure the protection of fiduciary duties of stakeholders and government objective to empower, support and promote SA music content |
| Outlook Security Services and Cleaning and Mr Collins Mabaso | The Department received copies of the pleadings from the Acting CEO of Downtown Music Hub who are the First and Second defendants in this matter and the Department and the DG Mr Mkhize are cited as the Third and Forth Defendants. Plaintiffs are suing the Defendants for the alleged breach of the security contract and claims damages in the sum of R758 000 |
| Trade Union for Musician of South Africa (TUMSA) // Minister of Sport, Arts and Culture | Equality Court matter- TUMSA alleges that the criteria for the covid-19 relief funding unfairly discriminates against its members-a social group of musicians who have suffered financial prejudice |
| Guild of Choral and Indigenous Music Practitioners NPC and Thomas Kolo // Minister of Arts and Culture and Others | The Plaintiff/s brought an action against the Department alleging that the Department failed to pay the amount agreed to as per the Memorandum of Agreement |
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| University of KwaZulu Natal // Minister of Sports Art and Culture | The Plaintiff has issued summons against the Minister for breach of contract |

| **CASES BY PUBLIC ENTITIES** | **RESON FOR EACH CASE** |
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| Zixolisile Feni // Minister of Arts and Culture and PanSALB  Review Application launched on 09/11/2012 at the North Gauteng High Court | The Applicant, Mr. Feni is a former employee of the PanSALB who is challenging the Ministers authority and power to appoint a Caretaker CEO of PanSALB and ultimately the decisions taken by the Caretaker CEO who is alleged not to have been appointed in compliance with the legislation. |
| Karabo Mbele & 17 Others // Minister of Arts and Culture, Case Number: 50349/15  High Court, PTA | Applicants (Former employees of PanSALB) instituted an application against the Minister of Arts & Culture and Others for amongst other things, to initiate an investigation to determine the fitness and suitability/ dissolution of all members of the PanSALB Board |
| Karabo Mbele & 20 Others // Minister of Arts and Culture, Case Number: J823/15  Labour Court , Braamfontein | The Applicants (Former employees of PanSALB) instituted an application against the Minister of Arts & Culture and Others for amongst other things, to declare as unlawful and setting aside the appointment of the Second respondent as the Acting Chief Executive Officer (CEO) of the Third Respondent(PanSALB) and directing the Second and Fourth Respondents to immediately retrospectively reinstate the Applicants. |
| Mbulungeni Madiba and 9 Others // Minister of Arts and Culture and 2 Others | Former Board of PanSALB is challenging the Minister’s decision to dissolve the Board of PanSALB |
| TN Monyela // Ditsong Museum of South Africa and the Minister of Arts and Culture | The Plaintiff, a Director at Ditsong Museum of South Africa is suing the Ditsong Museum and the Minister of Arts and Culture for damages |
| Atlantis Corporate Travel (Pty) Ltd // National Heritage Council (NHC) and Another | Atlantis has sued the National Heritage Council for breach of contract. |
| RRM Monareng // the Minister of Arts and Culture and Pan South African Language Board | The Applicant is challenging the Minister’s decision to discipline him as the CEO of PANSALB in the absence of the Board of PanSALB –  Johannesburg Labour Court. |
| B.D Mabasa // National Library of South Africa and Others  Case No: 22483/19 | The Plaintiff claims that the Defendants breach the conditions of the Settlement Agreement between the him and the First Defendant (NLSA) when the First Defendant made statements in Parliament regarding the Defendant’s case and alleges that those statements were misleading and made with intention to injure the Plaintiff’s professional  reputation |
| The National Arts Council of South Africa // The Minister of Sport, Arts & Culture and 4 Others | The Applicant brought an application to review and set aside the Public Protector’s report No. 125 of 2019/2020 dated 15 June 2020, its findings and the recommendations arising therefrom. There is no relief sought against the Minister of Sport, Arts & Culture |
| Classic Arms (Pty) Limited // The Minister of Sport, Arts and Culture and 3 Others | The Applicant brought an application declaring the decision of the South African Heritage Resources Agency (SAHRA) dated 14 October 2020 invalid and setting aside the decision to stop the processing of Section 32(9) permits for heritage firearms. An order ordering The National Commissioner of the South African Police Services to process permanent export applications for firearms that require Section 32(19) permits in terms of the National Heritage Resources Act of 1999 |
| Asstej SA and Others // National Arts Council and Others | The Department of Sport, Arts and Culture has been served with papers from the High Court Western Cape Division as a Second and Third Respondents for an urgent application in reviewing and setting aside the decision of the First Respondent that is National Arts Council (“NAC”), its executive council, or any other committee or person, taken during or before March 2021, purporting to unilateral reducing the amounts to be paid to the First, Second and Third Applicants in accordance with the Grant Agreement concluded between the NAC and Applicants, for payment of amounts under Presidential Employment Stimulus Package. |
| National Arts Festival vs National Arts Council and Minister of Sports, Arts and Culture | The Department of Sport, Arts and Culture has been served with papers from the High Court of SA Gauteng Local Division as Second and Third Respondents for an urgent application in reviewing and setting aside the decision of the First Respondent that is National Arts Council (”NAC”), its executive council or any other committee or person, taken during or before March 2021, purporting to unilateral reducing the amounts to be paid to the first applicants in accordance with the Grant Agreement concluded between the NAC and applicant, for payment of amounts under Presidential Employment Stimulus Package.  The NAF is claiming R8, 000, 000.00 from the NAC  The Applicant lodged an appeal with the Minister on 12 March 2021 to set aside the decision taken by the NAC. |

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| Sonwabile Mancontywa // Minister of Sport, Arts and Culture and National Heritage Council | The applicant brought an urgent application amongst others to declare that the Minister lacked the authority and acted ultra vires in the appointment of the administrators for the Second Respondent |
| VR Theatrical (Pty) Ltd and Another // National Arts Council (NAC) and Others | The Department of Sport, Arts and Culture has been served with papers from the Western Cape Division, Cape Town as Second and Third Respondents for an application amongst others reviewing and setting aside the decision of the First Respondent (the NAC), its executive council, or any other committee or person, taken during or before March 2021, purporting to unilaterally reduce amounts to be paid to the applicants in accordance with Grant Agreements concluded between the NAC and the applicants, for payment of amounts under the Presidential Employment Stimulus Package (the “Grant Agreements”). |

The table below provide a summary of legal cases against public entities

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| **NATIONAL ARTS COUNCIL** | | | |
| **PARTIES** | **DESCRIPTION OF THE MATTER** | **STATUS OF MATTER** | **QUANTUM CLAIMED** |
| NAC // National Arts Festival NPC (NAF) Gauteng Local Division  Case no.: 14206/2021 | High court application in terms of which the NAF sought an order declaring that the terms of the grant agreement concluded on 28.01.2021 remain in force and are binding on the NAC in particular that the NAF be entitled to grant amount of R8 000 000.00 and directing that the NAC make forthwith payment to the NAF in the amount of R5 600 000.00. | Application for special leave was dismissed by the SCA with costs. | The original claim was for R8 000.000.00 of which  R3 486 400.00 has already been paid per judgment of Wepener J, balance owing in terms of judgment is R4 513 600.00 of which  R3 000 000.00 was paid on 18.10.2021 and the balance is to be paid on 15.12.2021. bills of costs are to be prepared which will either be taxed or agreed upon to  determine the quantum of costs. |
| NAC/ ASSITEJ & 2 others Western Cape (CT)  Case no.: 5380/2021 | High court application in terms of which ASSITEJ seek an order  reviewing the NAC’s decision to reduce the amount to be paid to the applicants in accordance with the grant agreements concluded between them and the NAC; directing the NAC to abide by the grant agreements and to pay the  applicants the sum of R269 810.00 | The NAC has filed its answering affidavit to the claim and awaits confirmation of the allocation of a court date. The factual matrix of this matter is substantially to that in the NAF case and the outcome in that case although not binding on the court in a different jurisdiction will have  significant persuasive influence. | Total combined claim is  **R269 810.00** plus costs. |
| NAC/ Schoeman Smit | High court application (combined with VR Theatrical) in terms of which an order reviewing the NAC’s decision to reduce the amount to be paid to the applicants in  accordance with the grant agreements concluded between | Application | Claim **R200 000.00.** |

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|  | them and the nac; directing the nac to abide by the grant agreements. |  |  |
| NAC/ VR Theatrical | High court application (combined with smit) in terms of which an  order reviewing the NAC’s decision to reduce the amount to be paid to the applicants in accordance with the grant agreements concluded between them and the NAC; directing the NAC to abide by the  grant agreements. |  | Claim **R389 840.00** |
| Downtown Music Hub // NAC gauteng local division  case no.: 39800/2021 | High court application in terms of which downtown seek relief on the basis that the NAC provide downtown with a contract for the approved stream 1 relief and pursuant thereto that the NAC pay downtown an amount of  R8 289 493.00 | Answering affidavit filed on 15.10.2021. await applicant’s replying affidavit. | Claim per nom is **R8 289 493.00.** |

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| **NATIONAL FILM AND VIDEO FOUNDATION** | | | |
| **PARTIES** | **DESCRIPTION OF THE MATTER** | **STATUS OF MATTER** | **QUANTUM CLAIMED** |
| Golden Nugget / NFVF | On 05 March 2020, the NFVF entered into a service level agreement with Golden Nugget for the latter to source sponsorships and assist the former with the production of the 14th Annual South African Film and Television Awards (SAFTAs) as a project manager. The SAFTAs were scheduled to take place on 27 and 28 March 2020 at the Sandton Convention Centre, with the production cost funded from the sourced funds by the service provider as sponsorship. On 12 March 2020, the NFVF received a letter from the service provider requesting an advance of R2 645 000.00 against Purchase Orders received from prospective sponsors. The NFVF agreed to advance the funds upon the conclusion of an addendum to the service level agreement and on the premise that the NFVF will not incur production costs. When awards were cancelled Golden nuggets returned only R1 150 000. NFVF withheld the commission in lieu of monies owed. The service provider then instituted legal claim against the NFVF for general damages and loss of income. | The Matter has gone for pre-trial, however NFVF still hope to settle the matter through mediation and arbitration. | R 31 009 018 |

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| **IZIKO MUSUEMS OF SOUTH AFRICA** | | | |
| **PARTIES** | **DESCRIPTION OF THE MATTER** | **STATUS OF MATTER** | **QUANTUM CLAIMED** |
| Iziko | Alleged copyright infringement relating to an image use of an individual used on a poster by Iziko | Case not pursued since no further correspondence has been received from the claimant | Unknown |

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