

**PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY**

**WRITTEN REPLY**

**QUESTION NO: 506**

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**QUESTION PAPER NO: 10**

**Ms P T van Damme (DA) to ask the Minister of Communications:**

What (a) number of judgments and (b) court orders were made against her department in the (i) 2017-18 and (ii) 2018-19 financial years, (b) number of the specified judgments and court orders (i) were implemented and (ii) await implementation by her department and (c) was the nature of each (i) judgment and/or (ii) court orders.

**REPLY:**

(a)(i) One judgement was delivered against the Department during the year 2017/2018.

(b)(i) None

(a)(ii) One judgment was delivered against the Department during the year 2018/2019.

(b)(ii) None

(b) The Department has two judgements, meaning that the matters have been finalised through court proceeding or arbitration, for the financial years 2017/2018 and 2018/2019 and no court orders.

(b)(i) Both judgments, one issued by the Labour Court in Paris (France) and one award issued by the Arbitration Foundation of South Africa, were implemented.

(b)(ii) The Department has no judgment or order that awaits implementation.

(c) **Judgment issued against the Department during 2017/20**

In the matter between Ms Terry Crawford (“Ms Crawford”) and the Republic of South Africa (Paris Mission), Ms Crawford instituted legal proceeding in the Labour Court (Paris) for compensation for the termination of her employment contract, psychological harassment, the payment of her leave credits and reimbursement of cost incurred for the litigious matter, amounting to 513 416.48 Euro. The Labour Court found that Crawford was not dismissed without actual or serious basis as she claimed.

Crawford was employed as a switchboard operator by the Embassy on 21 January 1991. During 1999 the Embassy opened a new section to represent the Department of Communications and Ms Crawford was employed as an Administrative Assistant to support the official seconded to the Embassy. Subsequently, the Department took a decision to close the Communications Section which resulted in the official seconded to the Embassy returning to South Africa. Ms Crawford’s position became redundant and the Embassy offered her an alternative position as Accounts Clerk. Ms Crawford was dissatisfied with the position offered to her and instituted legal proceedings where she cited, amongst others, unilateral termination of her employment contract on 19 September 2012. During the hearing Crawford disclosed confidential information and was dismissed on 11 August 2014, after she failed to attend a disciplinary enquiry.

On 10 July 2017 the Labour Court (Paris) ordered that Crawford be paid an amount of 16 252.57 Euros as compensation, representing the minimum amount to be paid for the termination of the contract, instead of the 513 416.48 which Crawford claimed.

The judgment was furnished to the Department on 8 March 2018, the date on which Crawford’s’ legal representatives furnished the Department’s legal representative, with same. Payment in the amount of R236 891.77 was made on 28 March 2018.

**Judgment issued against the Department during 2018/2019**

Following a procurement process, theDepartment of Communications (DoC) entered into an agreement Draft FCB Africa (FCB), who was the successful bidder to conceptualise, developand implement a comprehensive three-year public awareness strategy for Broadcasting Digital Migration on 24 February 2009. The effective duration of the agreement was from 1 November 2008 for a period of three years, same to terminate on 31 October 2011. The initial total price tendered for was R399,078,495.84 but the evaluation committee removed certain items not required and brought the tender price down to an amount of R282,500,000.00.

## The DoC, terminated the contract on 3 May 2010 and withdrew the termination notice on 30 June 2010, indicating that “the department intends to review the contract for the sake of progress of the matter”. Thereafter FCB stopped rendering services to the former DoC due to payment delays after it failed to submit signed off timesheets of consultants that worked on the project. FCB instituted court proceeding against the DoC during December 2011 and the matter remained dormant for a period of almost three years, whereafter same was subjected to arbitration. On the advice of SC, the Director-General appealed the arbitration award issued on 30 September 2017.

## On 4 June 2018, the Office of the State Attorney informed the Department that the Appeals Panel has now concluded the appeal and issued a final arbitration award against the Minister of Communications and the Director-General of DoC ordering them to pay to FCB Africa an amount of R45,064,990.84.

The Department notified National Treasury of the award on 5 June 2018 and on the advice of National Treasury, a meeting was held with FCB Africa on 12 June 2018, wherein the Department explained that it lacked the funding to satisfy the award and requested indulgence to execute the award on or before 31 January 2019, after the budgetary adjustment processes of Government has been concluded. Payment of an amount of R18 940 000.00 was made on 7 February 2019, and the balance of R26 572 515.51 was paid on 3 April 2019.

**MR J MTHEMBU, MP**

**ACTING MINISTER OF COMMUNICATIONS AND DIGITAL TECHNOLOGIES**