

MEETING MINUTES



Date: 25 April 2023

Time: 9:00 Am

Meeting called to order by: Mr Afika Nqeto, Legal Officer- South African Human Rights Commission.

IN ATTENDANCE

Mr Bennie Van Zyl – General Manager TLU SA

Mr Afika Nqeto – Legal Officer SAHRC

PURPOSE OF MEETING

1. TLU SA had lodged a complaint with the South African Human Rights Commission (Hereinafter “The Commission”) on 28 March 2023 against COSATU trade union. On April 12 2023, Acting Provincial Manager, Mrs. Zamantungwa Mbeki rejected the complaint on the grounds that the comment made by COSATU did not amount to hate speech.

This meeting is to discuss the rejection of the complaint.

MINUTES

2. Mr. Van Zyl reiterated TLU's position that the comment in question was unacceptable. TLU is of the view that the comment is divisive and harmful to farmers. He is of the view that the comment poses a risk to farmers across the country. He further stated that this could see a rise in farm murders.

Mr. Van Zyl further said that there are no numbers to corroborate the statement made by COSATU. Therefore, without supporting data the comment is a mere generalization. TLU as an organization would respond to data, however not the baseless comment.

Mr. Van Zyl made an example that should TLU make a statement that COSATU are looters and criminals, would the comment be acceptable? Mr. Nqeto responded by saying that publishing an opinion is protected by the Constitution. While the example is not ideal language, it would not constitute hate speech. Further Mr. Nqeto stated that making public statements would not be conducive to finding an amicable solution. Rather contacting COSATU directly would be advisable.

Mr. Nqeto agreed with the decision to reject the complaint. Mr. Nqeto conceded that the comment may be a generalization and potentially hurtful, but per the Qwelane Judgment handed down by the Constitutional Court, hurtful comments no longer meet the test for hate speech. Mr. Nqeto advised TLU that the "Hurtful" requirement was since removed from the PEPUDA Act. As such when viewing COSATU's comments, the Commission, must apply the law and therefore determined that the comment in question did not amount to hate speech. Mr. Nqeto advised that the Commission would not be able to take the matter further, however welcomed any further submission TLU wanted to make with regard to the complaint.

Mr Nqeto further stated that should TLU not be satisfied with the Commission's decision, it could directly approach the Equality Court for the desired relief. The Court would determine whether the comment was hate speech.

OUTCOME OF MEETONG:

Mr. Van Zyl indicated that he would have a meeting with the other management members of TLU and revert back to the Commission. Mr. Nqeto agreed that when TLU reaches out, he would further discuss the matter with the Acting Provincial Manager.

