



traditional affairs

Department:
Traditional Affairs
REPUBLIC OF SOUTH AFRICA

MEMORANDUM

*Reference No: 19/3R
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THE MINISTER

2nd QUARTERLY PERFORMANCE REPORT OF THE COMMISSION ON TRADITIONAL LEADERSHIP DISPUTES AND CLAIMS

1. PURPOSE

To present the quarterly performance report of the Commission on Traditional Leadership Disputes and Claims (CTLDC) for the period of 01 July to 30 September 2011.

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) for a period of five years. Upon assumption of duty in January 2011, the Commissioners signed a performance contract with the Minister of Cooperative Governance and Traditional Affairs.

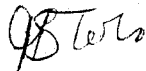
3. DISCUSSION

- 3.1 The Commission is required to report to the Minister on a quarterly basis and as and when required by the Executive Authority. This is the second quarterly report of CTLDC for the 2011-2012 financial year and it covers the period from 01 July to 30 September 2011.
- 3.2 The Report includes achievements during the quarter under review, progress report on the establishment of provincial Committees of the Commission, report on litigation cases and challenges.
- 3.3 The Commission is of the view that it will meet its annual target of finalizing 100 claims during 2011-12 financial year taking into consideration that 75 claimants have already appeared before the Commission. The Commission will submit its final report to the

President of the Republic of South Africa, Minister and the relevant Premier of the affected Province.

4. RECOMMENDATIONS

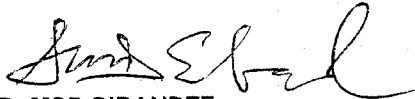
It is recommended that the Minister takes note of the Commission on Traditional Leadership Disputes and Claims second quarterly performance report, and provide guidance and direction where the Minister considers necessary.



MR. B J. Tolo

CHAIRPERSON: COMMISSION ON TRADITIONAL LEADERSHIP DISPUTES AND CLAIMS

Date:



DR. MSD SIBANDZE

DEPUTY DIRECTOR-GENERAL: RESEARCH POLICY AND LEGISLATION

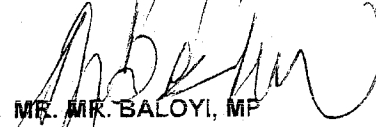
Date 22/11/11



Prof. MC Nwaila

DIRECTOR-GENERAL: DEPARTMENT OF TRADITIONAL AFFAIRS

Date: 28/11/11



MR. M.K. BALOYI, MP

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

Date: 20/09/04



**QUARTERLY (JULY TO SEPTEMBER 2011) REPORT OF THE COMMISSION ON
TRADITIONAL LEADERSHIP DISPUTES AND CLAIMS**

1. Background

The report is in terms of section 24B (2) of the Traditional Leadership and Governance Framework Act, 2003 (Act 41 of 2003) (Framework Act) as amended. The report covers the period from 01 July to 30 September 2011.

The Commission on Traditional Leadership Disputes and Claims was established in terms of section 22 of the Framework Act to resolve all disputes and claims of traditional leadership within the period of five years starting from 01 January 2010 to 31 December 2015. The Commission operates nationally in plenary and provincially in committees. The provincial committees deal with disputes and claims as delegated by the Commission.

ARCHIVE FOR JUSTICE

2. Mandate

The mandate of the Commission is derived from section 25 of the Framework Act which stipulates amongst others that the Commission has authority to investigate:

- Whether a kingship, principal traditional leadership, senior traditional leadership or headmanship was established in terms of custom and customary law;
- and consider all claims and disputes starting from 01 September 1927 to the date on which the relevant provincial legislation on traditional governance came into effect;
- All gender related disputes relating to traditional leadership positions arising after 27 April 1994;
- Disputes on boundaries of traditional councils and should consult with the Municipal Demarcation Board before finalization of such a dispute;
- Disputes and Claims that were lodged with the previous Commission up to the end of August 2010; and
- To delegate claims and disputes to provincial committees.

This Commission does not have powers or legal mandate to review the work of the previous Commission; it is the successor in law to the previous Commission.

3. Performance of the Commission

The following has been achieved during the quarter under review:

3.1 Meetings of the Commission

The Commission held four meetings during the quarter under review. The aim of those meetings was to discuss and agree on the best possible approach and format of public hearings and to review the progress on the establishment of provincial committees.

As part of the meetings mentioned above, the Commission participated in the DTA stakeholders meeting held in Emperors Palace in Johannesburg and in the Kings' meeting held at OR Tambo International. The Chairperson of the Commission mandated the Secretary to address the Local Economic Development Summit called by King Makhosoke II of Mpumalanga to explain the operations of the Commission.

3.2 Induction of members of the Provincial Committees

The Commission conducted induction sessions for the two established provincial committees. There were two induction sessions for the Eastern Cape catering for both the committee members and staff. Only one orientation session was held for the Mpumalanga members.

3.3 Public Hearings

The Commission is required by section 4 of Act 8 of 1947 to hear evidence in public. Notwithstanding the requirements of the provisions of section 4 of Act 8 of 1947, the Commission has analysed the rationale and the basis for public hearings in terms of Act 41 of 2003. Furthermore, the Commission has analysed the White Paper on Traditional Leadership and Governance to obtain an in depth insight into the issues pertaining to the institution of traditional leadership. The emerging principal policy shift can be summarised as follows: "government objective to restore the dignity of the institution of traditional leadership".

The dignity of the institution of traditional leadership is to be restored as close as it can possible be to its pristine pre 1927 condition. This is the period before the social and institutional contamination brought about by the Black Administration Act of 1927.

Furthermore, the restoration of the dignity of the institution of traditional leadership requires the correct interpretation of the African cultural practices. As part of its contribution towards the restoration of the dignity of the institution of Traditional Leadership and the acknowledgment of the central role of custom and tradition in the resolution of disputes and claims, the Commission has developed an operational template for all public hearings which emphasises the following elements and principles:

- a) The royal family is a cardinal structure whose decisions are critical in the succession process and all presentations in public hearings intend, where possible, to include utterances from the royal family;
- b) Public participation in the hearing must be encouraged and such participation must be aligned to customary law requirements;
- c) The imposition of procedural and administrative requirements that are foreign to customary law and general practice of traditional communities must be avoided;
- d) Public hearings are not "trials";
- e) Public hearings are a single element (among various elements) in the Commission's information gathering toolkit.
- f) In addition to public hearings, the Commission gathers information using other means such as research etc;
- g) The Commission does not make any ruling or recommendation at the end of the hearing. The Commission utilises all information received (from various sources including public hearings) to decide on the appropriate recommendation to be submitted to government;and
- h) Questions asked by Commissioners during public hearings are designed to elicit additional facts, to test the validity of statements made and to afford an opportunity to presenters to clarify aspects of the presentation;

In compliance with these principles, the Commission arranged the following public hearings where 27 claimants presented their case during the period under review.

Summary of presentations made during Public Hearings held at Limpopo and Eastern Cape:

| Limpopo Public Presentations – Public Hearings on Claims and Disputes of Kingships held at Lenyenye on 29 August 2011 | | |
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| Number | Claimant | Nature of claim and decision of the Commission during the hearing |
| 01 | Kgwale Maake represented the deceased: Makoti Lazarus Maake | <p>They initially lodged a claim for Kingship, during the hearing, the representative, Mr. Kgwale, indicated that they now are claiming a claim for a Senior Traditional Leadership position.</p> <p>SUMMATION</p> <p>The Commission resolved that the claim will be referred to the Provincial Committee of the Commission following the latter's establishment.</p> |
| 02 | Ephraim Rasekele and Lekgolo Lazarus represented the deceased: Jako Johannes Maake | <p>Maselema Ephraim Rasekele presented a claim for kingship on behalf of Jako Maake. Lazarus Lekgolo Ramalepe disputed Rasekele's presentation saying Jako actually applied for recognition as a senior traditional leader. Both claimants presented affidavits to support their claims. The Commission doubted the validity of the affidavits. There was another Mr. Maake who disputed both presentations, claiming that he was from a senior Bakgaga Ba Maupa house.</p> <p>SUMMATION</p> <p>The Commission advised the three parties to consult with the royal family and to submit their resolutions to the Commission within two weeks.</p> |
| 03 | Mmamodimo Daniel Maake representing Bessie Maake | <p>They explained that they are the senior house within Baroka known as Bakgaga. Their claim is for the restoration of their Kingship which was lost during the Apartheid regime. They are recognized by Limpopo Government as senior traditional leaders. Their kingship claim was also supported by other members of the royal family and the national coordinator of Bakgaga clan.</p> <p>SUMMATION</p> <p>They were requested to submit further information, supported by relevant research material, to the Commission. They are further expected to submit confirmation from other Senior Traditional Leaders of Bakgaga that they are indeed the senior house and that they qualify to be Kings in terms of the</p> |

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| | | provisions of section 2A of the Traditional Leadership and Governance Framework Act, 2003. (Act 41 of 2003) as amended. |
| 04 | Ishmael Ramotseela Letsoalo | <p>Mr. Letsoalo explained that they have ten (10) Senior Traditional Leaders under their jurisdiction and that their Kingship was lost between 1921 and 1929 when Letsoalo was chased away by Whites. This was the period during which the Kingship was destroyed. Letsoalo is born from the Mhwaduba who is one of the sons of Musi, the King of amaNdebele.</p> <p>SUMMATION</p> <p>The claimant was requested to submit proof of senior traditional leadership position to the Commission. The Commission also advised Letsoalo to go back and gather more information and research material to support his presentation.</p> |
| <p>Eastern Cape presentations: 12 to 15 September 2011</p> <p>Matatiele: 12 September 2011</p> | | |
| 01 | Mr. TT Lutholi | <p>Mr TT Lutholi is claiming the Kingship of AmaZizi. He is deriving his authority from the fact that a certain Moorosi was fighting side by side with Moshoeshoe and therefore he qualifies to be a King. He had experienced visions and dreams indicating to him the need to lodge a claim of kingship.</p> <p>SUMMATION</p> <p>The Commission after listening to the Claimant's testimony established that they were never Kings in the RSA. He was advised to approach government. However, the Commission noted that he acknowledged that he was claiming for someone else.</p> |
| 02 | Mr. RM Moorosi | <p>The claimant's history is similar to that of Lutholi. During his presentation he acceded to the fact that they were never Kings. He changed his claim to that of Senior Traditional Leadership.</p> <p>SUMMATION</p> <p>The Commission promised to refer the matter to the Provincial Committee of the Commission in Eastern Cape for consideration.</p> |
| 03 | Mr. Sethuntsa | <p>Mr. Sethuntsa of AmaZizi is also claiming for the same Kingship. However, he did not attend the Public Hearings of the</p> |

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| | | <p>Commission due to transport related challenges from his side.</p> <p>SUMMATION</p> <p>Sethurmtsa promised to forward his presentation to the Commission within 14 days dating from the 12th September 2011.</p> |
| 04 | Mrs Adelaide Lepheane | <p>Adelaide is claiming Kingship of BaSotho within the Republic of South Africa. She is claiming that she is from the House of Moshoeshoe and therefore qualifies to be recognized as king. Her representative, Mr. Dickson, conceded that they never had a Kingship in the RSA and that their leadership was lost during the reign of British people in the RSA.</p> <p>SUMMATION</p> <p>The Commission advised him that his claim is traced from far back and that it is not convincing at all because BaSotho have a Kingship in Lesotho and two Deemed Kings in the Republic of South Africa. He was advised to approach his provincial government as the matter falls outside the Commission's mandate.</p> |
| Mthatha Presentations: 13 September 2011 | | |
| 05 | Mr. Mpangele | <p>He is claiming the Kingship of AmaGcina who are currently under the AbaThembu Kingship. AmaGcina are drawing their history from the same genealogy as AbaThembu.</p> <p>SUMMATION</p> <p>The Commission gave claimants 14 days to submit whatever document and information was at their disposal to justify their claim. Currently their claim falls outside the prescribed mandate of the Commission.</p> |
| 06 | Mr. Bantu Yapi | <p>Mr Yapi is claiming the Kingship of Ntu and AmaMpondomise. He requests the Commission to pay lobola for him and insists that he should be transported to the Public Hearing because he is a King.</p> <p>SUMMATION</p> <p>Due to the fact that Mr. Yapi did not attend the hearing, the Commission was unable to extract the information required. Therefore, the Commission will rely on the information he supplied previously and the research yet to be conducted by the Department on his claim to kingship.</p> |
| 07 | Mr. Madzikane | <p>He is claiming the Kingship of AmaBhaca. He relies on the history of amaBhaca who defected from amaZulu. Through his war techniques,</p> |

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| | Diko | <p>he claims to have defeated Shaka.</p> <p>SUMMATION</p> <p>The Commission has come to the conclusion onb the basis of available information that the claimant is not from the senior House of amaBhaca. Therefore they are not the rightful leaders. The Commission has resolved to convene a meeting of all the Houses of AmaBhaca to finalize the Claim of amaBhaca.</p> |
| 08 | Mr. Phiia Mduyana | <p>Mr. Mduyana is also claiming the Kingship of amaBhaca.</p> <p>The same decision taken above applies</p> |
| 09 | Mr Mntuwaphi Ngubenkomo | <p>Mr. Ngubenkomo is part of the AmaKwayi. The previous Commission disqualified the AmaKwayi claim for kingship.</p> <p>SUMMATION</p> <p>As a matter of procedure, the Commission called Mr. Ngubenkomo to a meeting and explained to him that the matter was resolved and finalized by the previous Commission. He was advised to engage Mr. Balfour on the matter. The Commission closed the matter without entertaining the issue any further or allowing him to make any presentation on the matter.</p> |
| Presentations at Dutywa:14 September 2011 | | |
| 10 | Princess NomaXhosa Sigcau | <p>Princess NomaXhosa Sigcau is disputing the recognition of the current King Mpendulo Calvin Sigcau (Zwelonke Sigcau). She is claiming that she was discriminated against on the gender basis. Princes NomaXhosa was accompanied by the Commission on Gender Equality and they presented her case based on the fact that she is born from the Great House as opposed to the current King who succeeded his half brother who was born from a junior house. The royal family of Sigcau represented by Inkosi Gagadu Manxiwa responded by saying that the culture and rituals of naturalizing the late King Xolilizwe as the first born son of Nozizwe was done and Nozizwe did not object his to that. Instead accepted the late King Xolilizwe as her first born son.</p> <p>SUMMATION</p> <p>The Commission, after listening to both sides and the members of the public who aired their views, gave both parties 14 days to submit whatever relevant information they may deem necessary to assist the Commission in its findings.</p> |
| 11 | Mr. Vuyani Gwebindlala | <p>Mr. Gwebindlala is claiming the Kingship of AmaBomvana. He is drawing their history from Bomvu and the fact that the kings of amaGcaleka married from them. According to him, this justifies their</p> |

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| | | <p>Kingship claim. Despite the relationship between AmaGcaleka and AmaBomvana through intermarriages, amaBomvana are a distinct community as per the findings of Professor Sobahle Commission and authors such as Soga and others.</p> <p>SUMMATION</p> <p>The Commission resolved that further research be conducted by October 2011. Such research will shed more light on the claim. It is only then that the Commission will be able to advise Government on actions that must be taken to respond to this issue. The research is necessary because it was clear during the hearings that there are other recognized AmaBomvana.</p> |
| Presentations at King Williams Town: 15 September 2011 | | |
| 12 | Mr. Theko Gabha | <p>Mr. Gabha is claiming the Kingship of AmaCirha who are drawing their history from the great house of AmaXhosa. They are not disputing anybody but <u>want to be recognised as a distinct royal community.</u></p> <p>SUMMATION</p> <p>The Commission resolved that AmaCirha are indeed of royal blood but since they lost their kingship in Dedesi in the present KZN and have no land, they must discuss the matter with amaTshawe at Nqadu Great Place for a possible position of Senior of Traditional Leadership. The Commission further draws the attention of AmaCirha to the provisions of the law in terms of recognition of a traditional leadership community and the recognition of Kings. AmaCirha were never a kingship in 1927 and therefore their application should follow the route provided in section 2A of the Framework Act. AmaCirha appreciated the advice and further indicated that they are working closely with amaTshawe on this matter.</p> |
| 13 | Mr Luvuyo Maqoma | <p>Mr Maqoma derives his history from King Maqoma. He is claiming Maqoma Kingship. He is not disputing the Principal traditional leadership of amaRharhabe but his community wants their own Kingship. The claimant indicated that they do not have a claim or dispute. The problem is that they are ill treated by amaRharhabe and as such they have requested the Commission to facilitate an intervention from AmaGcaleka</p> <p>SUMMATION</p> <p>The Commission, resolved that the matter be discussed privately, with their help, outside the public hearings.</p> |

3.4 Provincial Committee

The implementation of the strategic and operational plans of the Commission is being thwarted by the delays in the establishment of the provincial committees. The mandate of the Commission with regards to service delivery can only be properly executed if provincial committees have been established and properly resourced.

STATUS OF PROVINCIAL COMMITTEES

| Province | Number of Committee members | Progress | ICT Equipments donated by DTA to provincial committees |
|---------------|---|--|--|
| Eastern Cape | 3 members | Committee members were appointed on August and September 2011 respectively while staff members reported to work in July and August respectively. | 6 Laptops 5 Desktops 3 Printers |
| Mpumalanga | 7 members: five full time and two part time | Committee members and staff appointed effective on 01/09/2011. | 6 Laptops 4 Desktops 5 Printers |
| KwaZulu-Natal | none | No progress has been made as yet on this matter though a staff member has been seconded to work with the Chairperson of the Committee and to secure the office facilities for the Committee. | 5 Laptops 3 Desktops 5 Printers |
| North West | none | Interviews were conducted. However, the Premier has still to decide on appointments. A staff member has been seconded to assist the Chairperson of the Committee. | 3 Desktops 5 Printers |
| Limpopo | none | A staff member has been assigned to work with the Commissioner responsible for Limpopo. No progress has been recorded on the appointment of the provincial committee. | 7 Laptops 4 Desktops 5 Printers |

3.5 Litigation

REPORT ON LITIGATION CASES RELATING TO THE COMMISSION ON TRADITIONAL LEADERSHIP DISPUTES AND CLAIMS

| KINGSHIP | COMPLAINANT/APPLICANT | STATUS | ATTORNEY / COUNSEL(S) |
|----------------------------|---|---|--|
| <p>1.Vhavenda Kingship</p> | <p>Nephawe Netshidziwele XXXIII</p> <ul style="list-style-type: none"> • Mr Nephawe brought an application in the Venda High Court. • In his application Mr Nephawe, amongst others, is seeking the following orders: <ul style="list-style-type: none"> (i) interdict the President of the Republic of South Africa from issuing a certificate of recognition as a King to Mr Toni Mphephu Ramabula pending the finalization of the review application against the decision of the commission. (ii) the review of the Commission's decision. | <ul style="list-style-type: none"> • The interdict application was heard in the Venda High Court on 21 October 2010. • The President, the Minister of Cooperative Governance and Traditional Affairs and the Commission did not oppose the interdict application. • The interim relief was granted in favour of Mr Nephawe. The review application was set down for 22 March 2011. However, on the 22nd March 2011 there was an application for joinder of a Second Applicant. As a result of the joinder, the matter was postponed to a later date. • the review application is provisionally set down for hearing on 28 November 2011 to 2 December 2011. | <p>Bhadrish Daya Attorneys Adv N. Arendse SC</p> |

| KINGSHIP | COMPLAINANT/APPLICANT | STATUS | ATTORNEY / COUNSEL(S) |
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| 2. Bapedi Marota Mnamone | <p>Mampuru Maphuru</p> <ul style="list-style-type: none"> Mr Maphuru brought an application in the High Court in 2008. Mr Maphuru, amongst others, is seeking the following orders: <ul style="list-style-type: none"> (i) for the Court to review and set aside the decision of Commission (the Commission finds that the lineage of Kingship of Bapedi rest under Sekhukhune house). (ii) for the Court to declare that the Kingdom of Bapedi resorts under the lineage of Bapedi Marota Mamone Royal House. | <ul style="list-style-type: none"> The Commission is defending this matter. The matter was set down for hearing 29 November 2010 and was postponed <i>sine die</i> (without a date). However, the Applicants Attorneys submitted a letter to the Deputy Judge President to request an early date for set down. The matter was set down for 30 May 2011 for hearing but it did not proceed. A date of 14 and 15 November 2011 is confirmed in Gauteng North High Court. | <p>Bhadrish Daya</p> <p>Attorneys: Adv G Bofilatos SC and Adv Lesego Moloisane as JC.</p> |
| 3. AmaMpondo of Qawukeni | <p>Mr Justice Mpondombini Sigcau</p> <p>Mr Justice Mpondombini Sigcau brought an application in the High Court.</p> <ul style="list-style-type: none"> Mr Sigcau, amongst others, is seeking the following orders: <ul style="list-style-type: none"> (i) for the Court to review and set aside the decision of | <ul style="list-style-type: none"> The matter was in Court on 8 November 2010. The applicant got an interim relief. In terms of the Court order the President should not remove the applicant as a King; Minister of COGTA will not hand over a | <p>Bhadrish Daya</p> <p>Attorneys</p> <p>Adv N. Arendse SC</p> <p>Adv T. Lupuwana JC</p> |

| KINGSHIP | COMPLAINANT/APPLICANT | STATUS | ATTORNEY (COUNSEL(S)) |
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| | <p>the Commission.</p> <p>(ii) for the Court to interdict the Minister of COGTA from issuing a certificate of recognition as a King to Mr Zanzuko Tyelovuyo Sigcau.</p> <p>(ii) for the Court to direct the President not to recognize Zanzuko Tyelovuyo Sigcau as a King of aMampondo.</p> <p>(iii) for the Court to direct the Minister of COGTA to continue paying the salary of the applicant pending the review application.</p> | <p>certificate of recognition to Zanzuko Tyelovuyo Sigcau and will continue to pay the salary of applicant until the finalization of the review application.</p> <ul style="list-style-type: none"> • The record of proceedings has been filed. • The legal team for the 1st, 2nd, 3rd and 5th Respondents consulted with witnesses which includes the Commissioners and the 4th Respondent on 24-25 May 2011 in order to prepare our answering affidavit which has since been filed on the 14th June 2011. The date is provisionally set for November 2011 | |
| <p>4. Ndzundza Mabhoko (AmaNdebele)</p> | <p>Mr Johannes Mahlangu</p> <ul style="list-style-type: none"> • Mr Johannes Mahlangu and Ndzundza Mabhoko Royal Family brought and urgent application in the High Court. • The applicants amongst others were seeking for the following orders: | <ul style="list-style-type: none"> • Applicants in their papers alleged that the President should not proceed with the coronation of King Mbusi Mahiangu until charges of misconduct levelled against him have been investigated and finalised. • On 17 December 2010 the | <p>Bhardish Daya Attorneys</p> <p>Adv N Arendse SC</p> <p>Adv S Masimene JC</p> |

| KINGSHIP | COMPLAINANT/APPLICANT | STATUS | ATTORNEY / COUNSEL(S) |
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| | <p>(i) interdicting the President/the Minister of COGTA from issuing a certificate of recognition as a King to Mr Mbusi Mabhoko III</p> <p>(ii) Interdict the President / the Minister of COGTA from coronation of Mr Mbusi Mabhoko as a King of Ndzudza Mabhoko Traditional Community pending the finalization of the charges of misconduct leveled against Mr Mbusi Mabhoko III by the Royal Family and the controversy surrounding his legitimacy.</p> | <p>judgment was delivered where a <i>rule nisi</i> was discharged.</p> <ul style="list-style-type: none"> Applicants filed an application for leave to appeal against an order of Honourable Ms Phakathi AJ delivered by Honourable Mr Justice Hiemstra on 17th December 2010. The outcome thereof is still awaited. The time for appeal has lapsed and the DTA must recover the costs as per the judgment. | |
| <p>5. Mapisane Eric Nxumalo (Shangaan)</p> | <p>The applicant in this matter amongst others is seeking for the following:</p> <p>(i) the court to review and set aside the decision by the President not to recognize Shangaan Kingship; and</p> <p>(ii) the Court to review and set aside the decision by the Commission not to recognize Shangaan Kingship.</p> | <ul style="list-style-type: none"> The Minister is opposing the application. The record of proceedings has been filed. The Applicant's answering affidavit was filed on 17 June 2011. However they are also preparing an expert affidavit for filing. We will file our answering affidavit upon receipt of the expert affidavit from Applicant. | <p>Bhardish Daya Attorneys. Adv N Arendse SC</p> |

| KINGSHIP | COMPLAINANT/APPLICANT | STATUS | ATTORNEY / COUNSEL(S) |
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| <p>6. King Maxhobayakha w'leza Bangilizwe Sandile (amaRharhabe)</p> | <p>The applicant in this matter brought an application in the North Gauteng High Court (Pretoria). Amongst others he seeks an order on the following:-</p> <ul style="list-style-type: none"> • that the decision of the Commission on Traditional Leadership Disputes and Claims that the amaRharhabe paramountcy is not a kingship be reviewed and set aside; and • that the decision of the President not to recognize the paramountcy of the amaRharhabe as a paramountcy in terms of the Framework Act be reviewed and set aside. | <ul style="list-style-type: none"> • The Minister is opposing the application. • Record of proceedings is being prepared for filing. | <p>Bhadrish Daya Attorneys Adv N Arendse SC</p> |
| <p>7. His Majesty Sebatshelewa Mahiangu (King Litho V) (ama- Ndebele)</p> | <p>The applicant in this matter brought an application in the North Gauteng High Court (Pretoria). Amongst others he seeks an order on the following:-</p> <ul style="list-style-type: none"> • that the decision of the President to recognise Mbusi Mahiangu as the King of the Ama-Ndebele people be reviewed and set aside; | <ul style="list-style-type: none"> • The Minister is opposing the application. • Record of proceedings is being prepared and filed with additional information, consultation will take place soon. | <p>Bhadrish Daya Attorneys Adv N Arendse SC</p> |

| KINGSHIP | COMPLAINANT/APPLICANT | STATUS | ATTORNEY (COUNSEL(S)) |
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| | <ul style="list-style-type: none"> • that the findings of the Commission to the President in July 2010 recommending the recognition of Mbusi Mahlangu as the King of the Ama-Ndebele people be reviewed and set aside; and • that the matter be referred back to the Commission to reconsider its findings and recommendations after having given the Applicant a proper hearing. | | |
| <p>8. Luzuko Matiwane</p> | <p>The applicant in this matter brought an application in the Eastern Cape High Court (Mtata). Amongst others he seeks an order on the following:-</p> <ul style="list-style-type: none"> • Reviewing and setting aside the decision of the CTLDC the substance of which was that AmaMpondomise never had a kingship and thus refusing to instate or re-instate it. • Declaring that AmaMpondomise did have a Kingship; • Instating or re-instating or restoring the said kingship • Declaring that the applicant is the person entitled to become | <ul style="list-style-type: none"> • Papers have been served to the Commission • Documentation has been prepared and filed in the High Court. | <p>Mtata State Attorney</p> |

| KINGSHIP | COMPLAINANT/APPLICANT | STATUS | ATTORNEY COUNSEL(S) |
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| | King of AmaMpondomise. | | |

3.6 Report against target

1. **Name of Entity:** Commission on Traditional Leadership Disputes and Claims

2. **Highlights of entity for the quarter under review**

2.1 The Commission managed to hold five public hearing sessions. The reports of all the claims listened to by the Commission will be tabled to the relevant authority as required by law.

2.2 The Commission accompanied the Deputy Minister in his visit to the Eastern Cape Province on best practices.

2.3 The Commission addressed the stakeholders summit of the Department of Traditional Affairs at Emperors Palace and furthermore the King Makhosoke II economic summit at Mpumalanga.



3. **Programme Performance for the quarter under review**

| Annual Target 2011 – 2012 (As stated in the Strat Plan and APP) | Quarterly Target (As stated in the Strat Plan and APP) | Achievements (Indicate whether Achieved/Partially Achieved/Not Achieved) | Reasons for variation |
|---|---|---|--|
| 100 claims and disputes finalized | 25 claims and disputes Researched | Achieved 30 individual reports finalized and ready to be submitted to the President and the Premier of Western Cape. | Research on other claims is still being conducted |
| Establish 5 Provincial Committees of the Commission | Functional committees | Partially Achieved: Two Committees (Mpumalanga and Eastern Cape) established and functional | Premiers of Limpopo, North West and KwaZulu-Natal are lagging behind as this is their responsibilities |

Defend all litigations
against the
Commission

Handle litigation

Achieved
Information on cases
supplied to the
Attorney

none

4. Challenges

4.1 Legislation

The Commission is experiencing challenges in the implementation of legislation by provinces. The first challenge relates to inability of the provinces to follow what is provided for in their legislation such as the review of acting capacity of traditional leaders. The review is provided for in section 14 (2) (b) of the Framework Act and it must be reviewed regularly. Most of the disputes are as a result of lack of review of the acting capacity of the incumbent traditional leader by provincial governments.

4.2 Capacity in provinces

Some provinces lack capacity of resolving disputes and claims. Some claims referred to the Commission ought to have been dealt with by the Provincial Governments. The implementation of the Traditional Leadership and Governance Framework Act including the provincial specific legislation must be seriously considered by the relevant departments in order for them to resolve disputes and claims to new traditional leadership positions.

5 Conclusion

The Commission is inundated with Claims and Disputes lodged with the previous Commission. The Commission intends to finalize at least one hundred disputes and claims during the current financial year subject to the provision of resources and establishment of provincial committees mentioned above.

The Department of Traditional Affairs is expected to assist provinces to implement their legislation and further to ensure that what is provided for in the applicable pieces of legislation is realized.