MINISTER MBALULA’S STATEMENT ON THE CAPE HIGH COURT JUDGEMENT RELATING TO THE APPOINTMENT OF THE PRASA ADMINISTRATOR

On 25 August 2020, the Cape High Court handed down judgment on the matter brought before it by Unite Behind, pertaining to the appointment of Mr Bongisizwe Mpondo as the acting Group Chief Executive Officer and Accounting Authority of the Passenger Rail Agency of South Africa (PRASA).

We have carefully studied the judgement and have therefore come to the conclusion that we will abide by the order of the court and will not appeal the judgment. We found no need to delay with appealing the judgement. We have always said that we want to bring about stability in the PRASA operations. Challenges still loom large and much work still needs to be done in addressing pervasive challenges relating to security, theft and vandalism of critical assets and infrastructure as well as sheer criminality that continues to undermine provision of reliable commuter rail service.

The court found that indeed there were serious challenges of good governance at PRASA way before the sixth administration. Therefore, under these circumstances PRASA warranted urgent and decisive intervention. The court did not agree with our interpretation and the application of section 49(2) of the PFMA.

The court ordered that we should complete the appointment process of the Board within 60 days of the court order and that the National Treasury should appoint another functionary of another entity to serve as an Accounting Authority of PRASA pending the appointment of a Board. The Court further ordered that the National Treasury should make such an appointment within 7 calendar days from the date of the order.
Despite this judgement, we remain firmly on a path towards building a Passenger Rail Agency that has the requisite capacity and leadership to deliver on its mandate. Significant progress in this regard has been made over the last eight months under Mr Mpondo’s leadership. We are well on track with the infrastructure upgrades and modernization, amongst others, of the Central line in Cape Town and the Mabopane corridor in Tshwane.

I must commend and thank Mr Mpondo for the diligent work he put into the execution of the mandate we had given him. He has made significant progress in addressing critical challenges and sourcing requisite skills at management level.

We are pleased that the National Treasury has appointed Mr Badisa Matshego as the Accounting Authority of PRASA in compliance with the court order. Mr Matshego is a Group Executive responsible for Infrastructure and Asset Management at the Airports Company South Africa (ACSA). His appointment is effective as of 1 September 2020.

We welcome Mr Matshego’s appointment and have no doubt that he will continue with the task of tackling pressing challenges and ensure that when the Board is in place, it will be in a position to hit the ground running in consolidating progress made in strengthening governance and organizational capacity.

In handing down the judgement, the Judge alluded that PRASA was a mess. We had earlier characterized PRASA as a broken place. Our interventions have always been sharpened by due regard of the law.

It has always been our intention to appoint a Board for PRASA. However, due to the gravity of the situation at the time, we did not believe that merely replacing an interim Board with a permanent Board would address the deep-rooted fault lines at PRASA.

In the decade of its existence, PRASA has experienced many challenges that became pronounced in the 2015/16 financial year. The AG flagged serious governance breaches, particularly in the supply chain management. Irregular expenditure ballooned from R4.1 billion in 2015/16 to R23.4 billion in 2017/18. Fruitless and wasteful expenditure increased from R541 million in 2015/16 to R1 billion in 2017/18.

This period was also characterized by dissonance at the highest levels of the organization, characterized by tensions between the Board and management. The Auditor-General also reflected that instability in the entity, “including the board of control, negatively contributed to the decline in the financial management, performance reporting and compliance processes and the overall collapse of the internal controls within the public entity as a result of inadequate and ineffective oversight.” In 2016/17 PRASA had 2 Boards in a
single financial year. In 2017/18, PRASA had 4 Boards in a single financial year. This perpetuated the instability.

There are critical tasks and processes which will be implemented over the next 2 months which will ensure that PRASA is placed on a sound governance footing. Challenges loom large, ranging from maladministration that has impacted on security leading to theft and vandalism of critical assets and the network. We have been hard at work putting in place a robust security plan at PRASA, working closely with all law enforcement authorities in the country. We will be making an announcement soon on these plans.

Similar plans relating to accelerating the modernization programme are afoot and we will also be making announcements on the implementation of these plans.

Significant progress has equally been made in addressing governance challenges.

The Board we intend to appoint will strengthen these plans and processes and will move with speed in the implementation going forward. We are confident that they will find an environment that will enable them to provide sound leadership and continue to strengthen governance.

In his judgement, the Judge was firm in that we should not deviate in our efforts to bring PRASA back to life. Ours has never been about an individual or questionable intentions, but about salvaging a national asset and positioning it such that it delivers on its mandate to transport commuters and passengers safely.

We are happy that the decisions arrived at by the court found us on the right footing as we are in the process of finalizing the appointment of a new Board of Control for PRASA.

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