



**NUMSA STATEMENT ON THE 11<sup>TH</sup> NATIONAL CONGRESS**  
**27 July 2022**  
**Press statement**

The National Union of Metalworkers of South Africa (NUMSA) has carefully studied the judgment of the Labour Court per the Honourable Justice Moshwana, handed down on 23 July 2022, and consulted with its lawyers relevant to how it could proceed with its National Congress given the judgment and, more particularly, par 29 thereof where the Honourable Judge stated the following:

*The Court does not prevent Numsa to hold the national congress but it says Numsa can do so in line with its own constitution. It must be a just and equitable remedy for this Court to effectively suspend as it were the continuation of the congress until Numsa complies with its own constitution.*

Pursuant to the aforesaid and upon receiving the judgment, NUMSA issued a 48 hours' notice for the convening of a Special Central Committee meeting on the 26<sup>th</sup> of July 2022. The majority of the Central Committee resolved that everything possible must be done to comply with the ruling of Justice Moshwana and to ensure that all actions relevant to the Congress occur within the "four corners of NUMSA's Constitution" as required by the Courts. The alternative was to postpone the Congress, which was simply not a viable and sensible option in the circumstances.

As such the Labour Court judgment has presented NUMSA with enormous challenges, inclusive of the creation of a perception amongst some that it is in order for individuals to misconduct themselves and bring the organisation into disrepute, without any consequences. In this regard it is of particular concern that rogue individuals have openly and publicly misconducted themselves and have displayed utter disregard for organisational discipline. In their individual quest for power, they resorted to falsehoods and misinformation on social media platforms such as facebook, twitter and whatsapp and attempted to unilaterally elevate social media platforms, as it were, to a constitutional branch of the union, consider the Labour Court judgment as condoning such misconduct. This is a serious misinterpretation of the judgment.

It has become apparent that these individuals, with their anti-worker, NUMSA-bashing program, act in pursuit of an external agenda in collaboration with forces who have been operating in the shadows for considerable time. They continue to attacking and attempt to weaken and fragment the unity within NUMSA with the ultimate objective of eliminate those among the NUMSA leadership whom they regard as constituting a threat to their counter revolutionary agendas. No doubt, these forces have been working closely with NUMSA's 2<sup>nd</sup> Deputy President Ruth Ntlokotse who had instituted the Labour Court application on behalf of individuals who have been suspended by the Union and who were subjected to disciplinary hearings which are currently continuing and presided over by an independent chairperson.

The Special Central Committee appreciated the fact that the ruling by Justice Moshwana could, in the absence of appropriate remedial action, be regarded as a historical set back in the history of all organisations who pride themselves for being on the cutting edge of maintaining progressive discipline – not only revolutionary institutions such as NUMSA, but in fact all organisations and companies in South Africa which are desirous of maintaining organisational discipline.

The Special Central Committee, furthermore, debated the matter in the context of the huge cost implications for NUMSA in the event of Congress not proceeding, given that a venue was secured that was compliant with Covid 19 regulations and protocols in that it could not proceed with the Congress in 2021 as a result of Covid 19. At the time of the judgment many of the delegates had already flown to Cape Town to attend the

Congress and total wasted costs would have amounted to approximately R39 million. In addition to the delegates there are also more than 100 guests from over 50 fraternal unions, federations, social movements, political parties, and other progressive working class formations.

In addition to the aforesaid massive cost implications the Central Committee also took due cognisance of the adverse impact the cancellation of Congress would have on NUMSA as a democratic institution where the leadership is elected every four years by workers (delegates from the shopfloor) and the general legal obligation it has to comply with its own Constitution, inclusive of convening Congress and conducting elections every four years.

Whilst the Special Central Committee resolved to lodge an appeal against the judgment of the Honourable Moshoeana J (*inter alia* on the basis that the judgment contains patent errors, such as the failure to make the distinction between suspended officials and suspended office-bearers and incorrectly characterises the Mpumalanga Region as NUMSA's biggest region instead of the smallest region), it nevertheless also resolved that it will be prudent to take all steps possible to ensure that NUMSA acts within the "four corners of its Constitution" and in accordance with the content of the judgment. The Central Committee accordingly adopted various resolutions addressing shortcomings, such as the absence of the term "precautionary suspension" in the NUMSA Constitution - which had resulted in the Labour Court setting aside the contentious suspensions – and ensuring that the correct structures within NUMSA exercises the functions as contemplated within the NUMSA Constitution.

Having attended to all of the aforesaid it was resolved to continue with the 11<sup>th</sup> National Congress as planned, albeit delayed which has severely disrupted the planned programme of the union where we intended to afford, as a democratic worker controlled union, NUMSA members the opportunity to discuss for the whole week, frankly and honestly all what they regard as strengths and weaknesses within NUMSA, in addition to democratically electing a leadership who they believe is capable of providing the required leadership to deal on their behalf with the contemporary challenges that confront workers and the working class.

NUMSA is accordingly satisfied that, as a law abiding trade union, it is acting in accordance with the Labour Court judgment.

However, despite having addressed appropriately the absence of the notion of a precautionary suspension in the NUMSA Constitution, the Special Central Committee nevertheless decided that no suspensions should be reimposed and that the individuals who were previously suspended will be permitted to attend the Congress and exercise their right to vote and to be nominated and elected for office. However, this occurs without prejudice to NUMSA to proceed with appropriate disciplinary action against anyone who has misconducted themselves or who had brought the name of NUMSA into disrepute. The Central Committee has not exonerated those who had acted as such.

The Special Central Committee, therefore, is informing all its delegates and the country at large that the NUMSA 11<sup>th</sup> NC is proceeding as planned and in full compliance with the Labour Court's judgment. (irrespective of the fact that the judgment has been suspended as a consequence of the filing of NUMSA's application for leave to appeal against the said judgment).

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