



water & sanitation

Department:
Water and Sanitation
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

SAP ORDERED TO REPAY DEPARTMENT OF WATER AND SANITATION MORE THAN R400 MILLION

16 MARCH 2022

Two software license and support agreement contracts concluded between the Department of Water and Sanitation (DWS) and Systems Applications Products (SAP) to the value of more than R1 billion have been declared constitutionally invalid and set aside by the Special Tribunal.

The Special Tribunal order follows an intensive investigation by the Special Investigating Unit (SIU) in the affairs of DWS, which revealed that the department irregularly concluded software license and support agreements between 2015 and 2016 with SAP, a multinational software company. The SIU confronted DWS and SAP with evidence of wrongdoing and by agreement, the SIU together with DWS and SAP declared the contracts invalid and unlawful. The agreement was made the order of the Special Tribunal.

On 15 March 2022, the Special Tribunal ordered that SAP repay DWS the amount of R413 million of the R1 036 000 000 software license contracts. The R413 million represents the total amount paid by DWS to SAP pursuant to the 2015 and 2016 software license and support contracts.

The Special Tribunal further ordered SAP to pay DWS R 263 282 173.78 within five days of the date of the Order, with any remainder to be paid after the Special Tribunal's determination of whether any further amount should be deducted from the amount due. In terms of the Special

Tribunal order, DWS may not use any of the software licenced under the 2015 and 2016 licence agreements.

The disputed amount of approximately R83 million for third party costs incurred by SAP and the no profit principle will be adjudicated on by the Special Tribunal and a further order made as to the repayment of any portion of the R83 million to DWS.

The SIU and DWS welcome the Special Tribunal order as it sends strong message to officials and companies doing business with the State that collusion and unethical business practice will not be rewarded.

The outcome of the Special Tribunal order is a continuation of implementation of the SIU investigation outcomes and consequence management to recover financial losses suffered by State institutions. There are other matters enrolled in the Special Tribunal which are still awaiting adjudication to the combined value of R2.1 billion and will result in further recoveries for the State.

Meanwhile, the SIU made disciplinary referrals to DWS against two senior officials. The SIU was informed that DC against one senior official has been concluded and judgment is expected within this week, while the DWS is considering disciplinary action against the other official. The SIU has also referred evidence pointing towards criminality to the NPA, AFU and SARS. The referrals are in line with the SIU Act 74 of 1996.

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