

Public protector held personally liable for Sarb court costs

The Constitutional Court has upheld the order against Public Protector Busisiwe Mkhwebane to personally pay for legal costs in the matter involving the South African Reserve Bank (Sarb).



Constitutional Court

The matter involves a judgement delivered by the North Gauteng High Court in 2018, which set aside the findings and remedial action of the Absa/Bankorp report. Mkhwebane was ordered to personally repay 15% of the SA Reserve Bank's legal costs, while the office of the public protector was ordered to pay the remaining 85%.

In upholding the findings of the North Gauteng High Court on Monday, the apex court found that Mkhwebane put forward "a number of falsehoods".

"This court holds that the public protector's entire model of investigation was flawed and that she was not honest about her engagements during the investigation. In addition, she failed to engage with the parties directly affected by her new remedial action before she published her final report," said Justice Sisi Khampepe as she delivered the majority judgement.

In the report published by Mkhwebane in 2017, she found that public funds to the tune of R1.125bn were "misappropriated" by the Sarb in the 1980s to Bankorp.

With Bankorp having been absorbed by financial services group Absa, the public protector ruled that the “misappropriated” funds be recovered from Absa.

In her remedial action, she also ruled that Parliament should introduce a motion to amend the Constitution to change the Sarb's mandate to focus on economic growth.

TheSarb then took the matter on review in the North Gauteng High Court.

While the Constitutional Court ruled that Mkhwebane pay the legal costs, the apex court dismissed the Reserve Bank's application for a declaratory order to find that Mkhwebane abused her office while she undertook the investigation.

Shortly after the judgement, the public protector in a tweet affirmed her respect for the court's ruling.

For more, visit: <https://www.bizcommunity.com>