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**IN THE SPECIAL TRIBUNAL ESTABLISHED IN TERMS OF SECTION 2 (1) OF THE SPECIAL INVESTIGATIONS UNIT AND SPECIAL TRIBUNALS ACT 74 OF 1996**

**JUDGMENT SUMMARY**

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| ***Special Investigating Unit v Member of Executive Council for Department of Transport, KwaZulu-Natal and Another (KN/01/2021) [2024] ZAST 2*** | |
| URL | https://lawlibrary.org.za/akn/za/judgment/zast/2024/2/eng@2024-02-27 |
| Citations | (KN/01/2021) [2024] ZAST 2 |
| Date of judgment | 27 February 2024 |
| Keyword(s):[[1]](#footnote-1) | Special Tribunal, application, review, legality, procurement process, tender, delay, condonation, counterapplication, strike out, interests of justice, prejudice, application to compel, merits |
| Summary[[2]](#footnote-2) | The Special Investigating Unit, the applicant (**SIU**), sought to review and set aside the Member of the Executive Council for the Department of Transport, Kwazulu-Natal, the first respondent’s (**MEC’s**), decision to award Nexor 312, the second respondent (**Nexor**), a tender relating to the provision of certain services (**Review Application**). Nexor was awarded the tender because its bid met all the tender requirements. Nexor concluded a contract with the Department of Transport (**DOT**) and fulfilled its obligations in terms of the contract.  Nexor and MEC opposed the Review Application, and the MEC brought a counterapplication (**Counterapplication**).  The SIU and the MEC both sought orders condoning the delay in bringing the respective applications.    The Special Tribunal (**Tribunal**) was asked to consider the Review Application, and whether the SIU ought to be granted an order condoning the delay in bringing the application. The Tribunal was also asked to consider the Counterapplication, and whether a condonation order ought to be granted to the MEC. |
| Decision/ Judgment[[3]](#footnote-3) | The Tribunal dismissed the Review Application and the Counterapplication. |
| Basis of the decision[[4]](#footnote-4) | The Review Application was brought under the principle of legality, and therefore not subject to fixed time for bringing the review. However, the Tribunal found the SIU’s explanation for the delay to be inadequate, and that the potential prejudice to the respondents were significant. The SIU lacked prospects of success on the merits, and the Tribunal could therefore not condone the delay as this would not serve the interests of justice. The Review Application was dismissed.  Similarly, the Tribunal found that the MEC had not made a proper case for an order of condonation, and that it would not serve the interests of justice to overlook the delay. The Counterapplication was therefore also dismissed. |
| Reported by  Date | African Legal Information Institute ([AfricanLII](https://africanlii.org/))  27 February 2024 |

1. Clarify the type of issues that come up in the case. [↑](#footnote-ref-1)
2. Summary of the facts, the main legal questions and/or grounds of appeal, and the court’s reasoning (between 150-250 words). [↑](#footnote-ref-2)
3. The ruling/judgment of the court, as given in the Order. [↑](#footnote-ref-3)
4. A 1-2 sentence summary of the basis of the decision (i.e. which legal rules were relied on). [↑](#footnote-ref-4)