



**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL LOCAL DIVISION, DURBAN**

**CASE NO.: 2025-147788
2026-010406**

In the interlocutory application of:

IMVULA QUALITY PROTECTION (AFRICA) (KZN) (PTY) LTD	First applicant
IMVULA QUALITY PROTECTION (AFRICA) (PTY) LTD	Second applicant

and

ETHEKWINI MUNICIPALITY	First respondent
FULLSERVE SECURITY SERVICES	Second respondent
LMS MASHIYA TRADING ENTERPRISE	
t/a QINISO PROTECTION SERVICE (PTY) LTD	Third respondent
TACTICAL SECURITY SERVICES	
GAUTENG PROVINCE CC	Fourth respondent
ROYAL SECURITY SERVICES CC	Fifth respondent
GAP MANAGEMENT (PTY) LTD	Sixth respondent
MJAYELI SECURITY SERVICES (PTY) LTD	Seventh respondent
SECURECO METSU (PTY) LTD	Eighth respondent
EXCELLERATE SERVICES (PTY) LTD	Ninth respondent
KSA SECURITY (PTY) LTD	Tenth respondent
VUSA ISIZWE SECURITY	Eleventh respondent
SHARKS PROTECTION SERVICES	Twelfth respondent
UNITRADE 1047 (PTY) LTD	Thirteenth respondent
SIPHO CELE	Fourteenth respondent

In re:

IMVULA QUALITY PROTECTION (AFRICA) (KZN) (PTY) LTD	First applicant
IMVULA QUALITY PROTECTION (AFRICA) (PTY) LTD	Second applicant

and

ETHEKWINI MUNICIPALITY	First respondent
FULLSERVE SECURITY SERVICES	Second respondent
LMS MASHIYA TRADING ENTERPRISE	
t/a QINISO PROTECTION SERVICE (PTY) LTD	Third respondent
TACTICAL SECURITY SERVICES	
GAUTENG PROVINCE CC	Fourth respondent
ROYAL SECURITY SERVICES CC	Fifth respondent
GAP MANAGEMENT (PTY) LTD	Sixth respondent
MJAYELI SECURITY SERVICES (PTY) LTD	Seventh respondent
SECURECO METSU (PTY) LTD	Eighth respondent
EXCELLERATE SERVICES (PTY) LTD	Ninth respondent
KSA SECURITY (PTY) LTD	Tenth respondent
VUSA ISIZWE SECURITY	Eleventh respondent
SHARKS PROTECTION SERVICES	Twelfth respondent
UNITRADE 1047 (PTY) LTD	Thirteenth respondent

In re:

VUSA-ISIZWE SECURITY (PTY) LTD	Applicant
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and

ETHEKWINI MUNICIPLITY AND 9 OTHERS	First to Tenth Respondents
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RULING

Chetty J

[1] Various private security companies, who are contractually bound to provide guarding services to the Ethekewini Municipality ('the municipality'), approached the court on an urgent basis for interdictory relief preventing the municipality from adjusting the rates currently paid for these services to those which existed as at 30 September 2017.

[2] The genesis of these disputes lay in the interpretation of an order granted on 9 November 2017 by Kruger J in case numbers 10810/2017 and 10922/2017 in the matters between *Imvula Quality Protection (Africa) (Pty) Ltd* and *Secureco Metsu (Pty) Ltd* and *Ethekewini Municipality and Thirty Five Others*. The relevant part of the order which has given rise to the present litigation, reads as follows:

'1. That the first respondent's decision to appoint [the] 2nd to 36 respondents and the applicants as a panel pursuant to the tender for the provision of security services under the tender number 1C- 18381 be and is hereby reviewed and set aside.

2. That the first respondent be and is hereby directed to undertake the tender process afresh, and to publish the tender by 16 February 2018.

3. In respect of the existing Security Services Contracts with the so-called "incumbents" (the existing security providers) the First Respondent is authorised to procure security services by:

3.1 *permitting the existing security service providers to, subject to paragraphs 3.1 to 3.4 and 4 below, continue rendering security services to the first respondent on the same terms which apply until 30 September 2017;*

3.2 procuring security services through the appropriate procedure set out in the first respondent's supply chain management policy ('the new procurement process'). (My italics.)

[3] It is common cause that following the granting of the above order, the municipality continued to engage the services of the security service providers for almost eight years to date, and until recently has continued to pay the applicable

statutory rates for guarding services together with the annual inflationary increases. Various attempts have been made to undertake a public procurement process for the granting of various security contracts, since 2018. That process has been challenged at various levels, the details of which are not relevant for the purposes of the present ruling.

[4] What is of importance is that towards the end of 2025, the municipality for reasons including the costs of the current supply of security services which has become 'unsustainable', decided to revisit its obligations in terms of the order granted on 9 November 2017. In summary, the municipality formed the view that the wording of the order of Kruger J and the proper implementation of the order, did not contemplate the payment of escalating rates to providers of security services, and that such rates should have been "pegged" at the rates applicable as at September 2017.

[5] While the municipality and the security service providers were engaged in litigation pertaining to a disputed new tender, an email was sent by the municipality to all existing security service providers (the incumbents under the November 2017 order of Kruger J) of the intention to pay only those rates which applied as at September 2017, on the basis that the municipality had erroneously paid the increased rates in the intervening period since November 2017. It further gave notice of the intention to recover such monies that were erroneously paid.

[6] Upon the service providers receiving notification of this intended action by the municipality, various applications were launched on the basis that this practice had continued for the past eight years without any demure from the municipality in respect of the applicability of the annual increase in tariff. The relief sought by Imvula Quality Protection in case number 2025-147788 was to hold the municipality in contempt for breaching the order of Kruger J.

[7] The service providers threatened immediate action against the intention of the municipality to reduce the rates for guarding services. In order to ward off urgent applications being brought over the December 2025 recess, the parties agreed to an undertaking that the municipality would continue paying the prevailing rates for December 2025. The present litigation was launched on the basis that going forward,

beyond January 2026 the service providers run the risk of rendering services, which on the municipality's version, should be paid for at 2017 rates.

[8] It was therefore not surprising that a number of the service providers, employing significant numbers of employees dependent on receiving their salaries for January 2026, approached the court on an urgent basis for an order interdicting the municipality from reverting to the rates as at September 2017, and for a declaratory order that the proper interpretation of the order of Kruger J could not, on any sensible interpretation, intended that the rate of pay should have been "pegged" at those applicable at September 2017.

[9] Three urgent applications brought under case numbers 2026-009607/13605/6755 came before my sister Hadebe J on 26 January 2026. The applicants were Excellerate Services (Pty) Ltd, Khuselani Security Risk & Management (Pty) Ltd and Unitrade 1047 (Pty) Ltd trading as Isidingo Security Services. These applications are in all material respects similar to the undisputed facts and the relief sought in the applications that came before me on 29 January 2026. The relief all revolves around the interpretation of paragraph 3.1 of the order of Kruger J.

[10] Prior to the matters coming before Hadebe J, I had already engaged with the parties in the present matter and held two virtual conferences in order to narrow the issues and the ambit of the enquiry before me. This was partly initiated as the matter had been set down as an opposed application at the end of the motion court roll for 29 January 2026. Two other opposed matters lay ahead of the present matter on the roll for that day. In all likelihood, there would not have been sufficient time for the matter to be heard and this was brought to the attention of counsel.

[11] It had further been brought to my attention on 26 January 2026 the matter before Hadebe J had been resolved, in the interim, on the basis of an order adjourning the matter to 22 February 2026 and granting the parties leave to approach the Judge President, in writing, with a request that the applications before Hadebe J be heard by a Full Court not later than in March 2026. In the event that a Full Court could not be constituted, the applicants were permitted to pursue their applications, individually or as consolidated matters. Importantly, the municipality undertook to make payment to

the applicants in the matter in accordance with the prevailing rates that were paid up until December 2025 for the months January, February and March 2026. The undertaking made by the municipality was recorded as being without prejudice and further that it did not impede the right of the municipality to recover any and all amounts owing to it, which were paid erroneously. It was further expressly recorded that the undertaking afforded to the applicants would not extend beyond the end of March 2026. Should the applicants seek relief beyond that date, the appropriate relief from the High Court would be required. The municipality indicated that it would be opposed to any such extension of the undertaking.

[12] Against this backdrop an approach was made by the parties before Hadebe J to the Judge President for the allocation of a preferent date in accordance with the order.

[13] In light of it not being possible to hear the present application on 29 January 2026 as it became opposed and various other service providers indicated their intention to join in the proceedings, I held a discussion with the leaders of each of the legal teams in Chambers. I was advised of the contents of the order issued by Hadebe J. After considering the matter, I concluded that I was not bound by the order, and indicated to counsel that I did not believe that the matter warranted the attention of a Full Court as it was a matter of interpretation and not an appeal against the decision of Kruger J. My view was that the matter could serve before a single judge.

[14] Attempts to secure a date from the office of the Registrar for an opposed application before end of March 2026 yielded no success. I was further advised by the Deputy Judge President that there were no dates available earlier than 20 May 2026 on the normal opposed roll, and not earlier than 12 June 2026 on the special opposed roll.

[15] In light of this predicament, the parties returned with a request that I make a determination based on the following terms of reference, which would be supported by brief written submissions of counsel. The terms of reference are:

'It is agreed between the applicants under case numbers 2025-147788 and 2026-010406 and the Municipality that:

1. The Court is to determine the order to be granted, from among the submitted draft orders, and/or with such variations as it deems fit, including but not limited to that the hearing be held on 12 June 2026 in L Court;
2. The parties are permitted to deliver written submissions on the above question not exceeding five pages, by no later than 16:00 on 30 January 2026; and
3. In the interim, while the order contemplated in paragraph 1 is being considered, the Municipality shall process and pay the invoices submitted by the above applicants for the service months from January 2026 (subject to the usual administrative queries) and until this order is handed down, which includes that the Municipality shall make those payments at the same rates and on the same terms as were applicable for the December 2025 service month and before.'

[16] In the intervening period, the Judge President responded on 29 January 2026 to the parties pursuant to the order of Hadebe J as follows :

'The Full Court gets constituted when the issues to be determined affect the greater community and are of legal importance. We also consider whether there are any conflicting judgments on the issue. I do not believe that your matter falls in that category. In any event, we would not be able to get the matter heard by end of March 2026.

Kindly therefore liaise with the Registrar to set the matter down on an ordinary opposed motion Court or L Court.'

[17] The response of the Judge President effectively put paid to any hope of the matter being heard by a Full Court before the end of March 2026. The earliest dates available for the consolidated hearing of all matters which revolve around the interpretation of the order of Kruger J on 9 November 2017 was either 20 May 2026 at the end of the normal motion court roll, or as a special opposed application (referred to as 'L Court' as a matter of practice in the Division). The date for the latter allocation was given as 12 June 2026, which is the date preferred by the applicants. This is the earliest available date that would allow time for the full hearing of the application.

[18] The issue for me to determine, in light of the prevailing circumstances and the response from the Judge President, is whether the undertaking issued in the application before Hadebe J should be followed, or whether the similar undertaking in the application before me should be extended to the date when judgment is finally granted by the court hearing the application on 12 June 2026. The opposition by the

municipality to the extension of the undertaking beyond 31 March 2026 is based primarily on unaffordability. Moreover, the municipality contends that it falls outside the scope of this court's powers to compel them to an extension, without the matter being fully argued.

[19] The contention advanced on behalf of the applicants is that the proposal for an undertaking to be extended up until the date when judgment is delivered in the application is pragmatic and sensible. The undertaking before Hadebe J provides interim protection to the applicants and their employees only until 31 March 2026. The reality of the situation is that unless the parties agree to an extension of the rates in the form of a without prejudice undertaking, I have little doubt that the same flurry of litigation which this court has experienced by almost every security service provider to the municipality, will repeat itself at the end of March 2026, where the applicants will seek the same or similar relief to that currently before the courts. Apart from unnecessary legal costs being incurred by all parties concerned, it is not desirable that different judges hear different applications based on the same facts requiring the same interpretation of a single order of Kruger J. This will not be a proper use of judicial resources. It also fosters the risk of divergent judgments on the same issue, based on interpretation of the same order.

[20] The municipality has been paying the 'escalated' rates for the past eight years. The applicants concede that any order taken in this matter does not prevent the municipality to claw back funds which were overpaid. This would extend to include payments made between now and the extension of the interim undertaking beyond 31 March 2026. Therefore, there is no immediate prejudice to the municipality. To not allow an extension would be, as submitted on behalf of the applicants, to march them "to a financial cliff-edge by the end of March 2026, with no curial safety net".

[21] The municipality's undertaking to extend the payment regime only until 31 March 2026 runs the risk of leaving thousands of municipal sites unguarded from 1 April 2026, and in breach of its constitutional duties to protect infrastructure and to ensure that members of the public utilising public facilities, whether they be libraries, swimming pools or enjoying a walk along the beachfront, are not exposed to unsafe conditions arising from the total absence of guarding services.

[22] In my view, taking into account all of the submissions before me as well as the practicalities of having such matter heard, the draft orders proposed by the applicants are found to be more favourable than the 'hard sunset' proposed by the municipality of the undertaking ending at the end of March 2026. The ruling I make below ensures a fair and equitable arrangement for the adjudication of the matter, bearing in mind that if the interpretation favoured by the municipality is found to be the proper and sensible interpretation of the order of Kruger J, the service providers will face further litigation from the municipality to recover monies paid in error. The order also seeks to avoid any disruption to the employees rendering guarding services, as well as averting any possible calamity that could result from having certain sites unguarded.

[23] The present ruling is not an interdict per se, but rather an order that maintains the status quo pending the final determination of the dispute.

Order

[24] In the result I make the following order:

1. This application, together with application 2026-010406 [Vusa-Isizwe Security (Pty) Ltd v eThekweni Municipality & Others], is postponed for hearing on the opposed motion roll of Wednesday, 12 June 2026.
2. The hearing referred to in paragraph 1 shall be confined to the final determination of the following issues:
 - 2.1 the proper interpretation of paragraph 3.1 of the order of this court (*per* Kruger J) dated 9 November 2017, and specifically whether the words "*permitting the existing service providers to ,..., continue rendering security services to the [eThekweni Municipality] on the same terms which apply until 30 September 2017*" permit the escalation of rates (statutory and inflationary) or restricts remuneration to 2017 values; and
 - 2.2 whether the applicants are entitled to relief and if so, what relief, consequent upon the court's determination of the issue in 2.1 above.
3. Pending the final determination by this court of the issues defined in paragraph 2 above, the first respondent is directed to:

- 3.1 process and pay the invoices of the incumbent service providers for the service months from January 2026 and following until the issues in paragraph 2 are finally determined by this court;
 - 3.2 the duty in paragraph 3.1 will include the duty to accept the incumbent service providers' January 2026 schedules and to make payment in accordance with them by not later than 31 January 2026 and to do the same, *mutatis mutandis* in the following months; and
 - 3.3 effect all those payments calculated at the same rates and on the same terms as were applicable (and paid to) the incumbent service providers (the applicants) for the December 2025 service month, thereby maintaining the *status quo* and suspending the implementation of the first respondent's instruction of 29 December 2025.
4. The parties are directed to comply with the Practice Directives of this Division in regard to the filing of heads of argument in light of the date allocated for argument.
5. The costs occasioned by the adjournment of the proceedings on 29 January 2026 are reserved for determination by the court hearing the opposed application. .

Chetty J

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Date of the hearing: 29 January 2026

Date of order issued: 11 February 2026