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FORMER MINISTER BATHABILE DLAMINI DEFIES CONSTITUTIONAL COURT

The Black Sash Trust, the Centre for Applied Legal Studies and Freedom Under Law are deeply concerned about Bathabile Dlamini's refusal to pay legal costs awarded against her for her role in the social grants crisis over two years ago. The former Minister of Social Development was ordered by the Constitutional Court in 2018 to pay a portion of the costs of litigation brought in an effort to protect the social grants system. She has so far defied the order and all efforts to recover these costs.

In September 2018, the Constitutional Court handed down a [historic ruling](#), for the first time holding a sitting cabinet minister personally responsible for their failures in carrying out their duties. The judgment related to litigation brought by the Black Sash Trust (represented by the Centre for Applied Legal Studies) and joined by Freedom Under Law. The Court found then-Minister of Social Development, Bathabile Dlamini, personally liable for her role in the crisis which led to the litigation.

The judgment not only found the Minister's conduct had been "reckless and grossly negligent" – it went one step further and ordered her to pay 20% of the legal costs of the Black Sash Trust and Freedom Under Law from her own pocket. The South African Social Security Agency (SASSA) and the Ministry of Social Development were directed to cover the remaining 80% of the costs. This sent an important message that public officials must be held to account for their actions, and was widely applauded given how the Minister's conduct had put millions of people's lives and livelihoods at risk.

Yet, while the government has paid their portion of these costs, former Minister Dlamini has avoided every attempt at recovering her share – which amounts to about R55,000 for Black Sash and R600,000 for Freedom Under Law. Both organisations have tried without success to issue letters of demand to Ms Dlamini through her attorneys. Her response to these efforts was to change law firms. At this point, we are taking steps to approach the Sheriff of the Court to attach Ms Dlamini's property in order to recover our costs. The former Minister is continuing to avoid these efforts.

"Ms Dlamini's behaviour shows a blatant disregard for the Court," says Anesu Dera from the Centre for Applied Legal Studies. "Personal cost orders are intended to hold officials accountable for their actions, yet how can they be effective if we cannot enforce them? The relatively small amount pales in comparison to the costs of the litigation overall."

"We have noted excuses published in the media for Ms Dlamini's refusal to pay, but have heard nothing from her directly," says Lynette Maart, national director of the Black Sash Trust. "Ms Dlamini claims she has not received pension pay outs, but as a member of cabinet she would have earned a salary of over R2 million per year with perks and many expenses covered. In light of this, the costs we are asking for should surely not be out of her reach."

For inquiries, please contact:

From the Black Sash Trust

Hoodah Abrahams-Fayker
hoodah@blacksash.org.za
072 252 0333

Lynette Maart
lynette@blacksash.org.za
083 628 3425

From the Centre for Applied Legal Studies

Anesu Dera
Anesu.Dera@wits.ac.za
076 774 8337

Ariella Scher
Ariella.Scher@wits.ac.za
083 390 4490

From Freedom Under Law

Nicole Fritz
nicolefritz@outlook.com
082 452 3909