



RULING ON MEDIA ACCESS

Commissioner: Cameron Morajane
Case No.: GATW3508-15
Date of Ruling: 30 October 2015

In the arbitration between:

Adrian Marck Lackay

Union/Applicant

and

South African Revenue Services (SARS)

Respondent

Media 24 & Others representative: Adv Heidi Barnes
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SARS representative: Adv A M Mtembu
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Introduction

1. The CCMA is in the process of developing Rules and Guidelines on Media Access to its Arbitration Hearings. I have noted that Media 24 & Others have submitted that I make a declaratory order relating the media access. In light of the fact that the CCMA is in the process of making rules as mentioned above, I am unable to rule on this declaratory order. I will only make a ruling on the alternative remedy submitted by Media 24 & Others.
2. The ruling below therefore relates to the alternative remedy which is access to the case of Adrian Marck Lackay v SARS in case number GATW3508-15. Media is not only the life blood and soul of our democracy, it is the vanguard of all institutions of statutory and constitutional creation. It is on this ground that the CCMA views this application very seriously. I now proceed to rule on the alternative remedy as sought by Media 24 & Others.

Ruling

3. On the objection raised by SARS that the CCMA does not have jurisdiction to determine media access to the arbitration proceedings, I hereby rule that the CCMA does have jurisdiction and the objection by SARS to the CCMA's jurisdiction is hereby **dismissed**.
4. The application by Media 24 & Others to have access in the arbitration proceedings of Lackay v SARS in case number GATW3508-15 is hereby **granted**.
5. Media 24 & Others are allowed, **subject** to clause 6.3 below : -
 - 5.1 to take notes of proceedings including making use of handheld recording devices to record proceedings or parts thereof, for purposes of writing and publishing articles in the print and digital media;
 - 5.2 to access all documents submitted during the course of the arbitration proceedings;

- 5.3 to post online articles or comment by way of social media during the course of the proceedings and
- 5.4 to take photographs at and inside the venue, provided that no photographs are taken while the proceedings are in session.
6. The presiding commissioner has a discretion to limit access of the media to the arbitration proceedings and documents, having regard to the following :
- 6.1 possible obtrusive conduct of the media before and during the arbitration proceedings;
- 6.2 the size of the hearing rooms;
- 6.3 any issues of confidentiality, privacy, award, court order or statutory enactment;
- 6.4 the role of legal representatives;
- 6.5 nature of the evidence and
- 6.6 possible prejudice to the witnesses.
7. Media 24 applied for a cost order against SARS and I hereby rule that the costs be the costs in the course. The order as to costs will be determined by the presiding commissioner having regard to this application and the arbitration proceedings as a whole.



CAMERON MORAJANE
NATIONAL SENIOR COMMISSIONER
LEGAL SERVICE