



South African Federation of Trade Unions

5th Floor, JC Bez Building, Corner Frederick and Eloff Street, Johannesburg
Tel: 011 331 0124 Fax: 011 331 0176 Email: info@safu.org.za Website: <http://safu.org.za>

07 March 2023

Comrade Irvin Jim
General Secretary
National Union of Metalworkers of South Africa (NUMSA)
Newtown

Dear Comrade Irvin Jim

We refer to your letter dated the 28th of February, 2023

Firstly, there is no such concept as a "deployee" in the Federation's Constitution. The NEC long clarified that the National Office Bearers of the Federation elected in the National Congress are not deployees of any union. Therefore, your starting point is unconstitutional and without any basis in law.

The SAFTU General Secretary is only answerable to the Federation in terms of, *inter alia*, the provisions of the Federation's Constitution. The Constitution is the primary document that regulates the terms and conditions of his appointment, which constitutionally arises from an election at a National Congress every four years. This was clarified even by the South Gauteng High Court in 2014, interestingly, in a matter between NUMSA and SAMWU vs COSATU when COSATU illegally suspended its General Secretary. (See the link for further reference on the court judgement:

<https://www.saflii.org/za/cases/ZAGPJHC/2014/59.pdf>) The SAFTU constitution is therefore the only enforceable contract between the General Secretary and the Federation.

The SAFTU General Secretary and the former Deputy General Secretary were already elected officials of SAFTU when they stood for re-election and were nominated in line with the provisions of the Constitution. The General Secretary was elected to serve a second term as the General Secretary of the Federation.

- Section 3.4.7 of SAFTU's Constitution states the following:

"3.4.7 In addition to those set out in 1.4.5 above, any official of the Federation or any affiliate may stand for election as the General Secretary or the Deputy General Secretary;

3.4.8 Those duly elected shall hold office for a period of four years, unless recalled in terms of this Constitution;"

SAFTU NATIONAL LEADERSHIP

President: Ruth Ntlokotse, 1st Deputy President: Thabo Matsose, 2nd Deputy President: Maredi Mosima, National Treasurer: Motshwari Lecogo,
General Secretary: Zwelinzima Vavi, Deputy General Secretary: Nontembeko Luzipo

- The SAFTU General Secretary was duly elected to that position despite NUMSA's active and most vociferous opposition to his nomination.
- Furthermore, you are referred to the definition of *official* in section 213 of the Labour Relations Act, which states:

"**official** in relation to a trade union, employers' organisation, Federation of trade unions or Federation of employers' organisations means a person employed as the secretary, assistant secretary, organiser of a trade union, employers' organisation or Federation, or in any other prescribed capacity whether or not that person is employed in a full-time capacity."

Zwelinzima Vavi has never been a member of NUMSA. As a result, section 1.1 of Chapter 9 does not apply to him. The last time he was a member of any union was when he was a member of the National Union of Mineworkers.

Consequently, NUMSA has no right to discipline or recall Zwelinzima Vavi in line with section 1.1 of Chapter 9 of the SAFTU Constitution.

Zwelinzima Vavi was democratically elected the Federation's General Secretary at its last National Congress in 2022. NUMSA is trying to categorise him a depoyee, an official, or a member of NUMSA so that it can recall him and thereby undermine the product of a democratic process because, *inter alia*, it never got its way when its nominee for General Secretary failed to be elected. Disciplining one's "opposition" to gain the upper hand is undemocratic and seeks to undermine the majority's will.

Even if this recall was constitutional and within the ambit of the law, which contention we flatly reject, it should be the last resort and can only take place after extensive engagement with the Federation or the individual concerned. This is what the rules of natural justice demand. This has not taken place. SAFTU had written four letters to NUMSA National Office Bearers calling for a discussion so that NUMSA can present its case against Zwelinzima Vavi or any other SAFTU leader, where he or others will have an opportunity to defend himself or themselves. You have flatly refused even to acknowledge these letters.

Zwelinzima Vavi, even before the Federation was born in April 2017, wrote a letter complaining about the lack of support from NUMSA leadership. Further he wrote a letter complaining about his calls not being answered by the NUMSA General Secretary. He had forced himself to at least one meeting of the NUMSA NOBs demanding that NUMSA play a leading role in the Federation's activities.

In addition to all this, NUMSA's NEC and Central Committee has repeatedly called on NUMSA NOBs to arrange meetings with the SAFTU NOBs to discuss their areas of discomfort. Such NUMSA NEC and CC resolutions were never carried out by your good self.

Without all this happening, there is now a letter of recall, accordingly, SAFTU's General Secretary is not going to respond to any of the baseless allegations contained in your letter because the SAFTU General Secretary is not one of your staff members, your official or member.

The question is, why? Why should this not be interpreted as a deliberate and sinister move to destabilise the Federation? The decision to issue this letter was ill-advised and is regrettable.

The NUMSA leadership is once again invited to meet with the Federation's NOBs about this matter, which hopefully can resolve NUMSA's concerns through frank and robust

SAFTU NATIONAL LEADERSHIP

President: Ruth Ntlokotse, 1st Deputy President: Thabo Matsose, 2nd Deputy President: Maredi Mosima, National Treasurer: Motshwari Lecogo, General Secretary: Zwelinzima Vavi, Deputy General Secretary: Nontembeko Luzipo

discussion conducted in the interests of both SAFTU and NUMSA, as well as the broader working class.

We call on the National Office Bearers of NUMSA:

1. To actively participate in the programs and campaigns of SAFTU as an affiliate that had taken resolution to build SAFTU.
2. To work hard with other SAFTU affiliates to implement all the resolutions of the 2nd National Congress of SAFTU and other structures.
3. To consistently pay NUMSA's affiliation fees to SAFTU so that the Federation's operations and programs can be carried out to its logical conclusion

As is to be expected, should the NUMSA General Secretary and NOB pursue its unconstitutional and unlawful intention to "recall", both SAFTU's and Zwelinzima Vavi's rights are also reserved.

.
Comradely yours



Zwelinzima Vavi
General Secretary

SAFTU NATIONAL LEADERSHIP

President: Ruth Ntlokotse, 1st Deputy President: Thabo Matsose, 2nd Deputy President: Maredi Mosima, National Treasurer: Motshwari Lecogo,
General Secretary: Zwelinzima Vavi, Deputy General Secretary: Nontembeko Luzipo