



FREE STATE HIGH COURT, BLOEMFONTEIN
REPUBLIC OF SOUTH AFRICA

Reportable:	YES/NO
Of Interest to other Judges:	YES/NO
Circulate to Magistrates:	YES/NO

Case No.: 5265/2014

In the matter between:

AGRICULTURAL RESEARCH COUNCIL

Plaintiff

and

**SOUTH AFRICAN STUD BOOK AND ANIMAL
IMPROVEMENT ASSOCIATIONS**

PIERRE VAN ROOYEN

CHARL UYS

ROBERT ROLFE VAN DER WESTHUIZEN

JACOB VAN DER WESTHUIZEN

HELEN ELIZABETH THERON

FRITZ VOORDEWIND

BERNICE MOSTERT

NICO DE JAGER

1st Defendant

2nd Defendant

3rd Defendant

4th Defendant

5th Defendant

6th Defendant

7th Defendant

8th Defendant

9th Defendant

CORAM:

HANCKE, J

JUDGMENT:

HANCKE, J

HEARD ON:

17, 18 and 19 OCTOBER 2016

DELIVERED ON:

10 NOVEMBER 2016

INTRODUCTION

- [1] The plaintiff instituted action against the defendants for certain relief, *inter alia* a declaratory order and interdictory relief, as well as payment of an amount in excess of R90 million.
- [2] The plaintiff's cause of action is based on *inter alia* unlawful conduct, transgressing of statutory enactments and infringement of its copyright.
- [3] After the closing of pleadings, the following order was issued on 26 November 2015:

“It is ordered that: (by agreement)

- 1. The issues defined and delineated below shall be decided separately in terms of Uniform rule 33(4):
 - 1.1 Whether or not the ARC is “The (only) organisation” contracted by the department of agriculture (now Department of Agriculture, Forestry and Fisheries) to operate INTERGIS;
 - 1.2 Whether or not the LOGIX System been operated by the first defendant fall within the definition of INTERGIS set out in section 1 of the Animal Improvement Act, No 62 of 1998; and
 - 1.3 Whether or not Stud Book as a statutory appointed registering authority, acting through one, more or all of the 2nd to 9th defendants:
 - 1.3.1 Is legally permitted to operate the LOGIX System;
 - 1.3.2 Is legally obliged to submit or record all pedigree and performance data received and recorded by it

on submitted to it as a registering authority acting on behalf of breeders' societies to the ARC – INTERGIS; and

1.3.3 Is trading in contravention of the statutory provisions in the manner as pleaded in paragraphs 86 to 88 of the particulars of claim."

[4] At the commencement of the trial the plaintiff ("the ARC") and the first defendant ("Stud Book") agreed to a further separation of the issues already separated in the following terms:

- "1. Whether in the absence of "a manner approved by the registrar" in terms of the Animal Improvement Act (No 62 of 1998) ('the AI Act') a breeders' society/breeder (as defined in the AI Act) is obliged to submit pedigree and performance data of its registered animals (as defined in the AI Act) to the INTERGIS (as defined in the AI Act);
2. By agreement between the parties, if the obligation is confirmed:
 - a. an order to that effect will be made; and
 - b. Stud Book will pay the costs incurred in relation to the trial on separated issues; and
3. If the obligation is not confirmed, the ARC will pay the costs incurred in relation to the trial on separated issues.
4. All the issues are stayed pending the determination by this court of the issue in paragraph 1."

[5] Mr Van Tonder, counsel for the plaintiff, submitted that the formulation of the issue originates from the following provisions of the AI Act, having regard to the name and purpose of the AI Act, namely 'animal improvement (in a

stated manner) ... in the interest of the Republic' and the participants under the AI Act are 'breeder[s]'; "animal breeders' societ[ies]; and registering authorities.'

- [6] The present action thus involves the interpretation and the application of the AI Act to the affairs of the first defendant (Stud Book), being a registering authority and a breeders' society or group of breeders' societies as defined in the AI Act. The critical issues is thus whether Stud Book's members are expressly or by necessary implication obliged to submit certain information to a national data bank (named INTERGIS) relating to the activities regulated under the AI Act.

- [7] To adjudicate this matter it is necessary to have regard to the applicable statutory enactments and regulations, the wording thereof, as well as certain background circumstances which are undisputed.

- [8] The law regarding the interpretation of a contract is summarised in **Natal Joint Municipal Pension Fund v Endumeni Municipality** 2012 (4) SA 593 (SCA), where Wallis JA is stated:

"Over the last century there have been significant developments in the law relating to the interpretation of documents, both in this country and in others that follow similar rules to our own. It is unnecessary to add unduly to the burden of annotations by

trawling through the case law on the construction of documents in order to trace those developments. The relevant authorities are collected and summarised in *Bastian Financial Services (Pty) Ltd v General Hendrik Schoeman Primary School*. The present state of the law can be expressed as follows: Interpretation is the process of attributing meaning to the words used in a document, be it legislation, some other statutory instrument, or contract, having regard to the context provided by reading the particular provision or provisions in the light of the document as a whole and the circumstances attendant upon its coming into existence. Whatever the nature of the document, consideration must be given to the language used in the light of the ordinary rules of grammar and syntax; the context in which the provision appears; the apparent purpose to which it is directed and the material known to those responsible for its production. Where more than one meaning is possible each possibility must be weighed in the light of all these factors. The process is objective not subjective. A sensible meaning is to be preferred to one that leads to insensible or unbusinesslike results or undermines the apparent purpose of the document. Judges must be alert to, and guard against, the temptation to substitute what they regard as reasonable, sensible or businesslike for the words actually used.”

- [9] With reference to the earlier approach to the interpretation of contracts by Joubert JA in **Coopers & Lybrand and others v Bryant** 1995 (3) SA 761 (A) at 767 – 8, Wallis JA stated the following in **Bothma-Batho Transport (Edms) Bpk v S Bothma v Seun Transport (Edms) Bpk** 2014 (2) SA 494 (SCA):

“[12] That summary is no longer consistent with the approach to interpretation now adopted by South

African courts in relation to contracts or other documents, such as statutory instruments or patents. Whilst the starting point remains the words of the document, which are the only relevant medium through which the parties have expressed their contractual intentions, *the process of interpretation does not stop at a perceived literal meaning of those words, but considers them in the light of all relevant and admissible context, including the circumstances in which the document came into being.* The former distinction between permissible background and surrounding circumstances, never very clear, has fallen away. Interpretation is no longer a process that occurs in stages but is ‘essentially one unitary exercise”

See also: **Bertie van Zyl v Minister for Safety and Security** 2010 (2) SA 181 (CC) at para [22].

BACKGROUND

[10] It is evident that the defendants recognised the fact that INTERGIS functions as a national database and that INTERGIS performs a crucial important function as the only national recording system.

[11] At a meeting on 3 November 1998, attended by representatives from both parties, Dr van Rooyen (second defendant) confirmed that no system can be successful without full co-operation of all participants. Dr van der Westhuizen (fourth defendant) confirmed the importance that

INTERGIS must be maintained in full operation without any interruption.

[12] In the Memorandum Agreement between the parties signed on 15 July 1999, the following was stated under the heading:

“INTERGIS 2000 RELATED PRODUCT DEVELOPMENT:

- 19.1 It is the intention of the parties that all INTERGIS development and marketing of new products shall be a mutual effort to benefit the Livestock Industry as well as other related industries. The intellectual property rights shall remain with the parties.
- 19.2 Neither one of the parties shall begin the development of any product or other marketable item related to INTERGIS 2000 without prior consultation with the other party and only once the parties are *ad idem* as to which party, or both, shall do the development and marketing of the product, shall such development and marketing proceed.
- 19.3 It is further the intention of the parties that there should be no duplication of INTERGIS 2000 products or products to be developed, in order to prevent any form of competition between the parties.”

[13] On 25th January 1999 the registrar advised Dr van Rooyen that incompatible systems cannot be allowed and that all participants need to operate the INTERGIS due to the fact that the AI Act affects all stock owners. On 5 May 2005 Dr Van Rooyen confirmed the outstanding standard of the system to the exclusion of a foreign system. As late as 10 February 2010 Stud Book still supported the need for ‘an integrated animal recording and improvement plan’.

[14] In a letter addressed by Stud Book to the Minister of Agriculture, dated 17 August 2010, Dr van Rooyen expressed

some concern (within the Livestock Industry), about the deterioration and lack of service delivery by the ARC. He also stated that the schemes are important to the whole livestock industry, and referred to it as 'the world acknowledged National Small Stock Recording and Improvement Scheme'.

- [15] In a letter dated 22 September 2010 Dr van Rooyen again expressed concerns regarding serious capacity problems as well as the deterioration of services. He also stated the following:

"This world class, custom made system is accredited by ICAR (International Committee for Animal Recording). This means that everything we do adhere to international standards and is therefore internationally acknowledged. The INTERGIS is funded by the (Department of Agricultural, Forestry and Fisheries (DAFF)), which currently contracts the ARC to manage the INTERGIS and the ARC in turn subcontracted SA Stud Book to manage day to day operation of the INTERGIS."

- [16] In a further letter of Stud Book to DAFF, dated 28 February 2011, Dr van Rooyen confirmed that the current schemes are excellent, the INTERGIS Animal Recording System is one of the best in the world and that the AI Act regulates importations, exportations and multiplication of genetic material in the country and intends to ensure 'effective animal improvement' of all South Africa's livestock resources.

- [17] On 14 April 2011 the then President of Stud Book, Mr C H Nel, addressed a letter to President Zuma, stating *inter alia* the following:

“In order to identify the genetically superior producers, animal recording and production measurements need to be performed. Animal recording has two branches – one is the recording of pedigrees (births and parentage) whilst the other, the recording of reduction measurements (growth rate, litres milk, etc.).

For many years the recording of these vital measurements has been done by SA Stud Book (pedigree recording), a private non-profit organisation as a Registering Authority under the Animal Improvement Act, 1998 (Act 62 of 1998) representing the one branch of the ARC (Production Measurement Recording) representing the other branch.

The information from both branches is integrated and processed on a highly sophisticated, state of the art, Animal Recording computer system, called INTERGIS.”

[18] On 13 June 2011 Stud Book confirmed that it represents the life stock industry and depicted an INTERGIS system as a ‘highly sophisticated, excellent and valuable system, that has been up and running efficiently for more than a decade’. Any neglect of it will result in ‘inevitable disadvantages and adverse effects, not only to the livestock industry as a whole and the individual breeders ...’.

[19] On 28 June 2011 Stud Book notified the presidents of breeders’ societies and breeders of its intention to privatise the livestock industry recording, operated until then by INTERGIS. In a letter dated 1 July 2011 by the president of Stud Book addressed to Dr Moephuli of the ARC, Mr Nel stated that:

‘It should be remembered that there will be no data on the INTERGIS if it is not submitted by us, the farmers.’

- [20] In the address from Stud Book officials to the Agricultural Portfolio Committee, the following was *inter alia* stated:

‘Now the INTERGIS is only a system. It is a very highly sophisticated animal recording system, computer system. That is all the INTERGIS is. Its computer hardware and software. And there the pedigree information and performance information is integrated. And from that, the product that you get from that is the BLUP breeding estimated value which the farmers can use for all these schemes to identify the genetically high potential animals and carry on with breeding. Now ... DAFF contracted the ARC to manage the INTERGIS. That’s again the system. The Animal Improvement Act, Act 62 of 1998 stipulates that DAFF can contract by choice who must manage the INTERGIS as the national databasis. Because in the Act the INTERGIS is declared as the national database. The ARC on their turn then subcontracted Stud Book to manage the day to day operations of the INTERGIS. For this Stud Book is paid at cost and all the IT personnel and offices and adaptability of office space where the INTERGIS system is, is Stud Book in Stud Book’s building and Stud Book’s personnel. And the ARC subcontracts us to manage the INTERGIS with our IT team.’

- [21] During December 2011 the Service Agreement was terminated, and since 1 December 2011 Stud Book stopped to render any services to the ARC. Around the same time the INTERGIS-system was relocated from Stud Book’s premises in Bloemfontein to ARC’s premises in Irene.

- [22] Also of importance is the developments regarding STUD BOOK'S CONSTITUTION. The 2009 constitution of Stud Book was submitted to the registrar for approval on 29 October 2009 and Stud Book was advised on 6 November 2009 that the constitutional amendments are consistent with the AI Act.

Stud Books 2009 constitution defines in paragraph 1.25 "INTERGIS 2000 as

'the computerised integrated registration and genetic information system capable of integrating pedigree and performance data of animals which is been jointly developed and managed by the Association (Stud Book) and the Agricultural Research Council: Animal Improvement Institute.'

Stud Books 2009 constitution further states that:

'Subject to the provisions of the Act and this Constitution, the objectives and powers of the Association shall be:

1. to encourage and promote the breeding and genetic improvement of the production potential of animals in South Africa;
2. to, jointly with the Agricultural Research Council, Animal Improvement Institute, manage INTERGIS 2000.'

- [23] Thereafter there was an attempt on 19 October 2011 to amend Stud Books constitution. A further attempt to amend its constitution on 31 October 2013 was made and submitted

same to the registrar for approval. The proposed amendments sought deleted the definition of INTERGIS 2000 and to introduce a paragraph stating that: 'system' means 'the computerised LOGIX Animal Recording System used by SA Stud Book for the recording and processing of animal data as supplied by the users of Stud Book's Animal recording services.'

[24] What is of importance is that all the versions of Stud Book constitution state that:

"No such addition to or amendment of the Constitution shall be of any force or effect until the provisions of the Act, if any, have been adhered to."

[25] It is also significant to note that all the versions of the constitution retain the provision that:

"Subject to the provisions of the Act in this Constitution, the objectives and powers of the Association, shall be to encourage and promote the breeding and genetic improvement of the production potential of animals in South Africa, i.e. to conduct animal improvement, as defined in the Act."

[26] The proposed October 2013 constitution was submitted to the registrar on 13 January 2014 and on 6 May 2014 the registrar communicated certain objections to Stud Book.

STATUTORY LAW

[27] It is important to have regard to the long title of the Act namely “To provide for the breeding, identification and utilisation of genetically superior animals in order to improve the production and performance of animals in the interest of the Republic; and to provide for matters connected therewith.” **Sheely v Registrar and Taxing Master** 1911 TPD 299.

[28] The AI Act defines ‘animal improvement’ as: “The scientifically based identification of genetically superior animals *by means of the integrated registration and genetic information system* or in a manner approved by the registrar and the discerning use thereof to improve the production or performance ability of the animal population in the interest of the Republic.”

[29] The ‘integrated registration and genetic information system’ means ‘the computer system which has been establish in co-operation with the department to integrate the pedigrees and performance data of animals.’

In the regulations under the AI Act, it is described as ‘the National Databank for animal recording and improvement’.

It is also important to note that in terms of section 11(1)(c) of the AI Act animal breeder’s societies maybe registered only if their constitutions ‘specifically provides ... for the continued commitment to animal improvement.’

- [30] The stated object of the AI Act is to provide for breeding identification and utilisation of genetically superior animals in order to improve the production and performance of animals in the interest of the Republic. (See long title of the AI Act)
- [31] The participants under the AI Act are ‘breeders; animal breeders; breeders’ societies; and registering authorities.’ In terms of section 11(1)(c) of the AI Act animal breeders societies may be registered only if their constitutions provides ‘for the continued commitment to animal improvement.’
- [32] The statutory definition therefore identifies “a system” through which the objective of the AI Act has to be achieved, in the absence of an alternative “manner to be approved by the registrar.” The function of the “system” is therefore to integrate “the pedigrees and performance data of animals ... in the interest of the Republic.”
- [33] Stud Book is a registering authority and an animal breeders’ society or a group of animal breeders’ societies in terms of section 8(7)(a)(ii) of the AI Act. In terms of section 29(3)(d) of the AI Act, Stud Book shall have the powers of an animal’s breeders society.

In this regard it is important to have regard to section 8(8) of the AI Act, which reads as follows:

“The registration of a person ... or registering authority ... is subject to the provisions of this Act and the prescribed conditions.”

- [34] Stud Book is thus subject to the same obligations pertaining to animal improvement by means of INTERGIS, unless a different manner had been approved by the registrar.

THE ARGUMENTS

- [35] Mr Van Tonder counsel for the plaintiff, submitted that the function of the National Database (INTERGIS) dictates the obligatory participation in INTERGIS, in view of section 11(2)(b)(iv), which provides that the constitution of a registering authority must provide that a breeder’s right to direct participation in INTERGIS is acknowledged in the event of the animal breeder’s societies failure to comply with its own constitution.

- [36] Counsel for the plaintiff, relying on the wording of section 15(3) of the AI Act,¹ submitted that a registering authority can only issue a certificate of registration/recording of an animal, if it has registered on behalf of the breeder of the animal concerned a prefix (or suffix) to indicate animals bred by him or her, with the ARC, being the organisation which is contracted by DAFF to operate INTERGIS. The effect of

¹ Section 15(3) reads as follows:

“(a) A certificate referred to in subsection (2)(a) and (b) shall only be issued if the registering authority concerned has registered on behalf of the breeder of the animal concerned a prefix or a suffix to indicate animals bred by him or her with the organisation which is contracted by the Department to operate the integrated registration information system,”

section 15(3) is that to obtain a *valid* certificate of registration (and of – recording), it has to be issued in accordance with subsection (3)(a).

[37] As far as the establishment of schemes are concerned, the Minister may in a notice in terms of section 20(3) of the AI Act:

- “(a) designate the person who or the body which shall exercise the powers and perform the duties conferred or imposed in terms of the said notice; and
- (b) authorise such person or body to make rules in consultation with the organisation contracted by the Department to operate the integrated registration and genetic information system.” (INTERGIS)

[38] The Schemes of the AI Act, the Regulations and the Animal Improvement Schemes are such that it recognises only one National Databank (i.e. INTERGIS) which Databank integrates the pedigrees and performance data of animals. Although compulsory language is not used in so far as participation in Schemes are concerned, the legislative scheme as a whole is clearly aimed at regulating and improving breeding animals by, firstly, direct or indirect participation in a recording system known and established as INTERGIS and, secondly, participation in the Animal Improvement Schemes which is aimed *inter alia*, at accurate performance data measurement and recording.

- [39] The submission that the obligation to submit data to INTERGIS exists only in respect of the data that has been recorded in terms of a scheme therefore ignore the clear purpose of the AI Act, which is aimed at animal improvement through the system described as INTERGIS. I agree with Mr Van Tonder's submissions that the context of the AI Act clearly indicates that animal improvement is to be achieved through the computer system described as INTERGIS, which is defined in the AI Act and the schemes to make it clear that it is to function as an "integrated" system, consisting of both pedigree and performance data.
- [40] It is the case of Stud Book that it effectively privatised the schemes and now operates an independent and private scheme. The fact that Stud Book is deemed to be a registering authority in terms of section 29(3)(a) of the AI Act, does not vest it with the powers to operate an independent performance recording and testing scheme.
- [41] In terms of section 29(3)(d) of the AI Act, Stud Book shall '... have the powers of an animal breeders' society specified in that section ...' with reference to section 15 of the AI Act. The definition of *a registering authority* is 'an animal breeders society as a group of animal breeders' societies which is registered as such in terms of section 8(7)(a)(ii)'. On that basis Stud Book itself remains subject to the obligation of commitment to animal improvement.

[42] The question is whether Stud Book is entitled to rely on regulation 8(1)(b)(viii), which provides that if an applicant for registration as a registering authority intends operating an independent performance recording and testing scheme, the application should be accompanied by proof from an internationally recognised authority on animal recording, that the

data recording and processing system to be used complies with internationally accepted norms and standards. In view of regulation 5(1)(b)(v) such application would have been subject to approval of the registrar. It is, however, common cause that Stud Book has never made such an application to the registrar.

[43] As far as the National Databank is concerned, although the definition of INTERGIS in section 1 of the AI Act does not describe it as a national databank, the schemes adopted the phrase in its definition of INTERGIS. Such a description appears to be appropriate when one has regard to the definition of INTERGIS.

[44] In this regard the Stud Book's official stance, recorded in an extract of a minute of a meeting, is significant. Under the heading "n NASIONALE DATABANK", the following is stated:

"Na 'n lewendige uitgebreide bespreking, is die volgende voorstel eenparig aanvaar:

DAT as deel van die SKIKKING, die telersgenootskappe die beginsel ondersteun van 'n sogenaamde NASIONALE DATABANK en onder die volgende voorwaardes deel wil wees daarvan ...”

- [45] Mr Knoetze on behalf of Stud Book submitted that performance testing is not compulsory and therefore the submission of performance data is equally not compulsory.
- [46] Mr Van Tonder, with reference to the definitions in section 1 of the AI Act and the wording of section 11(1)(c)(iii), submitted that the statutory duty to submit available performance data (in addition to pedigree data), is clearly established on a purposive and contextual interpretation. Without this conclusion the AI Act would serve no purpose to require “continued commitment to animal improvement” and by stipulating expressly what the AI Act regards to be the essence of “animal improvement”.
- [47] I agree with the plaintiff’s argument that a simple answer is that in so far as performance testing is done, the data has to be submitted. A breeder is equally not obliged to breed, yet if it does so, the available pedigree data has to be submitted to INTERGIS. If no breeding takes place no data has to be submitted. If no performance testing takes place, no data has to be submitted.

- [48] Mr Knoetze also contents that LOGIX is INTERGIS. It is however clear that only the ARC is entitled to operate INTERGIS, and consequently, all data should be handed over to and be submitted to INTERGIS. He also submitted that the manner in which he does animal improvement by way of LOGIX, did not have to be expressly approved by the registrar because Stud Book is a registering authority. It is however clear that the mere fact that Stud Book is a registering authority does not approve LOGIX as “a manner approved by the registrar”.
- [49] It is important to note that section 12(3) of the AI Act does not provide, as submitted, that the mere failure by the registrar to object thereto would be regarded as a deemed approval. It is also important to note that the registrar expressly objected to the 2013 attempt in circumstances where it appears that INTERGIS had been substituted for LOGIX.
- [50] Mr Knoetze’s final argument was that INTERGIS is not a National Databank. This argument does not take into account the fact that the regulation expressly depict INTERGIS as the National Databank and that the definition is less important that the stated function and objective of INTERGIS. Furthermore the AI Act requires that the pedigree and performance data should be integrated on INTERGIS in the interest of the Republic, which clearly

supports the definition. I do not agree with the argument that there is 'no reason why all data should be on a national databank (INTERGIS)', because it directly contradicts the statutory scheme as mentioned above.

- [51] Stud Book also justifies the exclusion of INTERGIS on the basis of healthy competition between Stud Book and ARC. It is important to note that the ARC's objectives in terms of the Agricultural Research Act 86 of 1990 and Duties imposed in terms of the AI Act regarding INTERGIS serve the national interest of the Republic, whereas the objectives and duties of Stud Book are exclusively limited to those of its members. I agree with the plaintiff's submission that the exclusive access to a limited database (LOGIX), as supposed to non-exclusive access to the national (INTERGIS) database, undermines the interest of the Republic of having access to comprehensive data of all breeders. Such access is essential to DAFF and by extension to the ARC, to formulate policy and conduct research to the benefit of all breeders' societies/breeders and the entire agricultural sector. Fragmentation, control of exclusive access and selective upkeep of a data base to the exclusion of INTERGIS undermines this national asset. It is also clear that breeders are not enhancing the object of the AI Act if they refuse to submit their data to INTERGIS.

CONCLUSION

- [52] The ARC is the organisation appointed by DAFF firstly to operate and manage INTERGIS in terms of section 15(3) of the AI Act, and secondly to manage the Animal Improvement Schemes, established by the Minister of DAFF acting under section 20(1) of the AI Act. The said schemes have been established for the evaluation and certification of the performance of animals with the purpose of improving the genetic production potential of such animals. In terms of the Animal Improvement Schemes, animal particulars must be kept on INTERGIS, which is described in the schemes as “the National Databank for animal recording and improvement.”
- [53] Pursuant to the appointment of the ARC as the sole manager of INTERGIS, the ARC and Stud Book concluded a Service Agreement on INTERGIS operations in terms whereof Stud Book undertook, *inter alia*, to perform certain daily operations. The said agreement was terminated on 10 October 2011.
- [54] As far as Stud Book is concerned, it is a registering authority in terms of section 8(7)(a)(ii) of the AI Act, and has the powers of an Animal Breeders’ Society (sec 29(3)(d)). As such it is subject to the provisions of the AI Act, and not vested with powers to operate an independent performance recording and testing scheme.

- [55] The object of the AI Act is to provide for breeding clarification and utilisation of genetically superior animals in order to improve the production and performance of animals.
- [56] The AI Act expressly contends that animal improvement has to take place “by means of the integrated registration and genetic information system [INTERGIS] ... which is a computer system which has been established in co-operation with the Department to integrate the pedigrees and performance data of animals.
- [57] The ARC’s position as the appointed manager of INTERGIS is not in dispute. Having regard to the context provided by reading the particular statutory provisions, and considering them in the light of all the relevant circumstances there is no legal justification for Stud Book’s refusal to submit all pedigree and performance data, received or captured by it on LOGIX, to INTERGIS.
- [58] It follows therefore that par 1 of the stated case must be decided in favour of the plaintiff.
- [59] I regard it necessary to make certain remarks in conclusion. The stated object of the AI Act is *inter alia* ‘to improve the production and performance of animals in the interest of the Republic.’ Unless the parties hereto settle their present disputes and animosity, they undermine the core objective of the AI Act.

The present position is untenable: On the one hand ARC is the sole manager of INTERGIS, being the National Databank, while on the other hand many breeding associations (if not the majority) discontinued their association with the ARC, where after their members submitted their animal data to Stud Book's Logix.

It is necessary for the parties to come together and negotiate a new 'Memorandum of Agreement' along the lines of the previous agreement of 15 July 1999. There is no doubt that the lack of cooperation between the parties will not be in the interest of the country.

ORDER

[60] Accordingly the following order is made:

1. Par 1 of the stated case is decided in favour of the plaintiff.
2. Stud Book is ordered to pay the costs incurred in relation to the trial on the separated issues.

S. P. B. HANCKE, J

On behalf of the plaintiff: Adv. Lucas J van Tonder SC
Assisted by Adv. A M Heystek
Instructed by:
Phatshoane Henney Inc
BLOEMFONTEIN

On behalf of defendant: Adv. Barnard Knoetze SC
Instructed by:
McIntyre & Van der Post
BLOEMFONTEIN

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