

NATIONAL ASSEMBLY

**QUESTION FOR WRITTEN REPLY**

# QUESTION NO. 1145

**DATE OF PUBLICATION: FRIDAY, 20 APRIL 2018**

## INTERNAL QUESTION PAPER 12 OF 2018

**1145. Mr A M Figlan (DA) to ask the Minister of Home Affairs**

(1) Has his department complied fully with the orders of the Supreme Court of Appeal in (a) *Minister of Home Affairs and others v DGLR and another* (Case number 1051/2015 SCA) and (b) *Scalabrini Centre, Cape Town and Others v Minister of Home Affairs and Others* (Case number 1107/2016) [2017] ZASCA 126, [2017] 4 All SA 686 (SCA) (29 September 2017); if not, what is the position in this regard; if so, what are the relevant details;

(2) what are the details of the steps taken by his department to comply with these orders, specifically in relation to (a) the identity number and birth certificate of the child in case number 1051/2015, (b) the promulgation of the regulations to section 2(2) of the South African Citizenship Act, Act 88 of 1995, as amended, (c) the re-opening of the Cape Town Refugee Reception Office and (d) the reports to be submitted to the appellants by the Director-General on 31 October 2017 and monthly thereafter;

(3) what is the current status of the child who is the subject of case number 1051/2015 if the order above has not fully been complied with? NW1239E

**REPLY:**

**1 (a) No**

On 7 October 2016, the Department instituted a rescission application under Case No: 38429/13, as it contends that the court order herein was erroneously sought and erroneously granted. The Cuban parents’ contention that their child was denied Cuban citizenship is incorrect and the Department will show this, with the aid of the Cuban Embassy.

The State Attorney: Pretoria has been having difficulties in translating the Cuban Amended Immigration Laws and their Citizenship Rules, which are pivotal for the Department’s case. Once this is done, the Department will then file its Replying Affidavit (to the parents’ Answering Affidavit, which is in reply to the Department’s rescission application). Thereafter, the matter will be set down for hearing at court.

**1(b) NO**

The Department is working with the Department of Public Works to get the process of identifying a suitable place/office for the re-opening of the Cape Town Refugee Reception Office. The Department has engaged DPW Western Cape Regional Office mid December 2017 advising them of the judgment. Following internal processes, the Department wrote to DPW Director – General, on 22 January 2018 submitting the initial needs assessment for office accommodation.

Subsequently, the DPW responded asking for corrections and adjustments. The Department submitted the final needs assessment to the DPW during February 2018 and their Head Office has issued a procurement instruction to their Regional Office in Cape Town.

The Department of Public Works provided a project execution plan on 6 April 2018 whereby the estimated time of occupation is 1 October 2018, which will allow the Department to start operating as soon as possible after the handover.

Further to the above, the office continues to provide existing clients with services at the current office accommodation.

|  |
| --- |
|  |

**Operational Budget**

The Department has determined that the centre will be able to function within the ambits of the current base line allocation.

**Personnel**

The Cape Town RRO is currently operating at 37.5% of the approved establishment. The funding and filing of key posts is being prioritized. Considering the reduction in volumes the Department is of the opinion that the funding and filling of posts should not delay the opening of the office once suitable accommodation has been secured.

**IT Equipment**

5 fully equipped RRO computers have been procured and installed at the current CTRRO to provide capacity for the capturing of newcomers. The replacement of other computer equipment will only be done once occupation of permanent accommodation has been taken.

**2(a) and (b)** The Institution of the Department’s rescission application has suspended the operation of the initial court order.

**2 (c)** TheDepartment will re-open the Cape Town Refugee Reception Office as soon as DPW has finalised all the necessary in the allocation of suitable office accommodation.

**2(d)** The Constitutional Court Order was received by the Department on 14 December 2018. The Department wrote to Scalabrini in January 2018 requesting an extension to file its report and the Department has already submitted two reports to the Scalabrini Centre detailing the steps taken in compliance with Constitutional Court.

**3** The Cuban child was granted a permanent residence permit on 22 April 2016.