**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 128**

**DATE OF QUESTION: 21 FEBRUARY 2020**

**DATE OF SUBMISSION: 6 MARCH 2020**

**Mr N Singh (IFP) to ask the Minister of Justice and Correctional Services:**

Whether he has considered facilitating the establishment of a specialist branch of anti-corruption courts with judges and prosecutors that are similar to the Agency Against Corruption in Taiwan, which has shown tremendous success particularly in the prosecution and successful conviction of senior politicians in Taiwan who have been found to have been involved in graft; if not, what is the position in this regard; if so, what are the further relevant details of such a consideration?

**NW149E**

**REPLY:**

No, I have not considered facilitating the establishment of a specialist branch of anti-corruption courts with judges and prosecutors that are similar to the Agency Against Corruption (AAC) in Taiwan. This is because the Agency Against Corruption was historically formed to deal with integrity and ethics management in the Taiwanese government and aims to ensure a strong national integrity infrastructure through a specialised authority to enforce ethical governance. It plans and executes Taiwan’s overall anti-corruption strategies and not only acts as a police authority, but also as a prosecutorial power.

The way in which they operate is more of an institution that coordinates all aspects of integrity and anti-corruption related activities - much the same as the Anti-Corruption Task Team (ACTT) we currently have.

What should be noted is that the Taiwan High Courts, based on their various needs, have established several professional courts when required, such as the Professional Court of Anti-corruption, Professional Court of Fair Trade Cases, Professional Court of Sexual Harassment, etc.

This is similar to the South African situation where we have created specialist and dedicated courts when required. In this regard we have, for example, labour courts and land claims courts, etc.

In relation to the question, it needs to be borne in mind that we already have specialized courts to deal with serious commercial crime cases. They are called Specialized Commercial Crimes Courts (SCCCs), and are underpinned by dedicated prosecutorial Specialised Commercial Crimes Units (SCCUs) in the National Prosecuting Authority (NPA) and dedicated investigators from police (SAPS/DPCI) side. In future, cases flowing from the Investigating Directorate (ID) of the NPA may also be taken to the Specialized Commercial Crimes Courts, where required. Noteworthy is that the Investigating Directorate has both investigative and prosecutorial capabilities.

Because they deal with serious corruption and other related economic crimes, these courts function mostly on a regional court level that can impose strong sentences on conviction. The Specialized Commercial Crimes Unit and Investigating Directorate of the NPA may also take very serious commercial crimes cases to the High Courts.

An important innovation of our Specialised Commercial Crime Court-model, is not that it only hears one type of case, namely, serious commercial crimes. Rather, it is the improved integration of the work of the prosecutors and investigators whose cases came to these courts that make a difference. Moreover, the fact that court time is specifically dedicated to such crimes means that, once in court, they can be processed more speedily than may have been the case on a normal general open court roll.

The dedication of specific staff (investigators, prosecutors, and designated regional magistrates) has assisted with the functioning of these courts.

For the 2018/19 financial year, these courts contributed to the NPA’s impact on serious economic crime as is evident in the 800 verdict cases finalised in complex commercial crime, with 760 convictions (95% conviction rate).

Unlike the practice in the rest of the criminal justice system, the prosecutor assigned to a particular case is involved in its investigation at a much earlier point in time. In this regard the prosecutor and investigator(s) are a team, but the prosecution helps guide the investigations and the integrated work methodology leads to improved convictions.

What have been assisting these courts are the following factors:

1. In general, the involvement of the Specialized Commercial Crimes Unit prosecutors in coordinating the commercial crime cases and being involved from the start in the investigation phase, meant that the investigation tended, on average, to be both more effectively and more efficiently completed, making it that much easier to complete the charge sheet and present an effective case.
2. Prosecutors, having been involved in the investigation, were much more attuned to, and familiar with, the specific facts of the case, making their presentation in court more effective. Moreover, this high level of preparedness made it that much more likely that defense counsel would advise their clients to plead guilty.
3. The fact that particular magistrates were dedicated to commercial crimes also meant that both defense and prosecution had a better sense of the needs of the court, making cases more efficient. In addition, the familiarity of the court with the nature of these cases meant that the cases could proceed more rapidly.

We currently have fully established Specialized Commercial Crimes Courts in the following five (5) provinces:

1. Free State: Bloemfontein Regional Court;
2. Western Cape: Cape Town Regional Court;
3. Gauteng: Palm Ridge Regional Court; and Pretoria Regional Court;
4. Eastern Cape: Port Elizabeth Regional Court; and
5. KZN: Durban Regional Court.

We anticipate that investigations and prosecutions of serious economic crime including corruption, will increase significantly, including cases arising from investigations conducted by the NPA’s Investigating Directorate, emanating from the various Commissions of Inquiry focusing on State Capture and Corruption. Therefore, we should have at least one Specialized Commercial Crimes Court per province. We need to create/strengthen capacity through the establishment and capacitation of Specialized Commercial Crimes Courts and the Specialized Commercial Crimes Unit of the NPA.

Funding has consequently been provided in terms of the MTSF and MTEF for the capacitation of both Specialized Commercial Crimes Courts and Specialized Commercial Crimes Units in the following 5 additional places, across the MTSF 2019-2024 period, in a phased manner as capacity and other required measures are put in place by all relevant role players:

1. Eastern Cape (Mthata);
2. North West (Mmabatho/Mafikeng);
3. Limpopo (Polokwane);
4. Mpumalanga (Mbombela); and
5. Northern Cape (Kimberley/Botshabelo).