**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO. 1360**

**DATE OF QUESTION: 14 MAY 2021**

**DATE OF SUBMISION: 28 MAY 2021**

**1360 Mr. J. Selfe to ask the Minister of Justice and Correctional Services:**

(a) On what date is it envisaged that amending legislation will be introduced to give effect to the order of the Constitutional Court in *Sonke Gender Justice v the President of the Republic of South Africa and Others* (Case CCT 307/19) and (b) what will the amending legislation provide for?

**NW1556E**

1



**REPLY:**

The Constitutional court handed down its judgment on 4 December 2020. This judgment affirmed JICS’s important watchdog role over the Department of Correctional Services (DCS) in South Africa’s democracy. It also set as a constitutional requirement that JICS be structurally, operationally and financially independent -- plus that in the public perception it also be seen as independent.

An Inter-Departmental Assessment Committee (IAC) was constituted and established by the then-Minister of Public Service and Administration (MPSA), Minister Mchunu. Significantly, the IAC recommended that JICS be established as an autonomous National Government Component.

This elicited also the support of the Minister of Justice and Constitutional Development and Correctional Services (DOJ&CD), Minister Lamola.

Since this judgment, JICS has compiled a draft JICS Bill which will provide the amendments the Constitutional Court required.

It is up to Parliament to confirm when the draft JICS Bill will be introduced. The Court has given Parliament 24 months to fix the problem it identified by amending the Act. The JICS draft Bill was promptly submitted to DCS, National Treasury (NT), the Department of Public Service and Administration (DPSA), DOJ&CD, the office of the Chief State Law Adviser and other stakeholders for comment. Various comments were received and incorporated into the draft JICS Bill (except from NT and DCS).

JICS is leading the amendment process of those sections that are relevant to JICS, and in crafting an ideal draft JICS Bill.

Other stakeholders are better placed to provide fuller details on what the amending legislation will provide for.

This is because DCS is the Department responsible for the Correctional Services Act, 111 of 2008, which will require simultaneous repeal and amendment when the JICS Bill is passed. (Some of the provisions to be repealed or amended include Chapters 9 and 10 of the CSA.)

2

With the prior authorisation of the Minister of Justice and Correctional Services, JICS approached DPSA to gain advice on how to ensure greater independence. Officials of DPSA advised JICS to research the various Government Forms currently available and also assisted with presentations and expert advice. Interactions took place with the offices of the Minister, Deputy Minister, DCS, DPSA and National Treasury. After the IAC considered all possible options, it recommended that JICS be constituted as a National Government Component.

The funding model for JICS to be established as a National Government Component must be supported by National Treasury.

JICS has meticulously sought to engage with all stakeholders. JICS does not however have a date as to when the JICS draft Bill will be introduced to Parliament by Minister Lamola, or when any further engagement between stakeholders will take place to ensure that the process is taken further.

3