**NATIONAL ASSEMBLY**

**FOR WRITTEN REPLY**

**QUESTION NO: 1492(NW1661E)**

**PUBLISHED IN INTERNAL QUESTION PAPER NO: 16-2016 OF 20 MAY 2016**

**MR S MOKGALAPA (DA) TO ASK THE MINISTER OF INTERNATIONAL RELATIONS AND COOPERATION:**

(1) Has (a) she and/or (b) her department been requested to waive the diplomatic immunity of a certain person (name furnished); if so, when was such a request made;

(2) has she made a decision in respect of the specified request; if so, (a) when did she make the decision, (b) what was the decision and (c) what are the reasons for the decision;

(3) has her department (a) conducted an investigation into and/or (b) initiated any disciplinary proceedings against the specified person for an alleged drunk driving incident that took place in Oslo, the Kingdom of Norway, in January 2016; if not, why not; if so, in each case, what are the (i) relevant details and (ii) outcomes?

**Answer**

1. Yes, the Department received the request on 4 January 2016.

2) **a)** A decision was made on 12 January 2016.

**b)** The decision was to recall the employee concerned and not to waive his Diplomatic Immunity.

**c)** The decision was based on the provisions of Articles 29 and 31 the Vienna Convention on Diplomatic Relations of 1961 quoted as follows:

Article 29 of the Convention provides:

“*The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.*”

4.1.2 Article 31 states:

“*1. A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of:*

*(a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;*

*(b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;*

*(c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.*

3) a) Yes the Department has already conducted an investigation, and the Report of the investigation has recommended that formal disciplinary proceedings be instituted against the employee concerned;

b) The employee concerned has been officially notified that disciplinary proceedings are going to be instituted against him. Disciplinary proceedings against the employee concerned have not yet taken place because the Department is still in the process of drafting and formulating charges and compliance with all other relevant labour law requirements.