**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 1585**

**DATE OF QUESTION: 17 JULY 2020**

**DATE OF SUBMISSION: 31 JULY 2020**

**Mrs A Steyn (DA) to ask the Minister of Justice and Correctional Services:**

1. What (a) number of land reform cases did the Special Investigating Unit investigate since 1 January 2009, (b) were the (i) details and (ii) scope of the investigation in each case and (c)(i) are the details of the outcomes of each investigation that was finalised and (ii) is the current status of each investigation that has not been finalised;
2. whether all the reports of the finalised investigations have been made public; if so, (a) where and (b) how can the reports be accessed?

**NW1968E**

**REPLY:**

1. (a) The Special Investigating Unit (SIU) has informed me that six (6) proclamations

were published, and they mandated the SIU to investigate matters in respect of

the National Department of Rural Development and Land Reform.

1. i) and ii)

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| **Proclamation R8 of 2011: National Department of Rural Development and Land Reform (Land Reform): GG: 34031 of 18 February 2011** | |
| **Schedule to the Proclamation** | The application for and award of grants, the transfer of land or the payment of funds to beneficiaries and the administration thereof by the Department, under the Department's Land Reform Programme, in a manner that was (a) contrary to applicable (i) legislation; (ii) manuals, guidelines, practice notes and instructions issued by the National Treasury; or (iii) manuals, policies, procedures, instructions, prescripts or practices of, or applicable to the Department; or (b) fraudulent. The incurrence of (a) irregular expenditure; (b) fruitless and wasteful expenditure; or (c) expenditure not due, owing and payable, in relation to payments made, land transferred or grants awarded to beneficiaries, suppliers, contractors or service providers, in or relating to the Department’s Land Reform Programme |

| **Proclamation R53 of 2012: National Department of Rural Development and Land Reform and its agents (Land Restitution): GG: 35691 of 21 September 2012** | |
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| **Schedule to the Proclamation** | The payment of advances, subsidies or compensation to claimants in respect of the restitution of a right in land in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) to persons who were not entitled to receive such advances, subsidies or compensation; or in a manner which was contrary to applicable legislation, manuals, policies, procedures, instructions, prescripts and/or practices of, or which were applicable to the Department; or fraudulent. Maladministration of the affairs of the Department by officials or employees or their agents in respect of the payment of advances, subsidies or compensation to claimants in respect of the restitution of a right in land in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), including the causes of such maladministration. |

| **Proclamation R7 of 2014, amended by R599 of 2015 and R32 of 2017: Department of Rural Development and Land Reform (formerly known as the Department of Land Affairs) in its national department, its provincial departments, its trading entities and their respective agencies (herein referred to as the DRDLR) and the State Information Technology Agency (PTY) Ltd (herein referred to as SITA): GG: 37346 dated 14 February 2014; GG: 38985 dated 10 July 2015; GG: 41165 date 6 October 2017** | |
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| **Schedule to the Proclamation** | Any reference to (a) "contracting" includes but is not limited to, any negotiation processes involving a contract, the conclusion and signing of a contract and any novation, renewal, extension or amendment of the contract; (b) "the ICT systems/projects" means (i) the e-Cadastre project and the e-Cadastre system for the DRDLR; (ii) the Deeds Registries System for the DRDLR; (iii) the Enterprise Architecture product for the DRDLR; (iv) the Regularity Impact Assessment for the DRDLR; (v) a BPR project for the DRDLR; and (vi) the back scanning of records of the DRDLR into microfilm images for the DRDLR database individually or collectively, as the context may require or as may be applicable; (c) "the institutions" means the DRDLR and the SITA, individually or collectively, as the context may require or as may be applicable; and (d) "the institutions' suppliers and service providers" includes any consultants, contractors, subcontractors, suppliers or service providers of the institutions. Theft, fraud, corruption or maladministration in the affairs of the DRDLR in relation to the lodging and processing of deeds on the Deeds Registration System of the Pretoria, Johannesburg, Cape Town, Vryburg and Bloemfontein Deeds Registries or in the processes of requesting for or the giving-out of deeds information, in a manner that was contrary to applicable (a) legislation; or (b) manuals, guidelines, policies, procedures, practice notes, instructions, prescripts or practices of or applicable to the DRDLR including the causes of such fraud, corruption or maladministration and any loss, damage or prejudice actually or potentially suffered by the DRDLR or the State. The procurement of and contracting for the ICT systems/projects or any goods, works or services in respect of the ICT systems/projects by or on behalf of the Institutions and payments made in relation thereto, in a manner that was (a) not fair, equitable, transparent, competitive or cost-effective; or (b) contrary to applicable (i) legislation; (ii) manuals, guidelines, practice notes or instructions issued by the National Treasury or the applicable Provincial Treasuries; or (iii) manuals, guidelines, codes, policies, procedures, instructions or practices of, or applicable to the Institutions; Losses or prejudice actually or potentially suffered by the Institutions as a result of the mismanagement of the assets, finances or other resources in respect of the ICT systems/projects, including any (a) overspending, mismanagement, misspending or misappropriation of funds; (b) payments which were made to agents of the Institutions or the Institutions' suppliers and service providers (i) prematurely; (ii) despite non-performance, uncertified, incomplete or poor quality performance or defective performance; (iii) despite late performance; or (iv) in excess of amounts agreed or tendered or at rates disproportionate to the value, nature or scope of goods, works or services supplied or rendered; ( c) payments made for goods not supplied or works or services not rendered; or (d) duplication of payments.  Losses or prejudice actually or potentially suffered by the Institutions as a result of unlawful conduct or irregular practices of the personnel or agents of the Institutions, the Institutions' suppliers and service providers or third parties in respect of the ICT systems/projects, including any premature, false or inflated claims for payment. The incurrence of unauthorised expenditure, irregular expenditure, fruitless and wasteful expenditure or expenditure not due, owing and payable, as a result of payments which were made by the Institutions to the agents of the Institutions, the Institutions' suppliers and service providers or third parties for or in respect of the ICT systems/projects. Fraud, corruption or maladministration regarding the affairs of the Institutions in respect of the ICT systems/projects in respect of (a) budget preparations, the allocation, implementation or use of the applicable budgets or budget items, including but not limited to any overspending or misappropriation of the applicable budgets or budgeted items; (b) supply chain management policies; (c) procurement processes; (d) contract management, including but not limited to (i) contracting for the ICT systems/projects or any goods, works or services in respect of the ICT systems/projects; (ii) the monitoring, management or verification of goods delivery, services rendered or works performed or any failure in this regard; (ii) the monitoring, management or verification of the quality and /or quantity of goods delivered, services rendered or works performed or any failure in this regard; (iv) any breach of contract, late performance, enforcement of contracts or cancellation of contracts; or (e) logistics management, including the causes of such fraud, corruption or maladministration and any loss, damage or prejudice actually or potentially suffered by the Institutions or the State. The failure of the Institutions to (a) recover premature or excessive payments made to agents of the Institutions or the Institutions' suppliers and service providers; or (b) collect monies due, owing and payable to the Institutions, for or in respect of the ICT systems/projects. Unlawful or irregular conduct by agents of the Institutions, the Institutions' personnel, suppliers and service providers or third parties relating to any one or more of the allegations set out above, and any loss, damage or prejudice actually or potentially suffered by the State or Institutions as a result thereof. |

| **Proclamation R24 of 2017: Department of Rural Development and Land Reform: GG 41000 dated 24 July 2017** | |
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| **Schedule to the Proclamation** | The acquisition by the Department of the Bekendvlei, Nirwanda, Wonderhoek, Mont Piquet and Appelkloof farms, Mikes Chicken (Pty) Ltd, immovable assets and animals for Project Harmonie, Project Uitkyk and Project Dipalemo in terms of the Department's Proactive Land Acquisition Strategy, and the identification, selection and appointment of strategic partners and beneficiaries for such farms in a manner that was (a) not fair, competitive, transparent, equitable or cost-effective; (b) contrary to applicable (i) legislation; (ii) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury; or (iii) manuals, policies, procedures, prescripts, instructions or practices of or applicable to the Department; (c) conducted by or facilitated through the improper or unlawful conduct of (i) officials of the Department; or (ii) any other person or entity, to corruptly or unduly benefit themselves or others; or (d) fraudulent, and related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Department.  Misappropriation of recapitalization funds in terms of the Recapitalization and Development Programme of the Department relating to the allegations referred to in paragraph 1 of this Schedule.  Corruption, irregularities, malpractices or maladministration in the affairs of the Department relating to the allegations referred to in paragraphs 1 and 2 of this Schedule, including the causes of such and any losses, damages or actual or potential prejudice which the Department may have suffered. |

1. (i) and (ii)

| **Proclamation R8 of 2011: National Department of Rural Development and Land Reform (Land Reform): GG: 34031 of 18 February 2011** | | |
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| **Action taken** | 1. **Details of the outcomes of each investigation finalised** | **Value** |
| Number of referrals made to the National Prosecuting Authority (NPA) | Evidence obtained in respect of **43** matters investigated has been referred to the NPA, including the AFU with a view to instituting criminal action and/or recovery of the proceeds of crime and/or unlawful activities in terms of the provisions of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998) |  |
| Number of referrals made for disciplinary action against officials | In respect of **33** matters investigated, evidence obtained against **23** officialswas referred to the Department with recommendations to the effect that disciplinary action be instituted against the officials concerned. |  |
| Rand value of actual cash and/or assets recovered | Final asset forfeiture/confiscation orders have been obtained in **24** of the matters referred to the AFU. | R362 000 000 |
| Rand value of potential cash and/or assets to be recovered | In respect of **4** matters referred to the AFU, preservation orders have been obtained. | R45 528 094 |
| Rand value of matters in respect of which evidence was referred for the institution or defence/opposition of civil proceedings | * In respect of **2** of the matters, civil proceedings have been instituted and the SIU is pursuing recoveries of R7.6 million. * The SIU is awaiting a trial date for these **2** matters. | R9 200 000 |
| 1. Final Presidential Report submitted on 28 March 2018. | | |

| **Proclamation R53 of 2012: National Department of Rural Development and Land Reform and its agents (Land Restitution): GG: 35691 of 21 September 2012** | | |
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| **Action taken** | 1. **Details of the outcomes of each investigation finalised** | **Value** |
| Number of referrals made to the National Prosecuting Authority | Evidence obtained in respect of **166** matters investigated has been referred to the NPA, including the AFU with a view to instituting criminal action and/or recovery of the proceeds of crime and/or unlawful activities in terms of the provisions of the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998). In **70** matters the NPA declined to prosecute; in **4** matters the accused were found guilty of theft, fraud and money laundering. |  |
| Referrals made for disciplinary action against officials | Evidence obtained against **24** officials (in total) was referred to various government departments with recommendations that disciplinary action be instituted against them for misconduct related to applications for irregular and/or unlawful claims. |  |
| Rand value of actual cash and/or assets recovered | A final asset forfeiture/confiscation order has been obtained in one the matter referred to the AFU. | R5 359 248 |
| Rand value of potential cash and/or assets to be recovered | * A preservation order has been obtained in one matter referred to the AFU. * Signed Acknowledgements of Debts have been obtained from **90** individuals in respect of undue payments made to them for claims that they did not qualify for. | R45 015 000  R5 197 490 |
| 1. Final Presidential Report submitted on 27 November 2019. | | |

| **Proclamation R7 of 2014, amended by R599 of 2015 and R32 of 2017: Department of Rural Development and Land Reform (formerly known as the Department of Land Affairs) in its national department, its provincial departments, its trading entities and their respective agencies (herein referred to as the DRDLR) and the State Information Technology Agency (PTY) Ltd (herein referred to as SITA): GG: 37346 dated 14 February 2014; GG: 38985 dated 10 July 2015; GG: 41165 date 6 October 2017** | | |
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| **Action taken** | 1. **Details of the outcomes of each investigation finalised** | **Value** |
| Number of referrals made to the National Prosecuting Authority | * Evidence obtained in respect of **1** matter investigated has been referred to the NPA, with a view to instituting criminal action for gross financial misconduct in terms of the PFMA. * Evidence obtained in respect of **7** matters investigated has been referred to the NPA, with a view to instituting criminal action for fraud, contravention of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) theft, forgery and/or uttering. |  |
| Number of referrals made for disciplinary action against officials | * Evidence obtained against **7** officials was referred to the Department with recommendations that disciplinary action be instituted against them for misconduct. * Evidence obtained against **10** officials was referred to the Department with recommendations that disciplinary action be instituted against them for negligence and non-compliance with statutory prescripts. |  |
| Number of referrals made for executive and/or administrative action | * Evidence against **1** conveyancer (as reflected in Table 3 below) has been referred to the relevant body at the time, being the Law Society of the Northern Provinces (which has since been replaced by the Legal Practice Council), to use in support of an application to strike the conveyancer from the roll of Admitted Attorneys. * The application was successful and he was struck from the roll on 15 June 2017. |  |
| The value of contract(s) and/or administrative decision(s)/action(s) set aside or deemed invalid | On 13 September 2016, the High Court declared the decision by the SITA to recommend, and by the Department to award the Tender to Gijima to be unlawful and invalid *ab initio* as a result of a pricing error made by the SITA during the bid evaluation and adjudication processes of the Tender. The Court further declared all contracts that resulted directly or indirectly from the award of the Tender concluded between the Department and Gijima to be unlawful and invalid *ab initio* and the Court set aside all such contracts. | R651 225 770 |
| Rand value of matters in respect of which evidence was referred for the institution or defence/opposition of civil proceedings | * The Department and the SIU have jointly instituted new civil proceedings against Gijima in order to recover monies on the basis of unjust enrichment. * The matter is on-going. | R208 025 174 |
| 1. Final Presidential Report submitted on 26 March 2020 for Proclamation R7 of 2014 and R599 of 2015. Proclamation R32 of 2017 is still ongoing, and expected to be finalised by the end of the 2020/21 financial year. | | |

| **Proclamation R24 of 2017: Department of Rural Development and Land Reform: GG 41000 dated 24 July 2017** | | |
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| **Action taken** | 1. **Details of the outcomes of each investigation finalised** | **Value** |
| Rand value of matters in respect of which evidence was referred for the institution or defence/opposition of civil proceedings | Civil proceedings have been instituted in the Special Tribunal in respect of one matter and the SIU is seeking to declare invalid and set aside a lease agreement entered into between the Department and a service provider. | R3 037 647 |
| 1. Investigation is still ongoing, and expected to be finalised by the end of the 2020/21 financial year. | | |

1. No, it is the President’s prerogative to release SIU’s final reports.