**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO. 1606**

**DATE OF QUESTION: 09 JUNE 2017**

**DATE OF SUBMISSION: 26 JUNE 2017**

**Mr N S Matiase (EFF) to ask the Minister of Justice and Correctional Services:**

Whether, in light of the Constitutional Court ruling in 2011 that the practice of repossessing homes without having the claims tested by a judge is illegal and the allegedly looming fifth eviction of Ernest Mashaba and his family from a fully paid-up house by a certain bank (name furnished), his department has intervened to ensure the illegal repossession of the house does not take place?

**NW1811E**

**REPLY:**

The Legal Aid South Africa (SA) has informed me that the Legal Aid SA has no records showing receipt of an application for legal aid relating to Mr Mashaba’s matter. The particulars of Mr Mashaba’s case came to Legal Aid SA’s attention when the GroundUp article of 29 May 2017 was published. Legal Aid SA has made contact with the Lungelo Letho Human Rights Foundation (LLHRF), the organization currently assisting Mr. Mashaba, to obtain his contact details and/or for LLHRF to facilitate contact with Mr. Mashaba. Legal Aid SA will consult with Mr. Mashaba, if he agrees to accept Legal Aid SA’s assistance, in order to obtain the relevant and necessary information where after assessment of what legal assistance can be rendered to ensure compliance with the Constitution and the relevant laws applicable to this matter and thereby ensure that Mr Mashaba’s rights are protected. Current Legal Aid Policy only permits assistance in civil matters where the matter has reasonable prospects of success based on all available evidence.

The Secretary-General of the Office of Chief Justice has furthermore informed me that following the Constitutional Court case of Gudwana v Steko Development CC, Case No: CCT44/10 delivered on 11 April 2011, in terms of which the Court ruled that it is unconstitutional for a Registrar of a High Court to declare immovable properties specially executable when ordering default judgment under Rule 31(5) of the Uniform Rules of Court to the extent that this permits the sale in execution of the home of a person, All the divisions of High Court issued Practice Notes to the effect that applications for an order declaring primary residence specially executable should only be heard by the court and not by the Registrar.