**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**QUESTION NUMBER:** **1772[NW2162E]**

**1772. Mrs G Opperman (DA) to ask the Minister of Finance:**

(1) Whether he has found that municipalities who are currently and/or were previously under section 139 administration are now better off than they were previously with regard to the purpose of the specified intervention; if not, what is the position in this regard; if so, did the intervention by the National Treasury solve the problem;

(2) whether he will furnish Mrs G Opperman with a detailed progress report regarding municipalities that were under the administration of the National Treasury? NW2162E

**REPLY**:

1. Interventions in terms of S139 of the Constitution are invoked by the Provincial Executive and not directly by any National Government department, unless, there is a failure by the Provincial Executive to act, then the National Executive may intervene in terms of Section 139(7) of the Constitution. This subsection however, is not applicable to all interventions in terms of S139 of the Constitution.

Research into the efficacy of S139 interventions undertaken by the Public Affairs Research Institute on behalf of the National Treasury in 2018, showed that S139(1) interventions often fail to achieve their intended outcomes for a number of reasons. Amongst others, these reasons include, that interventions are often invoked using the wrong subsection of S139. In this regard, where there is clear evidence of a financial crisis and for which a mandatory intervention in terms of S139(5) is required, the Province elects to invoke a S139(1) intervention which is discretionary in nature and intended to remedy a failure to fulfil an executive obligation. The constant practice of “mismatching” interventions and problems results in failed outcomes.

Interventions, are also invoked too late, well after municipal failure is a fait accompli and are terminated too early before the intervention has dealt with all dimensions of the problem. The use of an administrator has also been found to have little effect on improving outcomes. Administrators should firstly only be appointed upon dissolution of Council; most administrators lack requisite qualifications thus incapable of solving municipal problems singlehandedly. Even where administrators may be competent and suitably qualified, a further impediment to successful outcomes are the threats that are often made by corrupt and unethical official and local politicians on the administrator’s lives.

Other reasons for failure include municipal officials who are often unwilling to cooperate with the intervention teams, the terms of reference for the administrator are often not specified upfront making it difficult to determine whether or not the objectives of the interventions were attained, the interventions generally lacked substantive-ness and in many cases the root cause of the problem is never dealt with adequately. A number of municipalities met the criteria for S139(5) – financial crisis intervention - but these interventions are seldom invoked by Provincial Executives.

In summary, the history of interventions to date point to a number of failures – people, process, political, timing related and therefore interventions have not been successful in addressing municipal dysfunction. However, the experience of the Oudtshoorn Municipality in the Western Cape is an exception in this regard and is due to a concerted effort on the part of senior managers in the municipality to repair the institution.

No intervention in terms of S139(7) of the Constitution has been invoked yet and therefore National Treasury has not had the mandate to intervene directly in a municipality.

1. As indicated in the above response, S139 interventions are invoked by the Provincial Executive and records of interventions of these interventions should be maintained nationally by the Department of Cooperative Governance. National Treasury does not have detailed records of these interventions but can furnish copies of financial recovery plans prepared for those municipalities where the Municipal Finance Recovery Service unit has rendered assistance in this regard. We will provide copies upon request of all active financial recovery plans that the MFRS unit is currently monitoring on a monthly basis.