**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 1787**

**DATE OF QUESTION: 20 AUGUST 2021**

**DATE OF SUBMISSION: 03 SEPTEMBER 2021**

**Ms L L van der Merwe (IFP) to ask the Minister of Justice and Correctional Services:**

What progress has the Government made in its endeavours to secure the extradition of the Bushiris to the Republic?

**NW1999E**

**REPLY:**

During November 2020, a request was received from the National Director of Public Prosecutions (NDPP) for the extradition of Shepherd Huxley Bushiri and Mary Bushiri from the Republic of Malawi to the Republic of South Africa to stand trial on various charges. The request was subsequently delivered at the office of the Attorney-General in Malawi on 5 December 2020. The extradition hearing proceeded in the Lilongwe Magistrate’s Court in Malawi.

On 19 April 2021, the attorneys acting on behalf of the Bushiri’s argued in court that South Africa could not rely on the SADC Protocol on Extradition as the Protocol has not been domesticated in accordance with section 211 of the Republic of Malawi’s Constitution. The court ruled that even though the Protocol had not yet been domesticated, that Malawi’s Extradition Act clearly demonstrates in the First Schedule to that Act that South Africa is a designated country for purposes of extradition, and therefore ruled in favour of the prosecution.

The matter was then postponed to Friday 4 June 2021, for the extradition hearing to start. During the proceedings the defense argued that the witnesses who would testify against the Bushiri’s in South Africa should travel to Malawi to give evidence during the extradition proceedings. The Magistrate’s Court ruled in favour of the defense that the witnesses should travel to Malawi. The DPP in Malawi advised the Department that they are of the view that the Magistrate’s Court misdirected itself as regards what amounts to a preliminary inquiry, and that Section 9 of the Extradition Act of Malawi never envisaged physical presence of witnesses in court during an extradition hearing.

The Office of the DPP in Malawi filed a review application to review and set aside the Magistrate Court’s ruling. The review application was heard on 21 July 2021, and judgment is expected soon.