**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 1902**

**DATE OF QUESTION: 21 AUGUST 2020**

**DATE OF SUBMISSION: 4 SEPTEMBER 2020**

**Ms N V Mente (EFF) to ask the Minister of Justice and Correctional Services:**

1. What number (a) of litigation matters with regard to forced and/or coerced sterilisation have the National Prosecuting Authority dealt with in the period 1 January 1996 and 31 December 2019 and (b)(i) of the specified matters were settled out of court and (ii) what did the specified settlements entail;
2. what number of (a) non-disclosure agreements were signed in relation to the out-of-court settlements and (b) these cases were finalised in court;
3. whether any damages were awarded to complainants; if not, what is the position in this regard; if so, what are the relevant details?

**NW2417E**

**REPLY:**

1. The National Prosecuting Authority (NPA) does not keep statistics/data on forced or coerced sterilisations on its integrated case management system. It should be noted that litigation arising from such forced or coerced sterilisations would normally be **civil** litigation matters, between the parties, as is the case with similar claims for medical negligence or medical malpractice, with corresponding claims for damages.

Claims for damages would be based on the fact that for a person to undergo the process of sterilisation, informed consent ought to be obtained. Using force or any other form of coercion is prohibited and amounts to a violation of a person’s human rights.

1. The NPA does not monitor or keep statistics on civil litigation matters and therefore it is not the appropriate institution to provide the requested information.
2. As mentioned, the NPA does not monitor or keep civil litigation statistics. However, in order to assist, it should be noted that the Commission for Gender Equality (CGE) recently released its *Report on the Forced Sterilisation of Women Living with HIV/AIDS in South Africa* (Complaint Ref No: 414/03/2015/KZN). In the report, the CGE makes a number of recommendations, including further engagements with the Health Professions Council of South Africa (HPCSA) and the Department of Health. The CGE has also stated that it will present its report to the South African Law Reform Commission (SALRC) for possible amendments to legislation. The SALRC has indicated that it has not as yet received the CGE Report in this regard. The Department of Justice and Constitution Development will follow-up with the SALRC once the report reaches the SALRC.