**Logo

Description automatically generated**

**NATIONAL ASSEMBLY**

**QUESTIONS FOR WRITTEN REPLY**

**QUESTION NUMBER 1950**

**DATE OF PUBLICATION: 27 AUGUST 2021**

**1950. Mr M K Montwedi (EFF) to ask the Minister of Cooperative Governance and Traditional Affairs:**

QUESTION:

1. What initiatives has she put in place to ensure that the relevant Members of the Executive Council do not abuse their powers by using section 139 interventions to fight party-political battles, as is the case in the North -West? NW2182E

**REPLY:**

In terms of approval requirements of Section 139 of the Constitution, the Minister exercises the power assigned to approve or disapprove the intervention invoked by the Provincial Executive Council if the municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation. Approvals of interventions are based on sufficient evidence of the failures of the executive obligations by the municipality. Approvals are also based on when the decision of the Provincial Executive Council to intervene in the affairs of the municipality solely on failures to fulfil an executive obligations by the municipality.

Section 139(2)(a)(i) of the Constitution provides checks and balances in that “If a provincial executive intervenes in terms of subsection (1)(b), it must submit a written notice of the intervention to Cabinet member responsible for local government affairs”. In terms of Section 139(2)(b), the intervention must end if the Cabinet member responsible for local government affairs disapprove the intervention within 28 days after the intervention began, or by the end of that period has not approved the intervention. Similarly, section 139(3)(a)(i) of the Constitution provides that “If a Municipal Council is dissolved in terms of subsection (1)(c), the provincial executive must immediately submit a written notice of the dissolution to the Cabinet member responsible for local government affairs”. In terms of Section 139(3)(b) the dissolution takes effect 14 days from the date of receipt of the notice by the Municipal Council unless set aside by the Cabinet member responsible for local government before the expiry of those 14 days. These mechanisms are meant foresee the correct invocation and application of section 139 of the Constitution.