****

**NATIONAL ASSEMBLY**

**QUESTION FOR ORAL REPLY**

**PARLIAMENTARY QUESTION NO: 2129**

**DATE OF QUESTION: 14 October 2016**

**DATE OF SUBMISSION: 28 October 2016**

**Dr C P Mulder (FF Plus) to ask the Minister of Justice and Correctional Services:**

1. Whether a certain judge (Judge Motata) is still on special leave with full pay; if so, (a) why has the hearing of the specified person not yet been concluded and (b) what steps will be taken to conclude the hearing;
2. whether any of the monies are repayable if the specified person is found guilty; if not, why not; if so, what are the relevant details?
3. what is the total amount that has been paid to the specified person since being placed on special leave in 2007; **NW2443E**

**DRAFT REPLY**

1. (a) Yes, Judge Motata is still on special leave with full pay.

(b) The complaints that were lodged against Judge Motata were referred by the Judicial Service Commission to a Judicial Conduct Tribunal to be investigated and reported on. The proceedings by the Judicial Conduct Tribunal were kept in abeyance following a series of legal challenges relating to the constitutionality of section 24 of the JSC Act which empowers the Tribunal President to appoint a member of the National Prosecuting Authority to collect and adduce evidence on behalf of the Tribunal. Following the conclusion of the legal challenges at the Constitutional Court, Judge Motata launched his own application challenging the constitutionality of the amendments passed by Parliament in 2008 which brought about the complaints handling mechanism against Judges. This application has resulted in the proceedings at the Judicial Conduct Tribunal being postponed until the finalisation of Judge Motata’s application.

1. The matter is to be determined by the Judicial Conduct Tribunal however Judge Motata’s special leave is not subject to a condition that Judge would have to repay the moneys earned if he is found guilty of gross misconduct by the Judicial Conduct Tribunal.
2. The total amount that has been paid to Judge Motata for the period 01 January 2007 to 31 October 2016 is R13 919 622 .36