

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**QUESTION NO. 4141**

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**INTERNAL QUESTION PAPER 44 – 2022**

**4141. Mr A C Roos (DA) to ask the Minister of Home Affairs:**

(1) Whether he will furnish Mr A C Roos with a list of the court cases in the 2022-23 financial year, in which his department has been instructed to amend regulations and/or legislation, that have not been done; if not, why not; if so, what are the relevant details;

(2) whether he will furnish Mr A C Roos with a list of the (a) deadlines given by the court to effect the order for each case and (b) actions taken to satisfy the requirements of the court order in each case; if not, why not; if so, what are the relevant details? NW5157E

**REPLY:**

1. During 2022-2023 financial year the Department was instructed to amend certain sections of the Immigration Act, 13 of 2022 on the matter of Tereza Rayment & 5 others v The Minister of Home Affairs: court case No. 3919/20, as summarised hereunder:

The Applicants sought to declare the Immigration Act, 13 of 2002, unconstitutional based on Sections 10(6), 11(6), 18(2) and 43, and Regulation 17 thereof. The Western Cape High Court held that Sections 10(6), 11(1)(b) and 18(2), read with Regulation 9(5) and 9(9) are inconsistent with the Constitution of the Republic of South Africa. That declaration of invalidity was suspended for 24 months from the date of the order, to enable Parliament to remedy the inconsistency.

The Western Cape High Court ordered that the Department must consider granting the Applicants authorization to remain in the RSA in terms of Section 32(1), pending the outcome of such applications. Costs were ordered to be paid by the Department, including the costs of two Counsel.

Both the Applicants and the Department were not satisfied with the order and therefore appealed, and cross appealed respectively, resulting in the stay of the court order and thus it cannot be implemented.

1. The above-mentioned court application is the only court case during the 2022-23 financial year wherein the Western Cape High Court instructed the Department to amend its regulations and/or legislation. As mentioned above, the court order has been stayed due to the pending appeal processes.

**END**