**NATIONAL ASSEMBLY**

**QUESTIONFOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO. 474**

**DATE OF QUESTION: 02 MARCH 2018**

**DATE OF SUBMISSION: 16 MARCH 2018**

 **474**. **Adv A de W Alberts (FF Plus) to ask the Minister of Justice and Correctional Services:†**

(1) On what authority and/or competence and/or legal grounds does the Chief Justice rely in his decision to have English used as the only official language or record in the courts, as was announced on 29 September 2017;

(2) whether the Chief Justice consulted him before the specified decision was taken; if not, why was he not consulted; if so, what are the relevant details;

(3) what are the correct legal grounds on which such decision is taken;

(4) whether the Chief Justice informed his department of the specified decision before is was made public; if not, why not; if so, (a) on what date and (b) where can a copy of the communication be accessed;

(5) whether the decision was published in the *Government Gazette* in accordance with section 8(5)(b) of the Superior Courts Act, Act 10 of 2013; if not, why was this not deemed necessary; if so, in which *Government Gazette* was it published? NW541E

**DRAFT REPLY:**

1. Section 8 of the Superior Courts Act, 2013 (Act No. 10 of 2013) accords the Chief Justice certain powers with regard to the performance of judicial functions, and these powers flow directly from the constitutional reforms brought about by the Constitution Seventeenth Amendment passed by this august House in 2012 section 165(6) of which provides, and I quote:

“165(6) The Chief Justice is the head of the judiciary and exercises responsibility over the establishment and monitoring of norms and standards for the exercise of the judicial functions of all courts.” (Close quote)

In exercising the powers conferred under the Constitution the Chief Justice is authorised by section 8 of the Superior Courts Act to issue written protocols or directives, or give guidance or advice, to judicial officers, among others, regarding any matter affecting the dignity, accessibility, effectiveness, efficiency or functioning of the courts.

The issue of language is not only an emotive have regard to our history where English and Afrikaans were the only languages that enjoyed official recognition and status, but is also an access issue which I believe would fall under the ambit of section 8 of the Superior Courts Act.

1. The Chief Justice informed me of the decision of the Heads of Court regarding this matter during my meeting with Heads of Court which was held on the same day that the Chief Justice made a public pronouncement on the matter, namely, 29 September 2017.
2. The Constitution is very clear on the matter of languages. Not only does 6 gives accords equal status to all official languages, but also enjoins the Pan South African Language Board (PANSALB) in particular to take measures to promote the development of our indigenous African languages.

It is important to put the pronouncement by the Chief Justice in the proper context. This pronouncement does not imply that Afrikaans and other languages will disappear from the courts’ radar. Any person is free to present his or her case in any of official language that he or she understand in which case interpretation is provided if the language happens to be any language other than English. What is conveyed is that the transcript of the record will, for practical reasons be in English.

1. As I have already indicated, the pronouncement of the decision of the Heads of Court was made at the meetings of Heads of Court and the Judicial Service Commission of September and October respectively. The Chief Justice is not required to inform the Department of such decisions.
2. From our records the decision or directive pertaining to the issue has not been published in the Government Gazette. I am aware that there are discussions underway regarding the implementation of the decision at the various courts. I am aware, for example of the directive issued by Judge President Hlophe of the Western Cape Division which I believe is a subject of discussion at the Provincial Efficiency Enhancement Committee convened by the Judge President of Division in a province. These on-going discussion relate to the capacity to implement the decision. If this is a kind of decision or directive that must be published in the Gazette it would be ideal to do so after careful consideration and taking into account the capacity of our interpretation services.