**Memorandum from the Parliamentary Office**

**Minister**

**National Assembly question written: 649**

**Recommended / Not Recommended**

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**Ms Nelly Vilakazi**

**Acting Director-General: Department of Social Development**

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**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**QUESTION NUMBER: 649**

**DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 09 MARCH 2018**

**INTERNAL QUESTION PAPER NUMBER: 06 - 2018**

**649. Ms B S Masango (DA) to ask the Minister of Social Development:**

Whether she has been informed that her department’s Central Authority for Intercountry Adoptions lodged an appeal against a children’s court order which has resulted in the adoption of a child with severe special needs being placed on hold and the child remaining institutionalised for 20 months since he could have been placed in family care (details furnished); if not, will she undertake to make enquiries within her department regarding this matter with a view to withdrawing the appeal so lodged and/or confirming her department’s course of action; if so, upon what grounds (a) was this stance taken by her department, (b) is this child being deprived of his constitutional right to family care and to education and (c) is the cost to taxpayers of the appeal justified? NW723E

**REPLY:**

No. The Minister for Social Development was not informed that her department’s Central Authority for Intercountry Adoptions lodged an appeal against a children’s court order.

The mandate of the South African Central Authority (SACA) is to regulate inter-country adoptions. In this regard the SACA strictly applies the principle of Subsidiarity. This means that the SACA is satisfied that all in country care options are explored before consideration of intercountry adoption.

The Department of Social Development took the stance to continue with the appeal so lodged on the following ground: That there was a breach of mandate by the accredited child protection organisation (CPO) facilitating this matter.

1. The issues surrounding the breach of mandate, procedural and administrative misconduct could lead to the deprivation of the child’s constitutional right to be cared for by his own biological family in his own country of origin.
2. The Department lodged its appeal in March 2017. However, the court has not provided a date for the matter to be heard. The applicant has filed a notice to oppose the leave to appeal, however, she has not filed opposing affidavit indicating the basis of her opposition. The delay is therefore not on the side of the Department.
3. The cost to taxpayers of the appeal is justified because the Department is of the view that all parties involved in this matter should act in an objective manner which favours the best interest of the child rather than the interest of any party concerned.

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**Approved by the Minister on**

**Date……………………….**