**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 676**

**DATE OF QUESTION: 04 MARCH 2022**

**DATE OF QUESTION: 18 MARCH 2022**

**Ms B M van Minnen (DA) to ask the Minister of Justice and Correctional Services:**

With reference to a recent meeting of the Standing Committee on Public Accounts, where the Director of Public Prosecutions claimed that they had a 90% conviction rate with regard to high-profile corruption matters but, while the decision to prosecute is reviewed by a court, the decision not to prosecute is not open to review, what (a) number of matters classified as high-profile corruption cases have not been prosecuted after investigation by the Directorate for Priority Crime Investigations and (b) is the true statistics for convictions in this class of crime?

**NW814E**

**REPLY:**

1. The Anti-Corruption Task Team (ACTT) defines “high-profile corruption cases” as those corruption cases that have been selected by the Case Management Committee to be part of the ACTT Priority List. The aforementioned case management committee consist of members from various institutions including the Directorate for Priority Crime Investigations (DPCI), Special Investigating Unit (SIU), Financial Intelligence Centre (FIC), National Prosecuting Authority (NPA), National Treasury and Department Public Service and Administration (DPSA).

The case intake criteria have been reviewed by the ACTT Executive Committee (EXCO), and consists of a number of variables such as the monetary value, profile of the accused such as Municipal Managers, Accounting Officers and alike, government priorities based on sectors identified to be vulnerable and the crime type, which are scored according to set criteria in order to determine if any particular matter should be adopted onto the list.

The statement made as part of this parliamentary question, that “a decision not to prosecute is not open to review”, is not factually correct as a number of options are open to any complainant or person with material interest in the matter. In terms of section 6(b) of the Criminal Procedure Act, Act 51 of 1977, such persons may apply for a *“nolle prosequi”* certificate and decide to institute a private prosecution. Apart from this review procedure in court, any party dissatisfied with a decision of any member of the prosecution authority relating to a decision to prosecute or not to prosecute, may make representations to the relevant Director of Public Prosecutions and/or the National Director of Public Prosecutions.

Furthermore, it is not commonly known that the decisions not to prosecute are explained and discussed amongst the members within the ACTT Case Management Committee where the reason(s) for the decision is/are analysed, and methods considered to see if any future preventative steps can lead to another result.

The following provide a breakdown of the methods of finalisation of priority cases over the past ten (10) years:

1. Verdict Cases:
   1. Convictions were obtained in sixty-one (61) trial cases; and
   2. There were eight (8) acquittals.
2. Forty-five (45) matters were declined to prosecute.
3. Matters currently under investigation/enrolled:
   1. Seventy-two (72) cases are in court, of which nineteen (19) are partly heard. This means that a decision to prosecute was taken in 75% of the aforementioned cases.
4. True statistics for convictions in this class of crime?

Sixty-one (61) convictions related to cases in which:

1. A total of ninety-one (91) accused were convicted from the ninety-nine (99) accused prosecuted and sixty-one (61) of the sixty-nine (69) cases resulted in a conviction. This translates to:
   1. 92% conviction rate on persons convicted
   2. 88% conviction rate on number of cases prosecuted.

The conviction rates are only measured against the cases and/or the accused prosecuted, as various matters may not be prosecuted for reasons outside the control of the investigating authorities and the prosecution authority.

The aim is not to see how many convictions may be achieved, but to ensure that justice is done, and also seen to be done, in all matters. It is therefore important to understand that after thorough investigations, there may not be sufficient evidence to institute prosecution or for other reasons, such as the unavailability of witnesses or accused.

**END**