NATIONAL ASSEMBLY

**QUESTION FOR WRITTEN REPLY**

# QUESTION NO. 832

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## INTERNAL QUESTION PAPER 14 OF 2019

**832. Mr J J McGluwa (DA) to ask the Minister of Home Affairs:**

Whether, with reference to providing protection for refugees, taking into consideration the first safe country principle for refugees to first sought asylum between transit routes, his department has any formal bilateral agreements between transit route countries and destination countries in order for refugees to first seek asylum in the transit country; if not, (a) will he consider such decision and (b) by what date; if so, what are the relevant details? NW1949E

**REPLY:**

No, the Department has no formal bilateral agreement/s with transit route countries and countries of destination on application of the first country of asylum principle. As an international practice, any person may request asylum in any country outside his/her own country. The first country principle as practiced in international law requires that:

1. an asylum seeker should have been recognised in that first country of asylum as a refugee and he or she can still avail himself or herself of that protection; or
2. he or she otherwise enjoys sufficient protection in that country, including benefiting from the principle of non-refoulement.

(a-b) No, the Department will not consider such decision, because management of asylum and refugees in South Africa is centred on the cardinal principle of non-refoulement; and inclusion before exclusion, at the core of which is the 1951 UN Convention and its 1967 Protocol. This means that South Africa has an international obligation to receive asylum applicants who may have transited a number of countries before arrival in South Africa.

Furthermore, South Africa will in terms of Section 2 (a) – (b) of the Refugee Act, Act No. 130 of 1998, not return such applicants to a country where:

1. they may be subjected to persecution on account of his or her race, religion, nationality, political opinion or membership of a particular social group; and or
2. their life, physical safety or freedom would be threatened on account of external aggression, occupation, foreign domination or other events seriously disturbing or disrupting public order in either part or the whole of that country.

**END**