

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 478**

**DATE OF QUESTION: 20 MARCH 2020**

**DATE OF SUBMISSION: 3 APRIL 2020**

**Mr C Brink (DA) to ask the Minister of Justice and Correctional Services:**

- (1) Whether, since 1 January 2006, any persons have been prosecuted under the provisions of section 173 of the Municipal Finance Management Act, Act 56 of 2003; if so, (a)(i) what number of persons have been prosecuted under these provisions and (ii) in relation to which municipalities, (b) which of these prosecutions (i) have been withdrawn, either provisionally or completely and (ii) have led to convictions and (c) what were the sentences that were handed down in the cases that have been successfully prosecuted;
- (2) whether any persons have been prosecuted under the provisions of section 119 of the Municipal Systems Act, Act 32 of 2000, since 1 January 2001; if so, (a)(i) what number of persons have been prosecuted under these provisions and (ii) in relation to which municipalities, (b) which of these prosecutions (i) have been withdrawn, either provisionally or finally and (ii) have led to convictions and (c) what were the sentences that were handed down in the cases that have been successfully prosecuted?

**NW660E**

**REPLY:**

(1) There were a number of prosecutions conducted under the provisions of Section 173 of the Municipal Finance Management Act (MFMA), Act No. 56 of 2003 in the period from 1 January 2006, as outlined in the table below:

(a)(i) Number of persons prosecuted in terms of section 173 of the MFMA	67
ii) Names of Municipalities involved	<p><b>1. Eastern Cape</b></p> <p>(a) Mbizana Local Municipality</p> <p>(b) Cacadu Municipality</p> <p>(c) Senqu Local Municipality</p> <p>(d) Koukamma Municipality</p> <p>(e) Amahlati Local Municipality</p> <p>(f) Buffalo City Municipality</p> <p>(g) Nelson Mandela Bay Metro</p> <p>(h) Ikwezi Local Municipality</p> <p><b>2. Northern Cape</b></p> <p>Hoogland Municipality</p> <p><b>3. Gauteng</b></p> <p>West Rand District Municipality</p> <p><b>4. Western Cape</b></p> <p>(a) Oudsthoorn Municipality</p> <p>(b) George/ Eden Municipality</p> <p>(c) ClanWilliam/Cederberg Municipality</p> <p>(d) Swellendam Municipality</p> <p>(e) Paarl Municipality</p>

	<p><b>5. Free State</b></p> <p>(a) Maluti-A-Phofung Local Municipality</p> <p>(b) Dihlabeng Local Municipality</p> <p>(c) Moqhaka Local Municipality</p> <p>(d) The Nala Local Municipality</p>
(b)(i) Municipalities where prosecutions were withdrawn	<p>(a) Mbizana Local Municipality</p> <p>(b) Oudtshoorn Municipality</p> <p>(c) ClanWilliam Municipality</p> <p>(d) Swellendam Municipality</p> <p>(e) Paarl Municipality</p>
(ii) and c) Municipalities and cases where convictions were attained, and sentences imposed	<p>(a) Cacadu Municipality, in S v Khanyisa Majokweni and another</p> <p>(i) The 2 accused were convicted for contravening section 173 of the MFMA.</p> <p>(ii) Accused 1 was sentenced to a fine of R 1 500.00 or 90-days imprisonment, which was wholly and conditionally suspended for 5 years.</p> <p>(iii) Accused 2 was sentenced to 3 years imprisonment, wholly and conditionally suspended for 5 years.</p> <p>(b) Senqu Local Municipality in re S v Mxolisi Yawa and 6 others</p> <p>(i) 5 of the 7 accused were convicted for contravening section 173 of the MFMA</p> <p>(ii) Accused 1 was sentenced to 5 years imprisonment wholly and conditionally suspended for 5 years</p> <p>(iii) Accused 2 was sentenced to 4 years imprisonment wholly and conditionally suspended for 5 years</p> <p>(iv) Accused 5 was sentenced to a fine of R5000 wholly and conditionally suspended for 5 years</p>

	<p>(v) Accused 6 was sentenced to 3 years imprisonment wholly and conditionally suspended for 5 years</p> <p>(vi) Accused 7 was sentenced to 2 years imprisonment wholly and conditionally suspended for 5 years</p> <p>(c) Hoogland Municipality, in re S v Marius Botha</p> <p>(i) The accused was convicted for contravening section 173 of the MFMA</p> <p>(ii) He was sentenced to a fine of R5 000.00 or 12 months imprisonment.</p> <p>(d) Oudtshoorn Municipality, in re S v Pietersen</p> <p>(i) The accused was convicted for contravening section 173 of the MFMA</p> <p>(ii) He was sentenced to 5 direct years imprisonment, which was reduced to 2 years direct imprisonment on appeal to the Western Cape High Court</p> <p>(iii) Applications to appeal to the Supreme Court of Appeal and the Constitutional Court were dismissed.</p>
Municipalities and cases where there were acquittals	<p>(a) Senqu Local Municipality, in re S v Mxolisi Yawa and 6 others (2 persons were acquitted)</p> <p>(b) Koukamma Municipality, in re S v Sinaw Amandla Construction and 3 others</p> <p>(c) Oudtshoorn Municipality, in re S v Pietersen and 5 others</p>
Municipalities and cases which are partly heard before court	<p>(a) Hoogland Municipality, in re S v Marius Botha</p> <p>(b) West Rand Municipality, in re S v TZ Mokhatla and 2 others</p> <p>(c) George/ Eden Municipality, in re S v Cecil Afrika</p> <p>(d) Amahlali Local Municipality, in re S v Mlonzi and 2 others</p> <p>(e) Buffalo City Municipality, in re</p> <p>(i) S v Zambodla and another, and</p>

	<p>(ii) S v Ndzele and 5 others</p> <p>(f) Nelson Mandela Bay Metro, in re S v Mkaza and 5 others</p> <p>(g) Ikwezi Local Municipality, in re S v Gutas</p> <p>(h) Cacadu Municipality, in re S v Diniso and 5 others</p> <p>(i) Maluti-A-Phofung Local Municipality, in re S v Tsupa and 8 others</p> <p>(j) Dihlabeng Local Municipality, in re S v Molatseli and 2 others</p> <p>(k) Moqhaka Local Municipality, in re S v Mqwati and 3 others</p> <p>(l) The Nala Local Municipality, in re S v Christopher Mekomela and 3 others</p>
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(2) No person has been prosecuted under the provisions of section 119 of the Municipal Systems Act, Act 32 of 2000.