

Tuesday, 26th November, 2019

MINISTERIAL STATEMENT

ON

REPAYMENT OF MONEY TO GOVERNMENT FOLLOWING JUDGMENT OF
CONSTITUTIONAL COURT

BY

THE HON. MINISTER OF JUSTICE, MR LUBINDA, MP

Mr Speaker, I thank you most sincerely for according me this opportunity to address this august House.

Sir, I wish to address this august House on matters relating to the Constitutional Court order concerning hon. Ministers who remained in office prior to the 2016 General Elections.

The court order was to the effect that the hon. Ministers who remained in office prior to the 2016 general elections pay back the emoluments that were paid to them during the time when the National Assembly had been dissolved.

Mr Speaker, following my statements in the media clarifying the position on the repayment of money paid to individual hon. Ministers as a result of the judgment of the Constitutional Court, there have been numerous questions including questions from “Mr Questioner,” posed both inside and outside the House. You may recall that even last Friday, there were several related questions posed to Her Honour the Vice-President during the Vice-President’s Question Time. It is, therefore, only appropriate for me to clarify. I, therefore, now wish to update the House and the nation at large on the status of this very important matter.

Sir, in so doing, allow me to remind the House of the notorious fact that in this matter, there were two petitioners, namely the first petitioner, Mr Steven Katuka in his capacity as Secretary General of the United Party for National Development (UPND) and the second, the Law Association of Zambia (LAZ).

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Mr Speaker, the respondents were the Attorney-General, being the first respondent, Dr Ngosa Simbyakula and sixty-three named “others” being the rest. At page J83 of the judgment of the Constitutional Court, the court directed as follows:

“The emoluments paid to the sixty-four respondents from 12th May, 2016 to date, are to be agreed by the petitioners and the respondents. In default of such agreement, the matter shall be referred by either party for assessment by the Registrar of the Constitutional Court.”

Mr Speaker, as everyone is aware, there has not been any formal communication, and therefore, no agreement between the petitioners and the second to the sixty-fourth respondents on the matter nor on the amounts to be paid. For emphasis, so that there is no question, let me repeat.

As everyone is aware, there has not been any formal communication, and therefore, no agreement between the petitioners, namely the Secretary General of the UPND and LAZ on one hand and the second to the sixty-fourth respondents on the matter itself nor on the amounts to be paid. Instead, the petitioners, namely the UPND and LAZ, have both written to the Attorney-General demanding to know when the second to the sixty-fourth respondents would pay.

Mr Speaker, the Attorney-General, through the Debt Collection Unit in the Ministry of Justice, is the institution that is mandated to execute such orders. It is, therefore, the duty of the Ministry of Justice to execute the court order. As such, in its quest to execute, for the sake of the hon. Member for Katombola, meaning to collect the money from the second to the sixty-fourth respondent, the State, through the learned Attorney-General applied to the Registrar of the Constitutional Court for assessment in accordance with the court order as stated earlier. This is in order to determine what specific monies are liable to be paid back to the State by the affected sixty-four respondents.

Mr Speaker, as you may be aware, the second to the sixty-fourth respondents in this matter were sued in their individual capacities. As such, the court order to pay back the emoluments