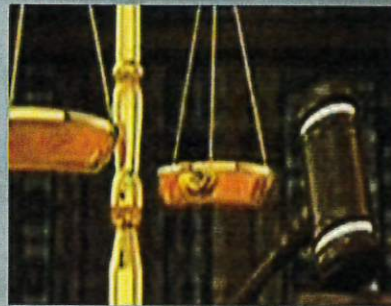




**REPUBLIC OF NAMIBIA**



**REPORT OF THE AUDITOR-GENERAL ON THE ACCOUNTS OF THE**

# **CRIMINAL ASSETS RECOVERY FUND OF THE MINISTRY OF JUSTICE**

**FOR THE FINANCIAL YEAR ENDED 31 MARCH 2022**



**REPUBLIC OF NAMIBIA**



**TO THE HONOURABLE SPEAKER OF THE NATIONAL ASSEMBLY**

I have the honour to submit herewith my report on the accounts of the Criminal Assets Recovery Fund of the Ministry of Justice for the financial year ended 31 March 2022 in terms of Article 127(2) of the Namibian Constitution and the Prevention of Organised Crime Act, 2004 (Act 29 of 2004), Section 76 (9). The report is transmitted to the Honourable Minister of Finance in terms of Section 27(1) of the State Finance Act, 1991 (Act 31 of 1991) to be laid upon the Table of the National Assembly in terms of Section 27(4) of the Act.

A handwritten signature in black ink, appearing to read 'Junias Etuna Kandjeke'.

**JUNIAS ETUNA KANDJEKE  
AUDITOR-GENERAL**

**WINDHOEK, MARCH 2023**



## DEFINITIONS

<b>Attestation engagement:</b>	It is when a responsible party (the entity) measures the subject matter against the criteria and presents the subject matter information, on which you, the auditor, then gather sufficient and appropriate audit evidence to provide a reasonable basis for forming a conclusion.
<b>Direct reporting engagement</b>	It is when an auditor measures or evaluates the subject matter against the criteria. The auditor is responsible for producing the subject matter information. The auditor selects the subject matter and criteria, taking into consideration risk and materiality. By measuring the subject matter evidence against the criteria, the auditor is able to form a conclusion.
<b>International Standards of Supreme Audit Institutions (ISSAI):</b>	Professional standards and best practice guidelines for public sector auditors, officially authorized and endorsed by the International Organization of Supreme Audit Institutions (INTOSAI).
<b>Limited Assurance</b>	It is when the audit conclusion states that, based on the procedures performed; nothing has come to the auditor's attention to cause the auditor to believe that the subject matter is not in compliance with the criteria.
<b>Reasonable Assurance</b>	It is when the audit conclusion is expressed positively, conveying that, in the auditor's opinion, the subject matter is or is not compliant in all material respects or, where relevant, that the subject matter information provides a true and fair view, in accordance with the applicable criteria.
<b>Treasury:</b>	Financial authority in public service. (The department of Government that has control over the collection, management and disbursement of public revenue).
<b>Types of Audit Opinions:</b>	<p><b>Unqualified Opinion.</b> In an unqualified report, the auditors conclude that the financial statements of your O/M/A's present fairly its affairs in all material aspects.</p> <p><b>Qualified Opinion.</b> An auditor's report is qualified when there is either a limitation of scope in the auditor's work, or when there is a disagreement with management regarding application, acceptability or adequacy of accounting policies.</p> <p><b>Disclaimer Opinion.</b> Auditors do not express an opinion on the financial position of a firm because they have not completed an examination of its accounts or the examination is not broad enough in scope to enable them to form an opinion.</p> <p><b>Adverse Opinion.</b> The Financial statements of an O/M/A's do not fairly present its actual financial position and the required information was either not disclosed, or (if disclosed) was inadequately disclosed or was inaccurate.</p>
<b>Vote:</b>	Represents an Office/Ministry/Agency.

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**REPORT OF THE AUDITOR-GENERAL ON THE ACCOUNTS OF THE  
CRIMINAL ASSETS RECOVERY FUND  
FOR THE FINANCIAL YEAR ENDED 31 MARCH 2022**

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**1. SECTION A: FINANCIAL AUDIT**

**1.1 QUALIFIED AUDIT OPINION**

I have audited the financial statements of the Criminal Assets Recovery Fund for the financial year ended 31 March 2022, provided by the Accounting Officer as attached in Annexure A. These financial statements comprise the Income Statement and Balance Sheet for the year then ended.

In my opinion, except for the effects of the matters described in the Basis for Qualified Opinion paragraph, the financial statements of the Criminal Assets Recovery Fund as at 31 March 2022 are prepared, in all material respects, in accordance with the State Finance Act, 1991 (Act 31 of 1991), Treasury approval, (18 June 2012) and relevant legislation.

**1.2. BASIS FOR QUALIFIED AUDIT OPINION**

I conducted my audit in accordance with International Standards for Supreme Audit Institutions. My responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of Financial Statements section of my report. I am independent of the entity in accordance with the Code of Ethics for Supreme Audit Institutions together with the ethical requirements that are relevant to my audit of the financial statements in Namibia, and I have fulfilled my other ethical responsibilities in accordance with these requirements and the Code of Ethics. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion. My opinion has been qualified due to the following:

**1.2.1 Proceeds generated from auction of forfeited vehicles**

Treasury approval 20/11/1/05 clearly stipulates that all the income derived from the asset auctions must be deposited into the Criminal Asset Recovery Fund Notice Account. However, the audit found that the proceeds generated from the auction of forfeited assets amounting to N\$ 1 122 000, that took place on 28 October 2021 and 04 November 2021 was not deposited into the fund account, contrary to the Treasury approval 20/11/1/05.

It is recommended that the Accounting Officer should ensure that the proceeds from the auctions are deposited in the Criminal Asset Recovery Fund Notice Account.

**Management comment**

No comment was provided by the Accounting Officer.

**1.2.2 Withdrawal from account**

During the audit of the current account, it was detected that an amount of N\$ 529 119.42 which was initially deposited into the Notice Account on 14 August 2021 was withdrawn by the bank on 09 of December 2021 from the Fund's current account without the instruction of the Committee.

It is recommended that the Accounting Officer should provide an explanation of what transpired and provide proof of any rectification done in respect of this withdrawal.

## **Management comment**

The Accounting Officer indicated that the bank is in the process of investigating the transaction and as soon as the bank responds, the Ministry will communicate to the Auditor-General.

### **1.3 KEY AUDIT MATTERS**

Key audit matters are those matters that, in my professional judgment, were of most significance in my audit of the financial statements of the current period. No key audit matters for the year under review.

## **2. SECTION B: COMPLIANCE AUDIT**

### **2.1 COMPLIANCE TO LAWS AND REGULATIONS**

#### **SUBJECT MATTER: FINANCIAL PERFORMANCE AND THE USE OF APPROPRIATED FUNDS**

I have audited the financial performance, collection and utilisation of funds of the Criminal Assets Recovery Fund for the financial year ended 31 March 2022.

### **2.2 DESCRIPTION OF THE SUBJECT MATTER INFORMATION AND AUDIT SCOPE**

The audit is aimed to determine whether the Criminal Assets Recovery Fund have collected and utilised the funds in compliance with the State Finance Act, 1991 (Act 31 of 1991), Prevention for Organised Crime Act, 2004 (Act 29 of 2004), Public Procurement Act, 2015 (Act 15 of 2015), Treasury approval (18 June 2012), Treasury Instructions and Public Procurement Regulations for the financial year ended 31 March 2022.

### **2.3 AUDIT OBJECTIVE**

The objective of this compliance audit is to verify and assess whether the Criminal Assets Recovery Fund has complied with all laws and regulations that have an impact on the financial statements of the Criminal Assets Recovery Fund in accordance with the ISSAIs. This audit is an attestation engagement where the Fund presented the subject matter information on which the auditor then gathered sufficient and appropriate audit evidence to provide reasonable assurance in forming an opinion. The findings and recommendations are taken into consideration.

In addition, the objective of this audit is to verify and assess whether the Criminal Assets Recovery Fund have collected and utilised the funds in accordance, and to report issues of non-compliance so that corrective action is taken and compliance to laws and regulations is strengthened.

### **2.4 AUDIT CRITERIA**

The audit criteria of this compliance derived the following regulations and laws stated below:

- State Finance Act, 1991 (Act 31 of 1991);
- Prevention for Organised Crime Act, 2004 (Act 29 of 2004);
- Public Procurement Act, 2015 (Act 15 of 2015);
- Treasury approval (18 June 2012);



- Treasury Instructions; and
- Public Procurement Regulations.

## **2.5 SUMMARY OF METHODS APPLIED**

I have audited the financial statements for the financial year ended 31 March 2022 submitted by the Accounting Officer in order to determine whether this information complied with laws and regulations that governs them.

## **2.6 UNQUALIFIED AUDIT OPINION ON THE SUBJECT MATTER**

In my opinion, the financial performance, collection and utilisation of funds of the Criminal Assets Recovery Fund in all material respects, is in compliance with the State Finance Act, 1991 (Act 31 of 1991); Prevention for Organised Crime Act, 2004 (Act 29 of 2004); Treasury Instructions; Treasury approval (18 June 2012); Public Procurement Act, 2015 (Act 15 of 2015) and Public Procurement Regulations.

## **3. RESPONSIBILITIES OF MANAGEMENT AND THOSE CHARGED WITH GOVERNANCE FOR THE FINANCIAL STATEMENTS**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Treasury approval dated 18 June 2012, section 74, 75 and 76 of the Prevention of Organized Crime Act, 2004 (Act 29 of 2004) and legislation, and for such internal control as management determines it necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the entity's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the entity or to cease operations, or has no realistic alternative but to do so. Those charged with governance are responsible of overseeing the entity's financial reporting process.

The management is also responsible for ensuring adherence to the Prevention of Organised Crime Act, 2004 (Act 29 of 2004); State Finance Act, 1991 (Act 31 of 1991); and the Public Procurement Act, 2015 (Act 15 of 2015); Treasury approval (18 June 2012); Treasury Instructions and Public Procurement Regulations and to ensure that effective and efficient internal controls are implemented to enable compliance to the law that governs the performance information.

## **4. AUDITOR'S RESPONSIBILITY FOR THE AUDIT OF THE FINANCIAL STATEMENTS AND COMPLIANCE AUDIT**

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the International Standards for Supreme Audit Institutions (ISSAIs), will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

My powers and duties towards auditing and reporting on the financial statements and compliance to the subject matter are outlined under Section 25 (1) (c), Section 26 (1) and Section 27 (3) of the State Finance Act, 1991 (Act 31 of 1991).

As part of an audit in accordance with the International Standards for Supreme Audit Institutions, I exercise professional scepticism throughout the audit. I also;

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal controls.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the entity to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.
- I also provide those charged with governance with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.
- From the matters communicated with those charged with governance, I determine those matters that were of most significance in the audit of the financial statements of the current period and are therefore the key audit matters. I describe these matters in my report unless law or regulation precludes public disclosure about the matter or, when, in extremely rare circumstances, I determine that a matter should not be communicated in my report because the adverse consequences of doing so would reasonably be expected to outweigh the public interest benefits of such communication.
- It is also my responsibility to express an opinion on whether the financial performance, collection and utilisation of funds of the Criminal Assets Recovery Fund of the Ministry of Justice in all material respect is in compliance with the State Finance Act, 1991(Act 31 of 1991); Prevention of Organized Crime Act, 2004 (Act 29 of 2004); the Public Procurement Act, 2015 (Act 15 of 2015); Treasury approval dated (18 June 2012); Treasury Instructions and Public Procurement Regulations. I have conducted the audit in accordance with International Standards for Supreme Audit Institutions (ISSAIs). Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the audited entity is in compliance with the authorities that govern the audited entity in the execution of its roles and responsibilities.

## **5. GENERAL INFORMATION**

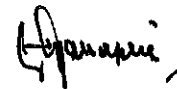
The financial statements provided by the Accounting Officer are attached as Annexure A.

The accounts were submitted timeously by the Accounting Officer to the Auditor-General on 24 June 2022 in terms section 25 (1) of the State Finance Act, 1991 (Act 31 of 1991).

## **6. ACKNOWLEDGEMENT**

The assistance and cooperation of the management and staff of the Ministry of Justice during the audit is appreciated.

**WINDHOEK, MARCH 2023**



**JUNIAS ETUNA KANDJEKE  
AUDITOR-GENERAL**

## 1. AUDITED FINANCIAL STATEMENTS

## 1.1 Income statement (Notice and Current account) for the year ended 31 March 2022

	Amount
	N\$
<b>Revenue</b>	
Deposit	15 755 864.99
<b>Total revenue</b>	<b>15 755 864.99</b>
<b>Expenses</b>	
Bank Charges - Notice	546.00
Angula Trust Fund	3 450.00
Oshakati Town council	22 779.51
Trengove	124 800.00
Legal fees	564 880.00
HC-MD-CIV-MOY POCA	529 119.42
Bank charges –Current Account	3 378.90
<b>Total expenses</b>	<b>1 248 953.83</b>
<b>Profit</b>	<b>14 506 911.16</b>
<b>Net Income</b>	<b>14 506 911.16</b>

## 1.2 Balance sheet (Notice and Current account) as at 31 March 2022

	Amount
	N\$
<b>ASSETS</b>	
<b>Current assets</b>	
Bank – Notice Account	49 681 213.82
Bank – Current Account	3 170 672.61
<b>Total current assets</b>	<b>52 851 886.43</b>
<b>Total fixed</b>	-
<b>TOTAL ASSETS</b>	<b>52 851 886.43</b>
<b>LIABILITIES AND OWNER'S EQUITY</b>	
<b>Current liabilities</b>	
Account payables	-
Other	-
<b>Total Current liabilities</b>	-
<b>Long term liabilities</b>	-
Long-term debt	-
Other	-
<b>Owner's equity</b>	
Net income	14 506 911.16
Retained Earnings	38 344 975.27
<b>Total liabilities and Owner's Equity</b>	<b>52 851 886.43</b>

WINDHOEK, 24 JUNE 2022

DR. JOHANNES SHIMANENI  
ACCOUNTING OFFICER