



REPUBLIC OF NAMIBIA



**REPORT OF THE AUDITOR-GENERAL ON THE ACCOUNTS OF THE
COMMUNITY COURTS: MINISTRY OF JUSTICE
FOR THE FINANCIAL YEARS ENDED 31 MARCH 2011 – 31 MARCH 2020**

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 Community Courts of the Ministry of Justice for the financial years ended 31 March 2011 – 31 March 2020 in terms of Article 127(2) of the Namibian Constitution. 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.

WINDHOEK, OCTOBER 2021

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

**JUNIAS ETUNA KANDJEKE
AUDITOR-GENERAL**

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**REPORT OF THE AUDITOR-GENERAL ON THE ACCOUNTS OF THE
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31 MARCH 2011 – 31 MARCH 2020**

1. SECTION A: FINANCIAL AUDIT

1.1 DISCLAIMER AUDIT OPINION

I have audited the information which is relevant to the preparation of the financial statements such as records, documentation and other matters of the Community Courts of the Ministry of Justice for the financial years ended 31 March 2011 – 31 March 2020.

In my opinion, because of the significance of the matters described in the Basis for Disclaimer of Opinion paragraph, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, I do not express an opinion on the financial statements.

1.2. BASIS FOR DISCLAIMER 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 the 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 not sufficient and appropriate to provide a basis for my opinion. My opinion has been disclaimed due to the following:

1.2.1 Non-submission of annual financial statements

According to the Community Courts Act, 2003 (Act No. 10 of 2003), the accounting and related records referred to in subsection (4) shall be examined and audited annually by the Auditor-General, however; the Accounting Officer did not prepare and provide the following for audit purposes:

- Financial statements; and
- Monthly bank reconciliation statements.

Management comment

In his comment on the draft report, the Accounting Officer indicated that he could not prepare and submit the statements for audit purposes because the Ministry did not open these bank accounts. It would be impractical to provide statements which are not in the name of the Ministry of Justice.

In addition, the Accounting Officer indicated that the Ministry is at the brim of requesting for Treasury authorization and suggested that once it is approved, the Ministry would be able to draw up financial statements for auditing purposes, preferably from the 2022/2023 financial year.

Recommendation

It is recommended that the Accounting Officer should prepare and submit the statements for audit purposes as required by the Act.

1.3 OTHER MATTERS

Attention is drawn to the management on the following matters that relate to my responsibility in the audit, and excluding matters already disclosed by the Community Courts in the bank accounts:

1.3.1 Inconsistency in allowances (travelling and bonus)

It was observed during the audit that the clerk and messenger of two (2) out of the the seven (7) community courts audited, did not receive bonus allowances as well as travel allowances.

Management comment

In his comment on the draft report, the Accounting Officer indicated that the bonus allowance as well as the travelling allowaces will be paid in a consistent manner in future.

Recommendation

It is recommended that the Ministry should be consistent on allowance payments for all the community courts, and do back dated payments for the two colleagues mentioned and provide payment evidence for audit purposes and implement consistency in future.

1.4 OTHER INFORMATION

Management is responsible for the other information. My opinion on the financial statements does not cover the other information and, accordingly, I do not express any form of assurance conclusion thereon. In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. I have nothing to report in this regard.

2. SECTION B: COMPLIANCE AUDIT

2.1 COMPLIANCE TO LAWS AND REGULATIONS

I have audited the financial performance and the use of appropriated funds of the Community Courts for the financial years ended 31 March 2011 – 31 March 2020.

2.2 DESCRIPTION OF THE SUBJECT MATTER INFORMATION AND AUDIT SCOPE

The audit is aimed to determine whether the Community Courts financial performance and use of its appropriated funds is in compliance with the following:

- Appropriation Acts, (2011 – 2019);
- Appropriation Amendment Acts, (2011 – 2019);
- State Finance Act, 1991 (Act 31 of 1991);
- Community Courts Act, 2003 (Act 10 of 2003);
- Regulations of Community Courts;
- Social Security Act, 1994 (Act 34 of 1994); and
- Treasury Instructions during the financial years 31 March 2011 - 2020.

2.3 AUDIT OBJECTIVE

The objective of this compliance audit is to verify and assess whether the Community Courts have complied with all laws and regulations that have an impact on the financial statements in accordance with the ISSAIs. This audit is an attestation engagement where the Community Courts 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 public funds have been used appropriately and lawfully, 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:

- Appropriation Acts, (2011 – 2019);
- Appropriation Amendment Acts, (2011 – 2019);
- State Finance Act, 1991 (Act 31 of 1991);
- Community Court, Act, 2003 (Act 10 of 2003);
- Regulations of Community Courts;
- Social Security Act, 1994 (Act 34 of 1994); and
- Treasury Instructions.

2.5 SUMMARY OF METHODS APPLIED

I have audited the appropriated funds for the financial year ended 31 March 2020 in order to determine whether this information complied with laws and regulations that governs them. The audit team conducted interviews with management and those charged with governance and document reviews were also carried out.

2.6 KEY AUDIT FINDINGS

2.6.1 Treasury approval

State Finance Act, 1991 (Act 31 of 1991) section 2 (4) (a) states "An Accounting Officer may, with the authorization of the Treasury open an account at the Bank or any commercial bank into which all state moneys received by the Accounting Officer and as determined by the Treasury, shall be deposited, and from which all expenditure shall be defrayed and all payments shall be made as the Treasury may determine".

"State moneys" means

- (a) all revenue;
- (b) all other moneys whatever received or held by or on behalf of an accounting officer in relation to the administration of the affairs of the State;"

However, no Treasury approval for the opening of the community courts bank accounts is in place as required by the State Finance Act, 1991 (Act 31 of 1991) section 2 (4) (a).

Management comment

In his comment on the draft report, the Accounting Officer indicated that on 23 August 2016, the Executive Director requested for an ex post facto Treasury authorization for the opening of the commercial bank accounts. This request was declined by the Executive Director: Ministry of Finance on 8 November 2016.

The Ministry will however endeavor in seeking for Treasury approval for the opening of these accounts again.

Recommendation

The Accounting Officer should provide Treasury approvals once obtained for audit purposes.

2.6.2 Allowances for Justices and Assessors

As per the Community Court Act, 2003 (Act 10 of 2003), section 10 (3), a Justice or a Clerk or Messenger of the Court who receives remuneration as a traditional leader or a secretary under the Traditional Authorities Act, 2000 (Act 25 of 2000), shall not be entitled to allowances or remuneration under this Act. The audit discovered that some Justices and Assessors at the following courts, are receiving sitting allowances but are also part of the Traditional Council: Uukolokadhi Community Court; and Mbunza Community Court.

Management comment

In response to the draft report, the Accounting Officer indicated that the issue will be taken up and will be dealt with accordingly. Proof will be submitted for audit purposes.

Recommendation

The Accounting Officer is urged to ensure that all those receiving allowances are in compliance with the Community Courts Act, 2003 (Act 10 of 2003), section 10 (3), in the utilization of the grants. The Justices and Assessors should repay these allowances and proof thereof should be submitted for audit purposes.

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 Community Courts Act, 2003 (Act 10 of 2003); 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 Appropriation Acts, Appropriation Amendment Acts, State Finance Act, 1991 (Act 31 of 1991), Community Courts, Act, 2003 (Act 10 of 2003), Regulations of Community Courts, Social Security Act, 1994 (Act 34 of 1994) and Treasury Instructions 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

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;

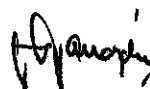
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting 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 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 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 and the use of appropriated funds is, in all material respect is in compliance with the Appropriation Acts, (2011 – 2019), Appropriation Amendment Acts, (2011 – 2019), State Finance Act, 1991 (Act 31 of 1991), Community Courts, Act, 2003 (Act 10 of 2003), Regulations of Community Courts, Social Security Act, 1994 (Act 34 of 1994), Treasury Instructions. 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. ACKNOWLEDGEMENT

The assistance and co - operation of the management and staff of the Community Courts during the audit is appreciated.

WINDHOEK, OCTOBER 2021



JUNIAS ETUNA KANDJEKE
AUDITOR-GENERAL

