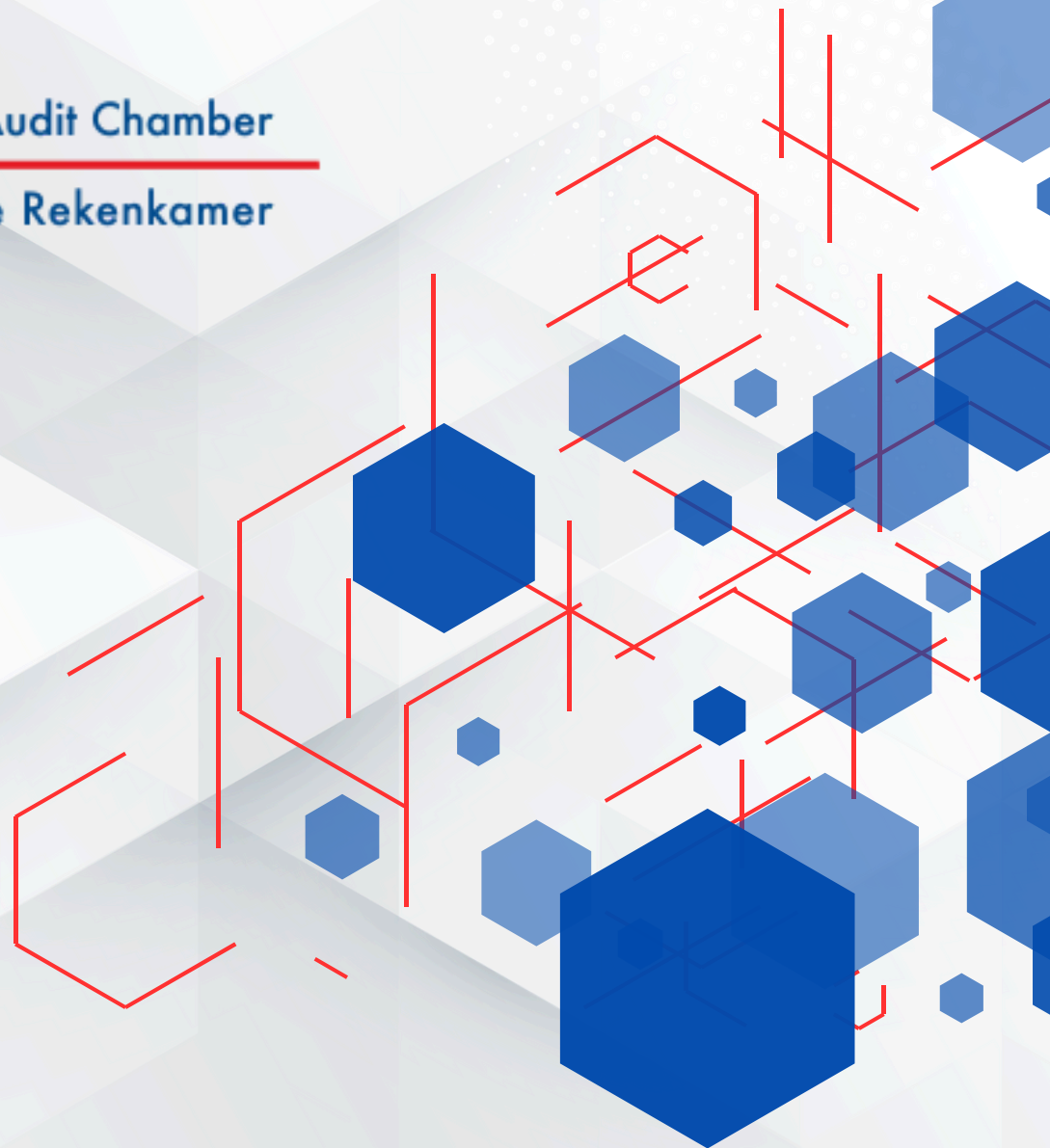




General Audit Chamber

Algemene Rekenkamer



2022

COMPLIANCE AUDIT:
FINANCIAL STATEMENT 2022
SINT MAARTEN

September 2024



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General Audit Chamber, Juancho Yrausquin Blvd #10, unit 4 & 5.

PREFACE

This is our report on Sint Maarten's 2022 Financial Statements. As the General Audit Chamber, we are responsible for reviewing the legal and efficient expenditure of public money. The financial statements are the main instrument for determining whether the Government's goals were achieved legally and efficiently. Parliament grants discharge to individual ministers, which relieves them of financial responsibility.

Former ministers who are now members of Parliament are allowed to vote on the financial management they conducted during their tenures. By abstaining from voting on the draft National Ordinance to adopt Sint Maarten's 2022 Financial Statements, any appearance of conflict of interest and bias can be avoided. This will help maintain the credibility of the decision-making process. We recommend that Parliament consider this approach.

As in previous years, the financial statements for 2022 are unreliable, making it exceedingly difficult, if not impossible, to use actual performance figures when preparing the Government of Sint Maarten's next budget. We also identified serious, structural, and material compliance errors. This has triggered an (objection) investigation into the allocation of motor vehicle tax in 2024, marking the initial stage of the objection process.

Parliament lacks sufficient insight to make a sound assessment of the efficiency of financial management and the extent to which policy objectives have been realized.

We underline the importance of good financial management. Sound financial management leads to efficient spending of taxpayers' money and builds public confidence in the government, increases tax revenues, reduces the government's reliance on financial assistance from the Kingdom, and lessens the need for (temporary) stricter financial supervision.

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SUMMARY

This audit seeks to contribute to more structured and auditable financial management, enabling us to assess whether public funds are raised and used lawfully, efficiently, and effectively.

On December 28th, 2023, the Council of Ministers approved the Financial Statements. We received the Financial Statement on January 3, 2024. Consistent with applicable legal provisions, we report to Parliament within one and a half months of receiving the SOAB report. We received the SOAB Report on July 29, 2024. This marked the start of our legal deadline. As we have done in all previous years, we reported to the Parliaments within the six-week time limit required by law.

The 2022 Financial Statements contain errors and uncertainties. Accordingly, we conclude that they do not accurately and fairly represent the financial position as of December 31, 2022, or income and expenses during that year.

Concerning financial compliance, we believe the internal auditor (SOAB) was justified in issuing an adverse audit opinion. Spending was done for which no budget was allocated, and revenues were not realized or were lower than budgeted. The 2022 National Budget and the 2022 Financial Statements do not contain the required information as per the National Accountability Ordinance (hereafter NAO). Therefore, as long as the budget is not in line with the NAO, it cannot serve as a benchmark for the financial statements.

DISCHARGE

Granting discharge is the final stage of the budget cycle and means that Parliament does or does not approve the financial management conducted by the Ministers.

Promised structural material improvements remain unfulfilled compared to previous years. Countless plans were prepared in the past. However, there appears to be a lack of solid implementation, resulting in another adverse opinion. While we understand the bottlenecks within the government, there are no improvements, transparency, or efficient and effective spending of public funds.

St. Maarten intended to work towards an unqualified audit opinion for its 2021 Financial Statements. Because of delays in improving the financial management processes, an unqualified opinion for the 2021 Financial Statements proved unachievable.¹

We strongly advise Parliament to ensure that future financial statements reflect substantive improvements. It is up to Parliament to monitor such improvements actively. Similarly, we emphasize that the 2022 Financial Statements do not give Parliament the essential information needed to properly assess the efficiency and effectiveness of financial management carried out by any or all ministers.

We advise Parliament to grant discharge with the following remarks:

1. Ensure that within a month of the submission of the General Audit Chamber's report, the Government presents the draft National Ordinance adopting the Financial Statements to Parliament. For each deficiency, the Government can specify in a Memorandum the realistic timetable and method for addressing each deficiency.
2. Ensure that the identified legal compliance errors found in the 2022 report: "[Allocation of motor vehicle tax](#)" are resolved. We also reference the follow-up audit 'Review of motor vehicle tax allocation' dated August 2024'.
3. Provide Parliament with structured policy information in the financial statements. In this context, we refer to the answers to the questions in section 2.6. Without clear information, verifying whether public funds were lawfully and efficiently spent and whether policy objectives were achieved is impossible.
4. Have the Government prepare the memoranda, in compliance with the National Accountability Ordinance. Although the Government issues quarterly reports, these are not synonymous with the memoranda specified in Article 44 NAO. For instance, the quarterly reports do not contain (legally required) information on necessary amendments to the budget or the implications thereof for the multiannual budget.
5. Ensure that the Government is fully compliant with the provisions of the Accountability Ordinance; and
6. Require the relevant minister to provide necessary information regarding accountability when it is not readily available.

¹ Letter from the Financial Supervision Committee dated March 23, 2022, regarding '*Opinion on the approved Financial Statements 2013 to 2018*'.

1 OUR AUDIT

1.1 Basis and scope of the audit

The review of the Government's Financial Statements is one of the main tasks of the General Audit Chamber.² By presenting our report to Parliament, we are providing Parliament with information about the financial management conducted during 2022. Parliament uses our report to decide whether to grant discharge.

1.2 The audit questions

We answer the following audit questions in this report:

1. Does the Government's 2022 Financial Statements provide a true and fair representation of the financial position as of December 31, 2022,³ and of the income and expenses for the period January 1 to December 31, 2022, for the [collective sector](#)?⁴
2. Were the 2022 Financial Statements prepared in accordance with the prescribed regulations?
3. Have the income, expenses, and balance sheet changes for 2022 been established in accordance with the National Budget Ordinance 2022, as enacted⁵, and other legal regulations?
4. Did ministers ensure orderly and auditable financial management practices in 2022?

1.3 Reading Guide

- Chapter 2: Reliability and structure of the 2022 Financial Statements;
- Chapter 3: Are the income and expenses in compliance with the law?
- Chapter 4: Was there orderly and auditable financial management?
- Chapter 5: Our Epilogue

² Article 23 of the National Ordinance General Audit Chamber and Article 53, third paragraph of the NAO.

³ Article 2 NAO.

⁴ The Government and institutions that implement social security: provisions that are collectively paid for and that everyone can use.

⁵ Article 23, second paragraph of the National Ordinance General Audit Chamber Sint Maarten.

2 THE FINANCIAL STATEMENTS

Financial statements should be accurate, complete, and sufficient to allow the assessment of Ministers' financial management.⁶ This requires each minister to submit all financial information to the Minister of Finance in a timely and complete manner.⁷

2.1 Were the Financial Statements submitted on time?

The 2022 Financial Statements were due by 1 September 2023.⁸ We received the 2022 Financial Statements as approved by the Council of Ministers on January 3, 2024. Upon receipt of SOAB's report on July 29, 2024, we reported to Parliament within the legal deadline of 6 weeks.

2.2 What was the result for 2022?

The fiscal year 2022 result is a deficit of ANG 5 million. The budget estimated a negative result of ANG 101 million.⁹ The difference of ANG 96 million was largely attributable to higher revenues (ANG 56 million) and lower costs (ANG 40 million).

2.3 The Kingdom Act Financial Supervision

A budget is balanced.¹⁰ In exceptional cases, it is possible to deviate from that rule.¹¹ The coronavirus crisis prompted the Kingdom Council of Ministers (RMR) to authorize a deviation from the national budget rule for 2022 for St. Maarten, at the latter's request.¹² The RMR decided on September 30, 2022, to authorize a maximum operating budget deficit of ANG 40 million for fiscal year 2022.¹³ However, the deficit on the operating budget in 2022 falls outside the maximum deficit allowed by the RMR.

The Cft, in its advisory opinion on the 2022 draft budget amendment (OBW), dated June 10, 2022, concluded that the Rft standards were insufficiently satisfied, and that the Government was required to make changes to the OBW before presenting the OBW to Parliament. The also note:

*"The budget amendment adopted almost six months later, has not been sufficiently revised to reflect the opinions issued by the Cft and decisions taken by the RMR. With the fiscal year nearing its end, there is limited added value in making a subsequent budget change."*¹⁴

2.4 Do the 2022 Financial Statements provide an accurate and fair representation?

The financial statements give a true and fair representation if the figures are accurate and complete. Without adequate explanatory information, it is impossible to form an opinion about the financial policy that was pursued.¹⁵ This applies to the (multi-annual) budget and the financial statements.

Our previous reports indicated that the liability due to future cost-of-living allowance (ANG 119.5 million at the end of 2022) had not been recognized as a provision in the balance sheet.¹⁶ In our opinion, this is a material reliability error. However, the balance sheet's explanatory notes disclosed the liability.

⁶ Article 2 NAO.

⁷ Article 52, first and second paragraphs, NAO.

⁸ Article 52, first paragraph, NAO.

⁹ 2020 Financial Statements, preface. The fourth progress report shows a budget deficit of ANG 197 million.

¹⁰ Article 15 Kingdom Act Financial Supervision.

¹¹ Article 25 Kingdom Act Financial Supervision.

¹² BZK, reference 2022-0000072810, Kingdom Council of Ministers decision February 4, dated February 17, 2022.

¹³ BZK, reference 2022-0000552637, Kingdom Council of Ministers decision dated September 30, 2022, regarding liquidity support Q4 2022 and progress on reform agenda, dated October 14, 2022.

¹⁴ Advice Financial Supervision Committee to the adopted 2022 budget amendment (December 6, 2022).

¹⁵ Article 2 NAO.

¹⁶ Explanatory notes to the balance sheet, C.6.10, Off-balance sheet entitlements and liabilities.

In addition, we identified several more minor reliability errors totaling ANG 11.1 million. Considering the scope and number of errors (ANG 130.6 million), we maintain an adverse opinion of the 2022 Financial Statements.

2.5 Are there uncertainties in the reported accounting?

Internal control is inadequate in terms of registering:

- the outcomes of processes when procuring goods and services;
- granting of subsidy;
- paying salaries and
- levying and collecting taxes and fees (accurately and fully).

As a result, the accuracy and completeness of their accounting in the financial statements remain uncertain. Annex 1 presents all material uncertainties and their financial impact.

2.6 Were policy objectives achieved?

Ministers submit estimates (including explanations of proposed policies) to the Minister of Finance by May 1.¹⁷

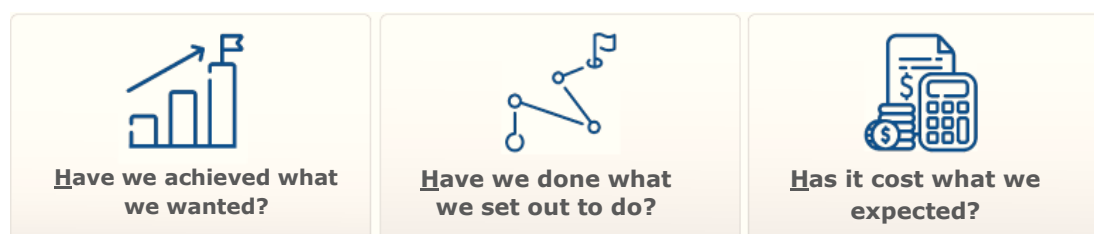
For the budget policy intentions, three W questions are asked. The financial statements involve the three H questions. Figure 1 presents the questions.

Figure 1: the three W- and H-questions

Budget questions :



Financial Statement questions:



Consistent with previous years, neither the 2022 Budget nor the 2022 Financial Statements provide the information required by the NAO. Consequently, we cannot assess whether and to what extent the policy objectives have been achieved. Until the budget is prepared in accordance with the NAO, it cannot serve as a benchmark for the financial statements.

2.7 Were the 2022 Financial Statements prepared in compliance with the National Accountability Ordinance?

The 2022 Financial Statements were not prepared in full compliance with the NAO. For example, not every investment is adequately explained in the explanatory notes to the capital account, and the income and expenditure statement does not accurately and systematically reflect the nature and extent of all government income and expenditures and the overall net result. The 2022 Financial Statements include all template statements required by law. Two templates are not/not fully completed (Template 12 and 14).

¹⁷ Article 34 NAO.

2.8 Are there improvements compared to previous years?

The internal auditor observes in his Audit Report (hereafter AR) that:

- For the first time, the engagement letter was signed by the Minister of Finance;
- For the first time, the SOAB received underlying audit evidence along with the draft financial statements before their approval by the Council of Ministers;
- Additional supporting documentation was received;
- Access to the Council of Ministers' decision lists was provided for the first time;
- For the first time, an interim audit (in Q3) of general and payroll expenses was possible;
- Several balance sheet items were cleared.

Despite improvements in the provision of supporting documents, the SOAB still lacks important supporting documents for key items. Due to a lack of internal controls on critical processes, the SOAB cannot rely on the reliability of the documents received.

The reasons for the existence of uncertainties in the 2022 Financial Statements are the same as those in the 2021 Financial Statements. Essentially, across the board, the structure of internal control is inadequate. Over the past 14 years, several improvement processes have been initiated (e.g., PEFA plans, implementation plans, Integrated Financial Management Improvement, and the Country Packages). These projects have still not led to material improvements in financial management. We note that the extent of uncertainties in the 2022 Financial Statements compared to 2021 increased by ANG 177 million.

The financial statements remain unreliable, making it difficult, if not impossible, to use the realization figures when preparing the Government's subsequent budget and for Parliament to assess whether each individual minister conducted proper financial management.

2.9 Opinion

In our opinion, the 2022 Financial Statements, including the explanatory notes, do not provide an accurate and complete representation of the scope and composition of the financial position as of December 31, 2022, and of the 2022 result, nor have they been prepared in accordance with all the requirements of the NAO.

With respect to the format of the financial statements, we consider that improvement is still needed.

3 COMPLIANCE OF INCOME AND EXPENDITURE

As part of our review, we assess whether the income, expenses, and balance sheet changes occurred in accordance with the 2022 National Budget and other regulatory requirements. We refer to this as financial compliance.

3.1 Implementation of the 2022 Budget

The Minister of Finance is required to report on budget implementation and realization three times a year. These reports are called memoranda.¹⁸ Neither Parliament nor we have received these memoranda for the fiscal year 2022; however, we have received quarterly reports for the fiscal year 2022. We do not consider these to be equivalent to the memoranda mentioned in Article 44 NAO. For example, quarterly reports do not cover necessary budget amendments or their implications for the multi-annual budget.

3.2 Compliance errors

Whenever income, expenses or balance sheet changes do not comply with the National Budget or any other regulatory requirement, there are [compliance errors](#). Table 1 illustrates the total budget [over- and underspending](#) for Parliament and Ministries.¹⁹ According to the NAO, overspending means both unbudgeted expenditure and unrealized budgeted income.²⁰ The figures in the overspending column therefore represent expenditure that has not been budgeted for and income that has not been realized.

Table 1: totals for over- and underspending

Parliament & Ministries	2022 Overspending (x ANG 1.000)	2022 Underspending (x ANG 1.000)	2021 Overspending (X ANG 1.000)	2021 Underspending (X ANG 1.000)
Parliament & High Councils of State	4.662	8.938	3.704	9.834
General Affairs	15.412	14.817	13.384	22.733
Finance	9.978	45.280	10.842	115.728
Justice	12.902	22.356	7.393	20.990
ECYS	6.913	10.733	6.393	13.037
TEATT	949	31.247	18.652	20.878
VROMI	74	16.446	113	10.023
VSA	11.610	8.980	31.567	24.403
Total	62.500	158.797	92.048	237.626

When the overspending is offset against the underspending, on balance there is an underspending of ANG 96 million (2021: ANG 146 million). The Government has the option to readjust by way of budget amendments.²¹ Impending overruns should be prevented promptly and appropriately wherever possible.²²

3.3 Objection Audit: Road Tax

In 2022, the General Audit Chamber conducted an in-depth investigation into the allocation of road tax. This investigation uncovered serious, long-standing, and material compliance errors dating back to the country's establishment. These errors involved consistent non-compliance with legislation and the unlawful allocation of substantive funds to the national treasury rather than towards infrastructure through the Road Fund. These findings have significant implications for the integrity and effectiveness of the management of road tax funds.

¹⁸ Article 44, first paragraph, NAO.

¹⁹ 2021 Financial Statements Government of Sint Maarten, Template 18.

²⁰ Article 48, second paragraph, NAO.

²¹ Article 44, NAO prescribes that preliminary reports and the possibility of submitting a budget amendment occur at three times during the year: on May 15, August 15, and November 15.

²² Article 48, first paragraph NAO.

As a direct result of these discoveries, the board of the General Audit Chamber categorized the issue as a potential case for an objection. In August 2024, we finalized an (objection) audit of the allocation of motor vehicles. This involved a review to determine the extent to which the recommendations of the 2022 report had been addressed.

We concluded that the situation is unchanged. Therefore, in accordance with the objection policy, we will discuss the next steps with the responsible ministers. Then, a decision will be made on whether to pursue an objection.

3.4 Opinion

Income, expenses, and balance sheet changes were not prepared in compliance with the 2022 national budget and other regulatory requirements. We did not observe any improvements compared to previous years.

4 FINANCIAL MANAGEMENT

In this chapter, we reveal whether there was [orderly and auditable financial management](#).

4.1 The deficiencies

Deficiencies (risks to the accuracy and completeness of the financial statements) negatively impact an unqualified opinion. Table 2 presents the top five serious (and long-term) deficiencies.

Table 2: Overview of serious and long-term deficiencies

No.	Deficiency (since October 10, 2010)	Description
1	Wages & Salaries	Inadequate structure and functioning of internal procedures.
2	Goods & Services	Inadequate structure and functioning of internal procedures and lack of adequate audit information.
3	Tax Receipts/Income	Expiry of suspense accounts not transparent and inadequate internal control over refunds.
4	Cost of Social Services	Inadequate structure and functioning of internal procedures and lack of adequate audit information.
5	Scholarships, subsidies and transfers	Inadequate structure and functioning of internal procedures and lack of adequate audit information.

Poor internal control procedures are present across ministries. This has resulted in [material uncertainties that profoundly impact](#) the financial statements. To achieve the government's goal of achieving auditor-approved financial statements, the deficiencies mentioned above must be eliminated first. In his preface to the 2021 Financial Statements, the Minister of Finance states that efforts are underway to improve the continued auditability of the financial statements so that it is possible to proceed towards an unqualified audit opinion. However, we reiterate that we have not observed any material improvement.

4.2 Opinion

There are deficiencies in financial management across government. Until these are eliminated, future financial statements cannot be provided with an unqualified audit opinion.

5 OUR EPILOGUE

The legislator has determined that the General Audit Chamber must submit its report to Parliament within one and a half months of receiving the SOAB report on the Country's Financial Statements. We received the SOAB report on 29 July 2024. The Audit Chamber has always adhered to the statutory deadlines since its establishment as we attach great importance to following the budget cycle.

As part of our audit protocol, we requested the Secretary-General (SG) of the Ministry of Finance to verify the facts and our findings by means of a memorandum of findings. This memorandum was submitted to the SG on 15 August 2024 with the request to respond by 22 August 2024 at the latest. We did not receive a response.

We then submitted the draft report to the Minister of Finance, with the request to respond to our conclusions and recommendations. The Minister had the opportunity to respond from 23 August 2024 to 30 August 2024 and responded via an email from her Chef de Cabinet on August 30th.

Normally, we publish the response in full. However, the response concerns a reaction to the facts and findings, which should actually have taken place at the time of the memorandum of findings. Nevertheless, we provided the Minister with a written reply on September 5th, 2024. Although we see no reason to adjust the report, the Minister indicates that she recognizes the importance of the possible objection regarding the allocation of motor vehicle tax. She offers the opportunity to enter into consultation with the Audit Chamber in the short term to find a solution for the structural and material legality errors that have been identified. We will, of course, accept this invitation.

We thank the Minister of Finance and her staff for their cooperation during this audit and look forward to receiving the 2023 Financial Statement of the Country soon.

ANNEX 1: IDENTIFIED UNCERTAINTIES FINANCIAL STATEMENT LINE ITEMS

Line item	Scope in ANG million 2022	Uncertainty 2022 in ANG million	In %	Scope in ANG million 2021	Uncertainty 2021 in ANG million
BALANCE SHEET					
Tangible fixed assets	161	0	N.A.	169	4
Participations	369	134	36	369	137
Long term receivables	109	13	12	73	23
Security Deposits	1	1	100	1	0
Current Assets	181	54	30	127	26
Equity	-400	-400	100	-378	378
Provisions	10	6	60	13	5
Long term debt	933	0	nvt	906	0
Short term debt	279	139	50	198	89
Total balance sheet	1.643	747	45	1.478	662
INCOME					
Taxes	346	NQ	N.A.	303	16
Licenses	17	17	100	17	NQ
Concessions, fees and other contributions from institutions	52	0	N.A.	42	0
Contributions received & subsidies	34	0	N.A.	53	0
Other income	23	15	65	15	10
Total Income	472	32	7	430	26
EXPENDITURE					
Personnel	208	204	98	203	NQ
Goods & services	110	4	4	103	56
Social Premiums	35	23	66	36	7
Subsidies and transfers	98	82	84	133	30
Scholarships	4	4	100	4	0
Impairment of Assets	0	0	N.A.	18	0
Depreciation	14	0	N.A.	14	0
Allocation to/ release of provisions	-3	1	33	3	0
Interest	11		N.A.	11	0
Total Expenditure	477	318	67	525	93
Total Expenditure and Income	949	350	37	955	119
Total balance sheet, expenditure and income	2.592	1097	42	2.433	781

NQ = not quantifiable, N.A. = not applicable

According to SOAB's audit report to the 2022 Financial Statements, the total of the identified reliability uncertainties for 2022 is ANG 1.4 billion (2021: ANG 1.3 billion). This includes the amount of line items whose extent of uncertainties cannot be quantified. In the overview above, we have included all quantifiable uncertainties.

The above overview illustrates that the net uncertainty in 2022 compared to 2021 increased by ANG 299 million (less uncertainty ANG 85 million and more uncertainty ANG 384 million). The most significant increase is in the item 'Personnel costs' (ANG 204 million). The SOAB determined that there was no longer an unquantifiable uncertainty in 2022.



General Audit Chamber

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