**The Budgetary Review and Recommendation Report of the Portfolio Committee on Justice and Correctional Services on the Office of the Chief Justice, dated 18 November 2022**

The Portfolio Committee on Justice and Correctional Services, having considered the financial and non-financial performance information of the Office of the Chief Justice for the financial year ending 31 March 2022, and the financial information for the First Quarter of 2022/23, reports as follows:

1. **Introduction**
   1. The Money Bills Procedure Amendment and Related Matters Act 9 of 2009 (Money Bills Act) sets out the process that allows Parliament to make recommendations to the Minister of Finance to amend the budget of a national department.
   2. The Money Bills Act requires portfolio committees to compile Budgetary Review and Recommendation Reports (BRRR) that assess service delivery performance of departments, entities and institutions given their respective available resources; evaluate the effective and efficient use and forward allocation of resources; and may make recommendations on the future allocation of resources. The annual review of expenditure and performance for the previous financial year (2020/21) also forms part of this process.
   3. In particular, section 5(1) of the Money Bills Act provides that committees *must* make their assessment of the performance of national departments and institutions, with reference to the following:

* The medium term estimates of expenditure of each national department, its strategic goals and measurable objectives, as tabled in the National Assembly with the national budget;
* Prevailing strategic plans;
* The expenditure reports or statements relating to a vote appropriating funds for such department published by the National Treasury in terms of section 32 of the Public Finance Management Act;
* The financial statements and annual report of such department;
* The reports of the Standing Committee on Public Accounts relating to a department; and
* Any other information requested by or presented to a House or Parliament.
  1. Committees may make recommendations on the future allocation of resources, having assessed service delivery performance to date; evaluated the effective and efficient use of the resources already allocated; and considered the planned forward allocation of resources.
  2. The Committee oversees the Office of the Chief Justice (OCJ), which was established in 2010 primarily to support the Chief Justice in the execution of their administrative and judicial powers and duties as Head of the Judiciary and Head of the Constitutional Court. The transfer of administrative functions and identified staff attached to the Superior Courts from the Department of Justice and Constitutional Development to the OCJ commenced on 1 October 2014.
  3. On 1 April 2015, the OCJ became a fully-fledged Department with its own Vote. The administration for the Superior Courts, Judicial Services Commission (JSC) and South African Judicial Education Institute (SAJEI) were transferred to the OCJ, together with the budget and personnel, from the Department of Justice and Constitutional Development. The funds for judges’ salaries was also transferred to the new Vote.

1. **Process followed**
   1. The Minister of Justice and Correctional Services provided a political overview of Vote performance on 13 October 2022.
   2. The Committee was also briefed by the Auditor-General South Africa (AGSA) on 12 October 2022 on the OCJ’s audit outcome for 2021/22.
   3. On 18 October 2022, the Committee engaged with the OCJ on its annual report for 2021/22.
   4. Copies of the Minister’s speech and the presentations are available from the committee secretariat.
2. **Strategic overview**
   1. The Constitution Seventeenth Amendment Act, 2013, affirms the Chief Justice as head of the Judiciary responsible for establishing and monitoring the norms and standards for the exercise of judicial functions of all courts. The Superior Courts Act, 2013, establishes a legislative framework for the Chief Justice to exercise their judicial leadership supported by the OCJ and provides for the delegation of certain functions flowing from the Act to the OCJ.
   2. When the OCJ was established as a national department within the public service, the intention was that this would be the first phase towards an independent judiciary-led court administration system to realise fully the Judiciary’s institutional independence in line with the Constitution, 1996.
   3. The Department of Justice and Constitutional Development continues to support the administration of the Lower/Magistrate’s courts. Also, until the legislative framework for the Magistrates’ Courts is brought in line with the Superior Courts Act, 2013, certain shared services (for example, tools of trade and security services) are provided by the Department of Justice and Constitutional Development.
   4. The OCJ tabled its Strategic Plan for 2019-2024 and Annual Performance Plan 2020/21 in Parliament on 17 April 2020. As the tabled plans were developed before the COVID-19 pandemic, the OCJ reviewed the planning documents to reflect the impact of COVID-19. The revised plans were re-tabled in Parliament on 8 July 2020.
   5. The OCJ contributes to the National Development Plan’s (NDP) call for strengthened judicial governance and the rule of law, and also to ensuring an efficient and effective criminal justice system by:

* Accelerating reforms to implement a judiciary-led court administration.
* Ensuring an efficient court system.
* Reducing court administration inefficiencies.
* Ensuring judicial accountability.
* Providing training to the judiciary though SAJEI.
  1. The MTSF 2019-2024 acknowledges that the challenges of poverty, inequality and unemployment continue to hold back the achievement of South Africa’s national development. This burden is disproportionately felt by the youth, women and people with disabilities. In order to address these challenges, the MTSF identifies a number of priority areas. Of these, the priorities ‘A capable, ethical and developmental state’ and ‘Social cohesion and safe communities’ are of particular relevance.
  2. In addition, the lack of access to resources and opportunity for Women, Youth and People with Disabilities are identified as cross-cutting, requiring a variety of interventions, including legislative amendments.
  3. Aligning MTSF priorities to plans, the OCJ contributes as follows:

***Table 1: OCJ planned contribution to achieving MTSF 2019-2024 priorities***

| **MTSF Priority** | **planned Contribution** |
| --- | --- |
| *A capable, ethical and developmental State* | * Address fraud and corruption. * Promote an ethical culture. * Integrate Batho Pele principles into the Department’s institutional culture. * Adhere to corporate governance principles, such as leadership, strategy and performance, risk and stakeholder management. * Improve court operations systems. * Modernise court processes and systems. |
| *Economic transformation and job creation* | Implement equity programmes targeting employment and empowerment of youth, women, and people with disabilities in both the recruitment and procurement processes. |
| *Social cohesion and safe communities* | Ensure access to a safe and secure court environment and improving the integrity of court processes/ outcomes, as well as capacitating/ resourcing the courts in order for them to execute their mandate. |

* 1. The OCJ has the following broad strategic outcome-orientated goals.
* Capacitating the Office of the Chief Justice by securing adequate human resources for it to carry out its mandate effectively.
* Providing administrative support to the Chief Justice in fulfilling his/her functions as Head of the Judiciary.
* Rendering effective and efficient administration and technical support to the Superior Courts.

1. **Audit outcome 2021/22**
   1. The OCJ received an unqualified audit opinion, with findings on compliance with legislation. Although the OCJ remained unqualified, the outcome is a regression, as the OCJ has achieved a clean audit opinion since 2017/18.
   2. The following material non-compliance issue was identified and reported:

|  |  |
| --- | --- |
| **Description** | **Root cause** |
| IT goods and services were not procured through SITA.  In addition, due to the non-compliance, the OCJ incurred irregular expenditure which led to the non-compliance relating to not preventing irregular expenditure being reported. | Slow response in filling critical vacancies which led to lack of segregation duties |

* 1. Regarding the *irregular expenditure* incurred:

|  |  |  |
| --- | --- | --- |
| **Description** | **Amount** | **Root cause** |
| IT goods and services not procured through SITA | R52.1 million | Slow response in filling critical vacancies led to a lack of segregation of duties |

* + 1. An amount of R52.6 million in irregular expenditure was identified. This comprises 15 instances of non-compliance with supply chain management prescripts, of which also relate to non-compliance with the State Information Technology Agency Act, 1998, and Regulations (SITA Act). Details of the irregular expenditure incurred is disclosed in the Annual Report, as follows:

***Table 2: Irregular expenditure***

|  |  |  |
| --- | --- | --- |
| **Supplier** | **Reason** | **Amount** |
| Interface network technology (Pty) Ltd | Non-compliance with SITA Act and Regulations | R2 489 583.89 |
| Botsenkgwala  Hygiene | Extending contract amount by more than the allowed threshold of 15%. | R76 381.00 |
| Pro Active | Appointing the second highest points scoring supplier | R345.00 |
| Lilnar Trading | Non-compliance with SITA Act and Regulations | R2 767 820.00 |
| Hein On Line | Appointing a supplier that is not tax compliant. | R384 612.68 |
| Bytes systems Integration ado  Altron (PTY) | Non-compliance with SITA Act and Regulations | R2 482 155.00 |
| Afrovation | Non-compliance with SITA Act and Regulations | R2 424 373.86 |
| Maputunuka (Pty) Ltd | Non-compliance with SITA Act and Regulations | R24 997 316.26 |
| Marval Africa | Non-compliance with SITA Act and Regulations | R946 965.20 |
| Lilnar Trading | Non-compliance with SITA Act and Regulations | R70 420.00 |
| Interface network technology (Pty) Ltd | Non-compliance with SITA Act and Regulations | R6 691 715.91 |
| Pursuit Knowledge Consulting | Non-compliance with SITA Act and Regulations | R2 545 080.25 |
| Bytes systems Integration ado Altron (PTY) | Non-compliance with SITA Act and Regulations | R5 138 092.20 |
| Maputunuka (Pty) Ltd | Non-compliance with SITA Act and Regulations | R828 442.40 |
| Marval Africa | Non-compliance with SITA Act and Regulations | R788 283.60 |

* 1. The Auditor-General also reported to the Committee on its investigation of procurement relating to the ‘Caselines project’ and other procurement, as follows:
     1. The Chief Financial Officer, Chief Director: Court Administration and a Director: Case Management resigned on 31 May 2022. The CFO’s resignation, as well as certain media articles, brought to light certain procurement risks:
* A company was established shortly after the OCJ awarded the sole supplier contract to Thomson Reuters, and the CFO and two other former employees of the OCJ were directors in this company. Thomson Reuters subsequently subcontracted 56% of the contract value of R225.6 million to this company.
* On a different award, there were allegations against another employee of being involved in drafting the bid specifications and being a member of the bid evaluation committee, and not declaring his connection to the director of a company who received four awards, which included a joint venture award, in the last two years.
* The OCJ had not made use of SITA when procuring information technology goods and/or services.
  + 1. The OCJ’s management is currently investigating these allegations and any payments to these suppliers have been put on hold.
    2. The Auditor-General also assessed the contracts to identify possible irregularities, finding as follows:
* There was no involvement of SITA in information technology procurement as required (material finding - audit report matter).
* The sub-contracting conditions were not included in the terms of the reference/bid specifications.
* The tender was not advertised for the minimum number of days i.e. 21 days.
* Deviations were approved even though it was practical to invite competitive bids.
  1. ***Fruitless and wasteful expenditure*** amounting to R6 000 was detected in relation to interest on the late payment of an employee after an arbitration award was issued against the OCJ.
  2. ***Commitments proposed to the Committee***: The Auditor-General proposed that the Committee monitor the investigation at the OCJ and request regular feedback on the progress of the investigation and on the filling of key vacancies.

1. **Human Resources**
   1. The OCJ had 2 244 posts for this reporting period with an overall vacancy rate of 9.1%. However, the vacancy rate for SMS posts as at 31 March 2022 was at 14.3%.
2. **Financial performance**

**Table 3: Final appropriation per programme**

| **Programme** | **Final**  **Appropriation**  **2021/22** | **MTEF** | | |
| --- | --- | --- | --- | --- |
| **2022/23** | **2023/24** | **2024/25** |
| **R ‘million** | | | |
| Administration | 252.3 | 255.7 | 260.6 | 271.9 |
| Superior Court Services | 929.1 | 958.8 | 919.4 | 961.0 |
| Judicial Education and Support | 60.4 | 51.4 | 52.9 | 55.4 ‐ |
| **Subtotal** | **1 241.8** | 1 265.8 | 1 232.9 | 1 288.3 |
| Judges’ Salaries | 1 118.4 | 1 122.6 | 1 124.7 | 1 175.2 |
| **Total** | **2 360.2** | **2 388.4** | **2 357.6** | **2 463.5** |

***Table 4: Final appropriation per economic classification***

| **Economic Classification** | **Final Appropriation 2021/22** | **MTEF** | | |
| --- | --- | --- | --- | --- |
| **2022/23** | **2023/24** | **2024/25** |
| **R’ million** | | | |
| Compensation of employees (including Judges’ remuneration) | 1 791.70 | 1 768.6 | 1 740.7 | 1 818.9 |
| Good and services | 312.6 | 371.9 | 365.2 | 381.6 |
| Interest on rent and land | 6 | 135.8 | 136.5 | 142.6 |
| Transfers and subsidies | 135.7 | 112.0 | 115.2 | 120.4 |
| Payments for capital assets | 120.2 | 2 388.4 | 2 357.6 | 2 463.5 |
| **Total** | **2 360.2** | 1 768.6 | 1 740.7 | 1 818.9 |

* 1. ***Appropriation 2021/22***
     1. The OCJ had a final allocation of R2.36 billion for 2021/22, as follows: R1.24 billion was allocated to programmes and R1.12 billion was a direct charge for judges’ salaries. In comparison, the final allocation for 2020/21 was R2.3 billion.
     2. Voted funds made up about 52.5% of the allocation, while the direct charge for Judges’ salaries made up the remainder.
  2. ***Appropriation 2022/23*** 
     1. The OCJ is allocated R2.39 billion in 2022/23, compared with R2.33 billion in 2021/22 (adjusted down from R2.45 billion). The budget is expected to increase over the MTEF to R2.36 billion in 2023/24 and R2.46 billion in 2024/25.
     2. The allocation for programmes is R1.27 billion or 52.5% of the total allocation, while the remaining amount of R1.12 billion comprises the direct charge for Judges’ salaries.
     3. In terms of economic classification, an amount of R1.77 billion is allocated to compensation of employees, R371.9 million to good and services, R135.8 million to transfers and subsidies and R112 million for purchase of capital assets.
  3. ***Expenditure***
     1. In 2021/22, the OCJ spent R2.2 billion or 93% of the final appropriation of R 2.36 billion (compared with 91% in 2020/21). Underspending amounted to R190.6 million.

***Table 5: Expenditure per programme 2021/22 (with a comparison to 2020/21)***

| **Programme** | **2021/22** | | | | **2020/21** |
| --- | --- | --- | --- | --- | --- |
| **Final**  **Appropriation** | **Actual**  **Expenditure** | **Under-**  **expenditure** | **%**  **Expenditure** | **%**  **Expenditure** |
| **R ’million** | | |
| Administration | 252.3 | 210.1 | 42.2 | 83.3% | 100% |
| Superior Court Services | 929.1 | 902.6 | 26.5 | 97.1% | 90.7% |
| Judicial Education and Support | 60.4 | 43.4 | 17.0 | 71.9 | 43.7% |
| **Subtotal** | 1 241.8 | 1 156.2 | 85.6 | **93.1%** | **90.2%** |
| Judges’ Salaries | 1 118.4 | 1 063.3 | 55.1 | 95.1% | 93.4% |
| **Total** | 2 360.0 | 2 219.5 | 140.7 | **94.0%** | **91.7%** |

***Table 6: Expenditure per economic classification 2021/22 (with a comparison to 2020/21)***

|  | **2021/22** | | | | **2020/21** |
| --- | --- | --- | --- | --- | --- |
| **Final**  **Appropriation** | **Actual**  **Expenditure** | **Under-**  **expenditure** | **%**  **Expenditure** | **%**  **Expenditure** |
| **R ’000 000** | | |
| Compensation of employees | 1 791.7 | 1791.5 | 0.2 | 100% | 97.8% |
| Goods and Services | 312.6 | 262.5 | 50.1 | 84% | 72.9% |
| Interest on land and rent | 0.006 | 0.006 | 0 | 100% | - |
| Transfers and subsidies | 135.7 | 75.4 | 60.3 | 55% | 52.8% |
| Purchase of capital assets | 120.2 | 89.7 | 30.5 | 74.6 | 88.7% |
| **Total** | **2 360.2** | **2 219.5** | **140.7** | **94%** | **91.7%** |

* + 1. At programme level, the following is observed:
* The *Administration* programme spent R210 million or 83% of the final allocation of R252 million. An amount of R42 million went unspent, as follows:
* *Compensation of employees* – over-projected transfer of funds to the item to provide for salary adjustments and the increase in medical aid contributions.
* *Goods and services* – delayed installation cost of the ICT infrastructure equipment due to the delay in overseas manufacturing caused by a worldwide backlog on server equipment manufacturing.
* *Payment for capital assets* – delays in the delivery of the server and ICT End-User equipment due to the delay in overseas manufacturing caused by a worldwide backlog on server equipment manufacturing.
* The *Superior Court Services* programme spent R902 million or 97.1% of the final allocation of R929 million. The underspending related to goods and services on the following items: catering services; venues and facilities; fleet services; stationery and consumables; and telephone costs. The reasons for underspending are mainly related to COVID-19 related restrictions, as some Judges and officials were working remotely.
* The *Judicial Education and Support* programme spent R43.3 million or 71.9% of the final allocation of R60.3 million, which resulted in an underspending of R16.9 million. The underspending related to *goods and services* due to savings on judicial training expenses, as the traditional in-person training of Judicial Officers became virtual and it became no longer necessary to hire training venues.
* *Judges salaries*. Expenditure on the statutory allocation was R1.06 billion against the final allocation of R1.12 billion (95.1%), which resulted in an underspending of R55 million. The underspending on Judges’ salaries relates to *transfers and subsidies* due to fewer than projected leave gratuities paid to Judges.
  1. ***Financial performance First Quarter 2022/23***
     1. Theoverall actual expenditure for the First Quarter of 2022/23 was R569.2 million or 23.8% of the R2.4 billion available budget, with lower than planned spending of R578.5 million.
     2. The lower-than-planned spending is mainly attributed to compensation of employees, and payments for capital assets and goods and services, as follows:
* *Compensation of employees*. The lower that planned spending on this item is due to the delays in the filling of funded vacant posts.
* *Capital assets*. The lower-than-planned capital expenditure is due to the delayed supply of the infrastructure refresh and ICT equipment ordered in 2021/22. Also, there was lower than planned spending on Judges’ hired vehicles due to some vehicles’ contracts running on a month-to-month basis. As a result, these were paid under *goods and services* as operating leases.
* With regard to *goods and services*, the slow spending is mainly due to outstanding invoices for the wellness programme that was attended by staff and delays in the implementation of aspirant women programme because of ongoing payment discussion between the lead coordinator and the stakeholders. In addition, *goods and services* spending was lower than projected due fewer persons attending workshops in person due to the reluctance of participants to do so, as well as outstanding telephone invoices for June 2022.
* *Transfers and subsidies* recorded higher than planned spending due to more than anticipated leave gratuities being paid to officials who resigned.

1. **Non-financial performance**
   1. The overall achievement of planned targets for 2021/22 was as follows:

***Table 7: Overall planned performance***

| **Performance** | **No. of Targets** | | | |
| --- | --- | --- | --- | --- |
| **2018/19** | **2019/20** | **2020/21** | **2021/22** |
| **Achieved** | 18 | 14 | 22 | 21 |
| **Not achieved** | 2 | 6 | 3 | 3 |
| **Total** | **20** | **20** | **25** | **24** |
| **Percentage achieved** | **90%** | **70%** | **88%** | **87.5%** |

* 1. Reported key achievements for 2021/22 are as follows:
* The OCJ achieved 87.5% of its annual targets and spent 93.1% of its Final Appropriation (excluding Direct charge – Judges’ salaries).
* The OCJ had a vacancy rate of 9.1%, which is below the 10% target set by DPSA. The OCJ had 48% of women representation on SMS level; and 32% youth representation of the Department’s staff complement.
* The OCJ conducted 168 skills-enhancing judicial education courses for Judicial Officers and aspiring Judicial Officers, which was attended by 4 343 delegates.
* 86% (28 356 of 33 019) of default judgments were finalised by Registrars within 14 days from date of receipt of application; 99% (27 218 of 27 413) of taxations of legal bills of costs were finalised within 60 days from date of set down; and 100% (60 of 60) warrants of release (J1) were delivered within one day of the release issued.
* The OCJ investigated 55% of reported fraud cases within 60 working days; and conducted 29 awareness sessions on Fraud Prevention and the Anti-Corruption Strategy.
* The OCJ embarked on the ICT infrastructure refresh project, upgrading of End User Equipment project and roll out of Wi-Fi to all Superior Courts.
* There was a reduction of the risk of COVID-19 as a result of complying with all the related Government prescripts and regulations.

1. **Programme performance** 
   1. **Programme 1: Administration**
      1. The purpose of this programme is to provide strategic leadership, management and support services to the Department. The programme consists of the following sub-programmes:

* The Management sub-programme provides administrative, planning, monitoring, evaluation, performance reporting and risk management functions necessary to ensure effective functioning of the Department.
* The Corporate Services sub-programme provides integrated Human Resources Management (HRM), Information and Communication Technology (ICT) and security management support services to the Department.
* The Finance Administration sub-programme provides overall financial, asset and supply chain management services to the Judiciary and the Department.
* The Internal Audit and Risk Management sub-programme provides overall internal audit and risk management services to the Department and the Superior Courts.
* The Office Accommodation sub-programme provides for acquisition of office accommodation for the Department.
  + 1. The Administration programme met seven of 11 of 14 or 79% of planned targets for 2021/22, compared with 79% of planned targets for 2020/21.

***Table 8: Administration: Underperformance/Targets not achieved 2021/22***

| **Performance Indicator** | **Performance 2021/22** | **Performance**  **2020/21** |
| --- | --- | --- |
| Percentage of women representation in SMS | 20 of 42 or 48% (Target 50%) | 19 of 43 or 44%  (Target 50%) |
| Percentage of people with disabilities representation in Department | 19 of 2 040 or 1%  (Target 2%) | 20 of 1 929 or 1.03%  (Target 2%) |
| Caselines system implemented in 2 service centres | Court Online system not rolled out at 2 Service Centres (as per target)  (The showstopper defect that delayed the piloting of the Court Online system has been resolved and UAT was successful and signed off.  The Court Online pilot commenced at Gauteng Local Division, Johannesburg on 29 March 2022 and the Gauteng Main Division, Pretoria on 4 April 2022.  It is envisaged that Court Online will be rolled out at these two Service Centres during the First Quarter of 2022/2023.) | Caselines system piloted at 2 service centres |

* 1. **Programme 2: Superior Court Services**
     1. This programme provides judicial support and court administration services to the Superior Courts. The programme consists of the following sub-programmes:
* The Administration of Superior Courts sub-programme provides administrative and technical support to the Superior Courts, monitors the overall performance of the Superior Courts, and enhances judicial stakeholder relations.
* The Constitutional Court sub-programme funds the activities and operations of the Constitutional Court.
* The Supreme Court of Appeal sub-programme funds the activities and operations of the Supreme Court of Appeal.
* The High Courts’ sub-programme funds the activities and operations of the various high court divisions.
* The Specialized Courts sub-programme funds the activities and operations of the labour, land, electoral and competition courts.
  + 1. The programme achieved all six or 100% of planned targets for 2021/22, as was the case in 2020/21.
  1. **Programme 3: Judicial Education and Support**
     1. Judicial Education and Support provides education programmes to Judicial Officers, including policy development and research services for the optimal administration of justice.
     2. The programme has the following sub-programmes:
* The South African Judicial Education Institute sub-programme funds the activities of the SAJEI to provide training for Judicial Officers.
* The Judicial Policy, Research and Support sub-programme funds the provision of advisory opinions on policy development and regulatory services to the Judiciary and the Department.
* The Judicial Service Commission sub-programme provides secretariat and administrative support services to the Judicial Service Commission to perform its constitutional and legislative mandates effectively.
  + 1. The programme met all four or 100% of planned targets for 2021/22, as was the case in 2020/21.

1. **Linking financial and non-financial performance**

* **Overall,** achieved 87.5% of its annual targets and spent 93.1% of the Final Appropriation (excluding the Direct Charge for Judges’ salaries), which is an improvement on spending in 2020/21 (at 90.2%).
* The OCJ reports a vacancy rate of 9.1%, which is below the 10% target set by DPSA but its vacancy rate at SMS level is higher at 14.3%. Notably the Auditor-General identifies vacancies in critical vacancies leading to a lack of segregation of duties to increased irregular expenditure incurred.
* Although the OCJ retained an unqualified audit opinion, the Auditor-General made material finding on compliance. In other words, the outcome regressed from previous years in which the OCJ achieved a clean audit opinion.

1. **Selected BRRR 2021 observations**
   1. The Committee made various observations in the 2021 BRRR, including:

* Transfer of functions to the OCJ. The Committee again flagged the lack of progress in drafting the legislation and finalising a court administration model that will allow for functions presently undertaken by the Department of Justice and Constitutional Development (such as security services at the courts) to the OCJ.
* ICT security. The Committee noted again the inadequacies in ICT security and user access management, as well as ICT operational inefficiencies as being areas for concern. The OCJ assured the Committee that it is working hard to strengthen its ICT environment. The OCJ was reluctant to discuss security details in a public forum but undertook to provide the Committee with a comprehensive report.
* Court modernisation. The OCJ reported that, in 2020/21, it was unable to roll out the court online system in two service centres as planned because of the pandemic, as well as system failures as a result of the security breach in September 2020. In addition, the project to refresh the ICT infrastructure was delayed as a result of the non-responsiveness of the market at the stage of sourcing/tenders. However, there had been progress in 2021/22: user equipment has been overhauled, licences procured, there was Wi-Fi at courts for judges and officials, the bandwidth had been increased, etc. and rollout of the CaseLines solution was in progress.
* Employment of persons with disabilities. The Committee noted that the OCJ has not been able to achieve its employment targets for persons with disabilities. The Committee requested a report on the challenges experienced and the intended mitigation strategies, and would continue to monitor progress.
* The Committee commended the OCJ on maintaining its clean audit opinion and also on its strong governance, noting sound management of problems when they occur.

1. **Committee’s observations**

The Committee makes the following observations:

* 1. ***Transfer of functions to the OCJ.*** When he presented the 2022/23 Budget to the Committee earlier this year, the Minister announced that he intends to introduce a policy on judicial governance and court administration to Cabinet in this financial year, as well as introduce to Parliament legislation that will overhaul the Lower Courts towards the establishment of a single judiciary. Although we welcomed the announcement, we are concerned about the Department of Justice and Constitutional Development’s available capacity and therefore request more information regarding the progress of the policy and accompanying legislation.
  2. ***Court modernisation***. The Committee notes that the OCJ reports, once again, that it was unable to roll-out the court online system in two service centres as planned. We note, however, that piloting has begun in the Johannesburg and Pretoria High Courts from the beginning of the 2022/23 financial year.
  3. ***Employment of women in senior management***. We are pleased that the OCJ is able to report progress concerning the employment of women in senior management even if it has not yet met the target of 50%. Nevertheless, we will continue to monitor progress going forward. We are also mindful that promoting gender equality is multifaceted, extending far beyond employing women in senior management positions and includes ensuring a work environment that is appropriately supportive with opportunities for personal development.
  4. ***Employment of persons with disabilities***. The Committee notes that, once again, the OCJ did not achieve its employment targets for persons with disabilities and will continue to monitor progress. However, as we mention in the paragraph above, the promotion of equality for persons with disabilities is multifaceted, extending beyond employment.
  5. ***Audit outcome***. Although the OCJ achieved an unqualified audit opinion, we are concerned that this outcome is in fact a regression from previous years. We note the many instances of irregular expenditure related to procurement in the ICT environment, mostly as a result of not following the SITA Act and Regulations on procurement processes.

We note also that the Auditor-General identified vacancies in critical occupations that led to a lack of segregation of duties as a root cause.

We discuss the matter of the vacancies below and include reporting requests.

* 1. ***‘Caselines’***. We note the Auditor-General’s findings and recommendations concerning the procurement relating to the ‘Caselines’ project. We have engaged the OCJ on this matter on a number of occasions. We note that the OCJ reports that the matter is now being litigated. Concerning its internal investigation, the OCJ reports that it has referred the matter to the Special Investigating Unit to review the contract and for investigation. We note further that the OCJ anticipates that the internal investigation should be completed shortly and will continue to monitor progress.
  2. ***Vacancies***. We note that although the OCJ reports an overall vacancy rate that is below the 10% norm suggested for the Public Service, vacancies in senior management is much higher at 14.6%. and we have already remarked that the Auditor-General has identified vacancies in critical positions as contributing to the increase in irregular expenditure. We, therefore request the OCJ to provide us with a report on its vacancies, particularly those in senior management and in critical occupations, with a recruitment plan, before 31 January 2023.
  3. ***Court modernisation and digital transformation project***. We note that the piloting of the Court Online project was delayed and that the pilot projects began in the Gauteng High Court at Pretoria and Johannesburg at the beginning of the 2022/23 financial year. We request a fuller explanation of the delay, as well as the progress of the pilot projects, in writing, before 31 January 2023.
  4. ***Court infrastructure and other arrangements***. During our oversight visits we noted various challenges relating to the infrastructure and, more generally, relating to the accommodation arrangements of the Superior Courts that we visited. We also noted that the Supreme Court of Appeals, like many other courts, experiences load-shedding, which delays proceedings. We understand that the OCJ has engaged with the SAPS regarding the possibility of listing the SCA under critical infrastructure but without success. We intend engaging with the Minister on this, and other matters that we identified, as soon as the programme permits.

1. **Appreciation**
   1. The Committee thanks the Secretary-General and the staff of the OCJ for their assistance in this process.
   2. The Committee also wishes to thank the Auditor-General South Africa for the support it provided to the Committee.

**Report to be considered**