

Annual Report 2021



Openbaar Ministerie
Sint Maarten



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Word from the Chief Prosecutor

Dear reader,

As we look ahead, it is important to recognize the progress and challenges of the last year. We are pleased, therefore, to publish our Annual Report 2021.

As the COVID-19 pandemic continued to dominate the year, the collective effort of our staff and partners within the justice system made it possible for us to deliver services to the public.

Despite huge challenges, we as the Prosecutor's Office Sint Maarten (OM) continued to make progress on our strategic objectives, including:



- **Improving enforcement of unpaid fines related to traffic offenses.** In July 2021, our administration department initiated a pilot project to send notifications of unpaid fines issued in 2017. A total of 730 letters were delivered to people with outstanding fines.
- **Acquiring funds to introduce mediation training to our partners and to mediate 10 relational violence cases.** This was accomplished via a project with Foundation Judicial Institutes St. Maarten Probation Department (SJIS). Mediation is a welcome tool in criminal cases.
- **Improving the procedure for storage and handling of confiscated goods.** Together with our partners, we have developed a confiscation guideline for storage, sale, and destruction of confiscated goods. This has improved the decision-making process.

We registered 670 new cases, and handled 546 cases in 2021.

Hieke Buist was welcomed as the new Chief Prosecutor for Sint Maarten per January 2022.

We thank everyone who has worked with us over the past year.

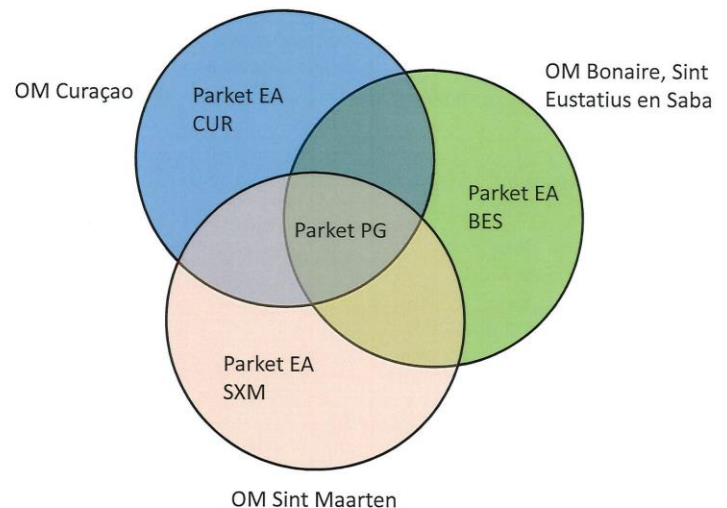
Mirjam Mol & Hieke Buist
Sint Maarten, 2022



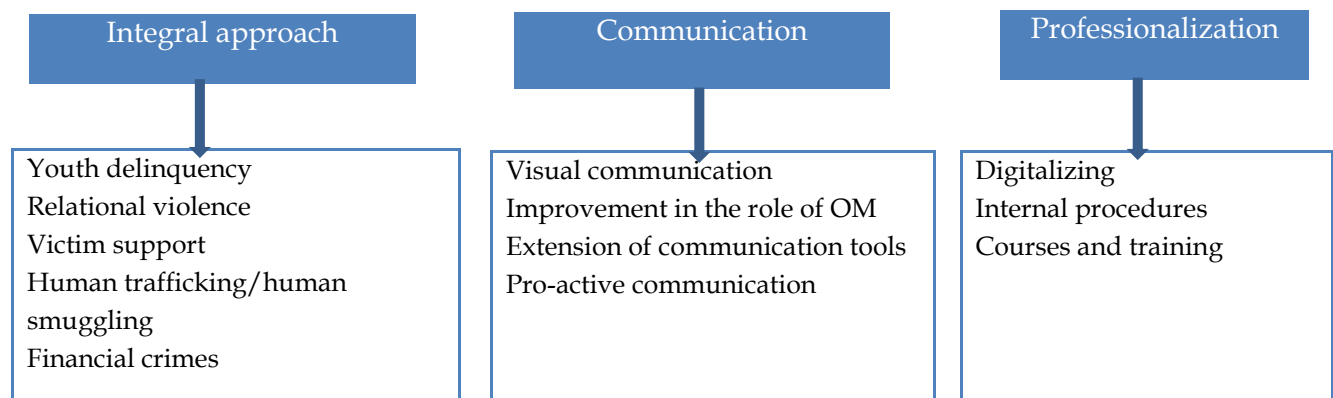
Organization of the Prosecutor's Office

The OM is charged with the enforcement of the country's criminal laws as well as other tasks also determined by law. The OM also determines whether and for which criminal offenses someone must appear before the criminal court.

The three Prosecutor's Offices (OM Curaçao, OM BES, and OM Sint Maarten) are linked to each other through the Office of the Attorney General (PPG). Together, they form and are referred to as "OM Carib". This connection is further expressed in a uniform and consistent policy on applying essential elements of the criminal law enforcement. The mutual relationship between the three Prosecutor's Offices and the PPG is illustrated by this relationship diagram.



To achieve its mission, OM Carib has set out three strategies. For each strategy, OM defined our goals for 2021:



Chapter 1 highlights cases that had a high impact and describes the trends observed in 2021. **Chapter 2** reports on the different intervention and/or prevention activities used together with partners in law enforcement to achieve priorities set in the Annual Plan 2021. **Chapter 3** gives an overview of our performances in figures, and **Chapter 4** gives an insight of the developments around personnel and annual accounts.



1 Highlights

1.1 Relational violence case

In December 2020, a woman security guard working on Front Street was physically abused with a knife by her ex-partner. She received injuries to her body and her face was disfigured. The suspect had been stalking and threatening the victim before the escalated incident. The Court of First Instance (the Court) sentenced the suspect to 30 months imprisonment, of which six months are conditional, for attempted manslaughter and assault with a weapon.

1.2 Human smuggling case

Human-smuggling suspects sentenced to 38, 22 months

In 2020, OM reported on a human smuggling case in which 11 people were to be transported to the British Virgin Islands (BVI)/the United States Virgin Islands (USVI), with the United States as end destination. A cross border investigation, led by the Spanish National Police in cooperation with various European countries and supported by Europol, dismantled an organized crime group involved in human smuggling and document fraud.

In 2021, suspects P.D.S and J.R.M.R., who were part of the larger criminal organization, were brought to trial in Sint Maarten for smuggling Albanian immigrants from Sint Maarten to the United States. The Court sentenced P.D.S. to 38 months imprisonment and J.R.M.R. to 22 months. P.D.S. is also suspected by Spanish law enforcement of involvement in human smuggling operations.

As of May 2019, a guideline on criminal procedure for smuggling and trafficking in human beings applies to the Dutch Caribbean. Prison sentences start at 1 months per smuggled vessel. Per smuggled person, another two months will be added.

If it can be proven that accomplices were working together in the criminal act, another four months will be added.



1.3 Murder case

Young hitman sent to prison for 30 years

In July 2021, the Court convicted a 22-year-old hitman for shooting and killing two men (one of whom was his accomplice) outside a supermarket in October 2019, and for the attempted murder of another man in January 2020. R.J.K.R. refused to disclose who gave the order for the hits.

In Court, the prosecutor stated that it was clear that suspect R.J.K.R. had no qualms about endangering completely innocent bystanders in executing his deathly criminal intent. OM continues to demand stiff penalties for (attempted) murder and the use of firearms. The lawyers of the suspect have filed for an appeal.

18-year-old sentenced to 9 years for manslaughter

In February 2021, the Court sentenced 18-year-old S.L. for fatally shooting the 17-year-old M.S. near the basketball courts in Belvedere in August 2020. The shooting stemmed from problems during carnival between rival groups in Dutch quarter (where the suspect resided) and Belvedere (where the victim lived). On that specific day, both young men had an argument about riding on a motorbike, which turned physical and ended with a fatal shot by S.L. The charges of manslaughter and gun possession were deemed proven by the Court.

1.4 Trends in 2021

Increase in relation violence

For many, the pandemic brought unprecedented challenges. With families in lockdown worldwide, global data indicated an increase in relational violence. In 2021, OM has observed that an average of two to three cases per week, in some way or another, were linked to relational violence. Relational violence is a broader term than just domestic violence, as it can be defined as a pattern of behavior in any relationship that is used to gain or maintain power and control over the other. These relationships can be between parents, siblings, partners, spouses, co-workers, and friends.



Steps towards juvenile delinquency prevention have been taken

OM has alerted the Ministry of Justice and other government departments about the increase in juvenile delinquency and the dire need for a prevention plan for the last several years. Unfortunately, on governmental level there is still no integral policy in which attention is given to the prevention of juvenile delinquency. An integral policy would serve as a basis for further elaboration and interpretation by giving direction to parties concerned. In 2021, various government departments, including OM, embraced the topic of juvenile delinquency prevention and are looking into cooperating with the judicial organizations to combat juvenile delinquency in the future.

Stricter approach on violence around schools

Since the increase in school-related fights in 2019, OM has adopted a stricter approach to dealing with involved youngsters. In 2021, violence in and around schools continued, with serious offences such as extortion, stabbings, and possession of illegal weapons. Another cause for concern is the young age of the suspects (the youngest was 13). OM, together with partners of the Youth Case Committee (JCO) prioritized violence in and around schools as well as the early detection of activities that might lead to crime.

Mediation introduced in the justice system

With the start of the pilot project on mediation in September 2021, the justice system took a step towards strengthening restorative justice avenues. In November 2021, one of the cases from the mediation pilot was presented in Court. The case involved relational violence perpetrated by one spouse against the other with impact on their minor children. This was an extraordinary case in which both spouses agreed to work on restoring trust and participating in the SJIS Safe Homes Training. This was the first time the Court, prosecutor, and lawyer acknowledged the process of mediation in a criminal case and the Court explicitly stated the importance of mediation in such cases. In 2022, the mediation project will continue under the guidance of OM, with the goal of handling 20 cases.



Photo: S. Bartels (mediator), S. Withfield (Prosecutor), C. Filemon (Dept. Head, SJIS)



Increase of motorcycle/scooter nuisance

In 2021, Sint Maarten recorded several incidents of motorcycle/scooter nuisance, such as riders performing “wheelies” and behaving dangerously in traffic. These activities on public roads have led to dangerous situations. This type of nuisance is against law, for which penalties, including imprisonment, can be imposed on the law breaker(s). The police have a zero policy against nuisance by motorbike/scooter riders, which has also led to confiscations. OM, together with the Police Force Sint Maarten (KPSM) and the Court, has been working on improving the procedure on the confiscation of goods to enable swifter action.



2 Policy and Strategy

2.1 Youth delinquency

In 2021, OM and its partners within the JCO aimed at working more policy- and strategic-oriented, whereas the community police officer and forensic care would be raised to a higher level by:

- Intensifying cooperation among the healthcare-, social- and governmental partners and KPSM.
- Improving the pedagogic program within Ms. Lalie Center (MLC) to stimulate behavior change for youngsters by continued participation in meetings with MLC and adding the topic to the political agenda.

Performed activities in 2021

In 2021, OM hosted 11 JCO meetings in which approximately 40 youth cases were discussed. A new addition to the JCO was established in the form of Student Support Services Division. This department of the Ministry of Education, Culture, Youth, and Sports can be consulted in cases where in-depth guidance at school might be needed. Partners within the JCO agreed to broaden their target group. Instead of focusing only on minors with a court verdict, a more preventative approach is embraced by tackling “red flag” cases. These are cases where risk situations and first offenders are detected early. Unfortunately, cooperation among the healthcare-, social and governmental partners could not be established as intended according to the 2021 aim, due to staff shortage at the judicial departments.

OM has also addressed the importance of a pedagogical climate within MLC at various times, for instance in the “Driehoek” (the meeting of KPSM, Ministry of Justice, and OM), in meetings with MLC and the Point Blanche Prison. A pedagogical climate involves, for example: hiring (and retaining) psychologists, pedagogical employees, providing education and time management, training guards for a juvenile institution and a resocialization policy. In 2021, MLC reported it did not have pedagogical personnel available for guidance and support to the juvenile detainees. OM stresses the importance of hiring specialized staff in 2022.

2.2 Relational (domestic) violence

In 2021, OM aimed to increase the knowledge of its employees dealing with relational (domestic) violence cases by providing a program designed by its internal training/educational department for this purpose.



Performed activities in 2021

At the end of 2020 and the start of 2021, OM made several presentations within its own organization and KPSM on the topic. The aim of these presentations was to increase awareness about domestic violence, publicize the internal victim support policy and explain the procedure when handling these cases. These presentations will continue annually.

2.3 Victim support

The first aim of OM in 2021 has been to improve its service to victims of crimes by:

- Providing a uniform and clear internal guideline to enable support and information exchange to victims in the different phases of the case proceedings.
- Making all victim information letters digitally available within the organization.
- Establishing a protocol with KPSM concerning the disclosure of information to victims.

The second aim has been to apply mediation by:

- Starting a pilot project with test cases.

Performed activities in 2021

In 2020 OM worked actively with partners to improve service to victims of crime and in 2021 this continued. The working relations with partners such as SJIS, KPSM, and the Court of Guardianship were improved by intensifying case meetings. During these meetings, all cases were discussed and studied in depth, moreover an appropriate course of action was decided in order to protect the victim from further harm and hold the perpetrator accountable. In addition, an internal policy was created to provide guidelines on the process for handling cases. A working relations protocol exists between OM and KPSM and between OM and SJIS. For the public, information leaflets were created for victims of crime on what to expect when they file a complaint with the police. These leaflets are available in the languages English, Spanish and Haitian Kreyol.

An opportunity was presented to OM and SJIS to submit a project proposal to Resources 4 Community Resilience R4CR for funding. This program is funded by the Sint Maarten Recovery, Reconstruction and Resilience Trust Fund. Both organizations used this opportunity to apply for funds to introduce mediation in the criminal justice system via the joint Domestic Violence and Mediation Restorative Justice Pilot. The funds were granted and the project kicked off in September 2021. The project consists of adding mediation skills to the existing “toolbox” of judicial partners, and to mediate ten (10) criminal cases in the pilot phase. 15 people from SJIS, Court of Guardianship, Women’s Desk, Safe Haven Foundation, and KPSM were introduced to and trained in mediation by a trained mediator. These skills are applied in their daily work.



The pilot ended in December 2021 and saw ten criminal cases handled and five cases successfully completed. The five cases were finalized with a mediation proposal agreed on by both parties. Given the success of the pilot and the dire need for mediation, additional financing for the project has been requested for 2022.

2.4 Human trafficking and human smuggling

OM focused on disrupting and addressing human trafficking networks in Sint Maarten together with Unit Mensenhandel Mensensmokkel by:

- Intensifying collaboration with governmental organizations that deal with border control and with international partners.

Performed activities in 2021

OM is represented in the steering group for reinforcement of border control along with the Immigration and Customs Departments, the Koninklijke Marechaussee, KPSM and the Dutch Caribbean Coastguard. Collaboration among partners has intensified to improve international and interregional cooperation. New partnerships have been established with the BVI and the USVI, in response to a human smuggling trend with routes from the Caribbean islands to the United States. Collaboration has also led to cooperation with the Kingdom counterparts in developing administrative tools that could help combat human trafficking.

2.5 Communication

OM increased its presence in the community in 2021 by utilizing more avenues to disseminate information. Along with printed and online media, the medium of radio was used to highlight ongoing investigations, the outcome of court cases and developments in projects such as the Domestic Violence and Mediation Restorative Justice Pilot.

Another engagement tool was the creation of a victim's information leaflet titled *"What to expect after filing a complaint with police"* as part of the Restorative Justice Pilot. This printed material outlines the process from the moment a complaint is filed with police to the role of the prosecutor and the closing of the case. The leaflet was also prepared in Spanish and Haitian Kreyol.

A new comprehensive website – www.openbaarministerie.org – was launched for the entire Prosecution Service (Curaçao, Sint Maarten, and BES). This portal is available in English, Dutch, and Papiamentu to ensure the widest reach possible in the diverse communities of the five islands. The Sint Maarten section is regularly updated with press releases and other relevant information for the public. Similarly, regular updates are made on the Sint Maarten-specific Facebook page and on the general Prosecution Service LinkedIn page.



More emphasis has been placed on reaching the Sint Maarten public through vacancy and information advertisements that utilize the English language, the prevalent form of communication on the island, rather than Dutch. This approach has aided in putting focus on OM as part of the community even though its “working” language is Dutch. Using English has helped with reaching more people in the public and helped with “word-of-mouth” information sharing.

2.6 Professionalization

In 2021, the digitalization procedure aimed at improving data synchronization between the registration system PRIEM and the enforcement of penalties (execution) continued. Digitalization is continuously improving and together with the PPG further significant steps will be made in the administrative systems for the coming years.

The capacity shortage within the administration department makes it difficult to adequately execute the task of collecting unpaid fines. This has led to backlog. In 2021, the administration department started a pilot project to address the backlog in collecting unpaid fines starting from 2017. The system generated 1,466 people with unpaid fines for that year. From these, 730 notification letters were delivered, of which 46 were paid in 2021. This pilot showed that a designated enforcement officer within the organization is needed for more active enforcement.

OM has been committed to supporting its staff with regular training and development opportunities. Learning comes in various forms including: (informal) training courses, mentoring, coaching, and on-the-job learning. Taking a flexible approach in 2021 has created the possibility for everyone to be able to fit their learning around (and even during) their busy job.



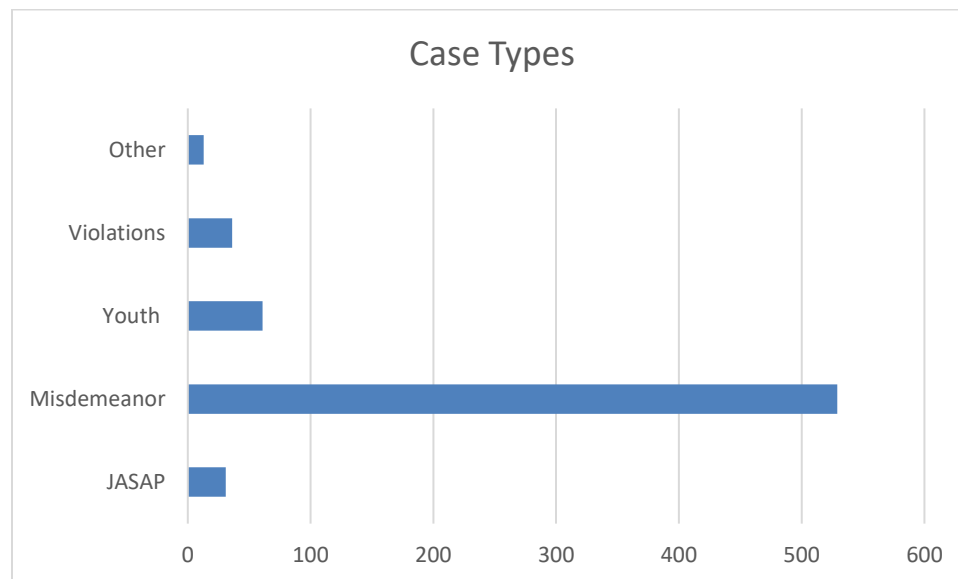
3 Our performance

3.1 New cases and misdemeanors

In 2021, a total of 670 new cases were registered. Of those, 529 were misdemeanor cases. The most common crimes included in that number were burglaries and car theft, and high impact crimes, where violence and/or weapons were used.

JASAP stands for Justice As Soon As Possible and is a method where swift decisions are taken on the most common and simpler cases by the prosecutor, without a case going to court. In 2021, 66 JASAP cases were registered and 31 were assessed.

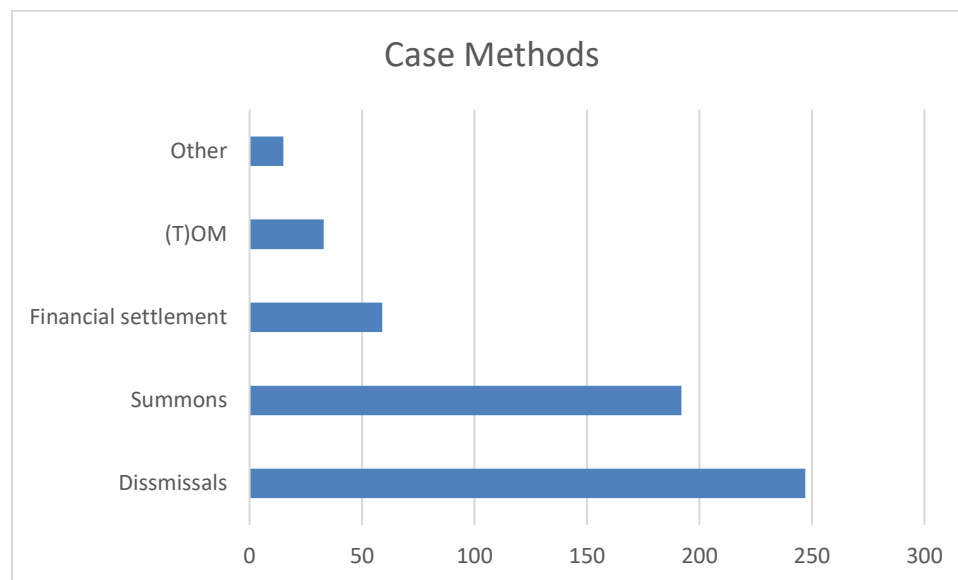
A total of 36 violations of licenses were registered. These were cases related to the inspection departments of Ministries of VROMI, VSA, and TEATT. These are referred to as BOD (bijzondere opsporingsdiensten) cases. Compared to 2020, the numbers of new registered BOD cases have remained the same.





3.2 Handling cases

Of the 670 new cases in 2021, 546 cases were assessed. This is a slight decrease compared to 2020. Most of the cases were summoned to Court and 192 cases were dismissed for various reasons. Some cases were dealt with via the Prosecutor's Office Community Service (T)OM hearing. Even though the name may suggest a hearing in a courtroom with a judge, a (T)OM hearing is a formal conversation between OM and the person suspected of committing a criminal act. Punishments, such as community service, can be imposed by the prosecutor.



3.3 Inventory

Inventory of cases that have not been assessed:

188 old cases from 2019 and 2020

225 new cases in 2021

413 cases in total

OM has old unassessed cases dating from 2008, which will be addressed during the coming years through cleanup operations. The administration department has a backlog in the processing of the criminal records of 2021 in the system of Justitiële Informatiedienst which has to be done manually.



3.4 Paga-Bo-But

Traffic violations are handled through fines issued by the police via a summons [in Dutch: *oproepingsprocesverbaal* (OPV)]. The police send the OPVs to OM, where they are registered in the data system Paga-Bo-But. The OPV allows the offender at least seven days to pay, before the case is taken to Court.

In 2021, the system registered 2,614 traffic fines, amounting to a total of NAf. 584,680, of which NAf. 120,634 has been paid. Active enforcement of unpaid fines continues to be a challenge due to understaffing.

3.5 Performance indicator

For 2021, the following performance indicators have been internally established:

<u>Category</u>	<u>Indicator</u>	<u>Performance</u>
• New criminal offences	550	560
• New (traffic + BOD) violations fines	4000	2650
• Dismissals	13%	17.5%
• Asset recovery	NAf. 150,000	NAf. 94,084

The performance related to new fines has not met the established norm. When tracking back the performances to 2017, it is clear that the norm has not been met in the last five years. A bottleneck in the past was insufficient police capacity to perform more traffic controls.

	2017	2018	2019	2020	2021
Total (traffic) fines (KPSM, Coastguard, TEATT)	3,093	2,379	2,001	2,206	2,650

With a dismissal rate of 17%, OM exceeded the agreed indicator of 13%. Two of the most common reasons for dismissals are: insufficient evidence to achieve a conviction or that the case is too old.



4 Management and annual accounts

4.1 Personnel

The formation of the Prosecutor's Office Sint Maarten has been largely filled. The officer-in-training (OiO) /prosecutor-in-training will formally completed his training in February 2022. As of March 1, 2022 he will be appointed as a prosecutor and incorporated in the regular formation of the OM.

4.2 Financial statement

The statement of budget and actual figures (realization) of the Prosecutor's Office Sint Maarten in Netherlands Antilles guilders (NAf.) as of December 31, 2021 are stated below. The amounts refer to the financial year 2021. The annual figures are taken from the audited 2021 financial statements.

Prosecutor's Office of Sint Maarten	Budget 2021	Actual 2021	Variance 2021
Description	NAf.	NAf.	NAf.
Total	4,128,015	3,599,150	528,865
Personnel Expense	2,953,515	2,513,989	439,526
Salaries and benefits	2,330,015	2,046,876	283,139
Pension and social premiums	361,000	215,056	145,944
Other (hired) personnel	177,500	167,360	10,140
(Other) personnel expense	85,000	84,697	303
Housing Expense	634,000	592,425	41,575
Transport Expense	160,000	32,579	127,421
General Expense	380,500	413,172	-32,672
Depreciation expense	0	46,985	-46,985

In total, there is an underutilization of the budget of - NAf. 528,865. A summary of the main deviations is provided hereafter.



Personnel Expenses

- Permanent staff: Due to the fact that the formation was not fully filled (2 FTEs), there was underutilization of permanent staff costs. In addition, vacation pay was budgeted for 2021, while due to the agreements made in the context of country package, the right to vacation pay lapsed on July 1 and was not paid out. Finally, there was an over-budgeting of medical expenses (- NAf. 429,000).
- Hired staff: Here, there is a small underutilization (- NAf. 10,000).

Housing Expenses

- Security and utility costs (water and electricity) were lower than budgeted (- NAf. 41,000).

Transportation Expenses

- The budget took into account the replacement of the existing (owned) fleet for leased vehicles. This replacement has been delayed so that the new vehicles will not be in use until early January 2022.

General Expenses

- More was spent on travel and accommodation expenses than budgeted (+ NAf. 43,000).
- The budget did not take into account the replacement of the existing (owned) printers with lease printers (+ NAf. 19,000).
- New contracts for fixed telephony have resulted in savings (- NAf. 37,000).
- Specific research/investigation costs are variable and higher than budgeted (+ NAf. 31,000).
- Miscellaneous (other) costs are higher than budgeted (+ NAf. 81,000).



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