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Dear Madam and Sirs

PARLIAMENTARY PUBLIC HEARINGS - COMMENTS ON THE 2022 BUDGET REVIEW

1. The South African Institute of Chartered Accountants (SAICA) herewith presents its comments and submissions on the 2022 Budget Review released by Minister Godongwana on 23 February 2022.

2. We once again thank the Standing Committee on Finance (SCoF) and the Select Committee on Finance (Select Committee) for the ongoing opportunity to provide constructive comments in this regard. SAICA continues to believe that a collaborative approach is best suited in seeking solutions to complex challenges.

Yours sincerely

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ACCOUNTING FOR IMPLEMENTATION

3. Minister Godongwana reaffirmed government's commitment to charting a course towards growth and fiscal sustainability by narrowing the budget deficit and stabilizing debt. He did this by laying out his plan (the Budget) of how this will be done.

4. The reason for this submission, is to provide public input into the content of the Budget Speech so that the SCoF and Select Committee can fulfil their roles. The mandate of the Committees[1] is to either accept or amend the Budget's fiscal framework.

5. Parliament, and not National Treasury, is therefore ultimately accountable to ensure sufficient oversight that the budget is appropriate and will in fact achieve fiscal and macroeconomic policy.

6. The SCoF is accountable for oversight of the fiscal framework.

7. The fiscal framework is a framework for a specific financial year that gives effect to the national executive's macro-economic policy and it includes amongst others ***estimates of all revenue*****,** budgetary and extra budgetary specified separately, expected to be raised during that financial year, ***estimates of expenditure*** and ***estimates of borrowing*** for that financial year.

8. All the elements of the fiscal framework are interlinked, however, in analysing the estimates, one needs to consider what actually happened in previous years even though the Standing Committee on Appropriations and the Standing Committee on Public Accounts address those matters, as it talks to the **credibility of the budget** estimates in the current budget and whether **people are held accountable to ensure budgets are met and implemented as tabled**.

ESTIMATES OF REVENUE

Tax-to-GDP ratio

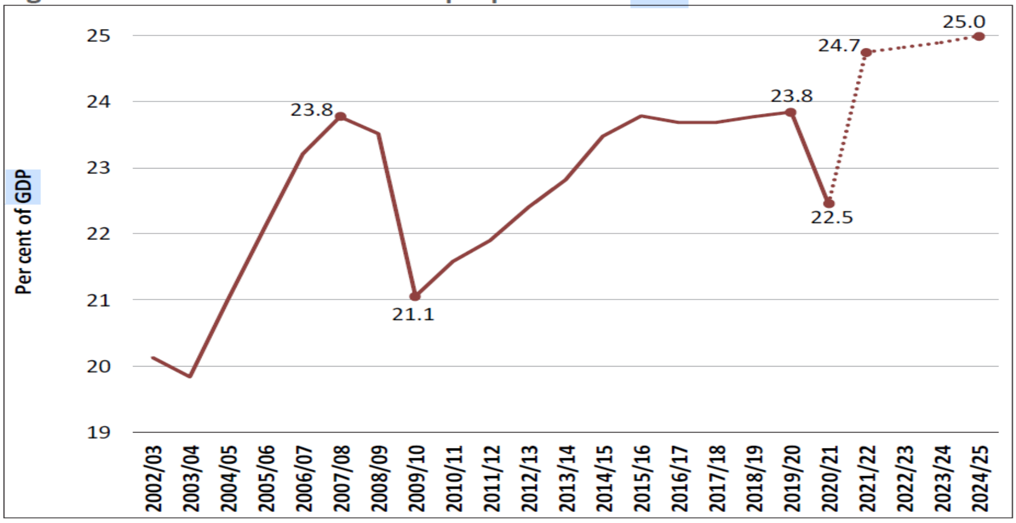
9. The tax-to-GDP ratio is used as a measure of how well the government controls a country's economic resources and is a good gauge of a nation's tax revenue relative to the size of its economy. According to the World Bank, tax revenues above 15% of a country's GDP are a key ingredient for economic growth and, ultimately, poverty reduction.

10. Higher tax revenues mean a country is able to spend more on improving infrastructure, health, and education – keys to the long-term prospects for a country's economy and people. Thus, the higher the ratio, the higher the proportion of money that goes to government coffers, ie. a low ratio puts pressure on a government to meet its fiscal deficit targets.

11. South Africa's ratio is estimated to be 24.7% in 2021/22 rising to 25% in 2024/25.

[1] Section 8(2) of the Money Bills Amendment Procedure and Related Matters Act 9 of 2009.

Figure 4.1 Gross tax revenue as a proportion of GDP



Source: National Treasury and SARS

12. It is therefore evident that South Africa's tax revenues have (on average) been growing despite weak economic growth. A high tax-to-GDP ratio is not a problem where taxpayers are receiving good value for their money, however, this is not a reality currently in South Africa.

13. The Katz Commission in its third report recommended a set ceiling of 25% as the maximum tax to GDP ratio. The purpose of this is to deal with when too high taxes become damaging to an economy as theorised by the Laffer Curve.

14. National Treasury has in recent years rejected this ceiling and questioned it, which is reasonable. However, it has not proffered any research that shows that too high taxes can never be damaging to the economy.

15. In 1996, the Joint SCoF[2] (JSCoF) did scrutinize the Katz Committee third report, and noted the following:

    15.1 It supported Government's commitment to avoid Tax/GDP ratios above 25%;

    15.2 The impact on the wider economy of maintaining a tax level of 25% of GDP, and how this figure was determined, be investigated; and

    15.3 It welcomed the fixing of a ceiling for the tax burden as a percentage of GDP though recommended further evaluation be done of the 25% rate set, and the economic implications of higher or lower rates.

16. OUTA has done a paper on this which was made available[3] and they concluded that 18.6% is an appropriate tax to GDP ratio.

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[2] Katz Commission Report into Tax (treasury.gov.za)

[3] https://static.pmg.org.za/181031Taxation_ceiling_for_South_Africa.pdf

17. However, we are not aware of National Treasury having conducted any such research even though it seemed to have accepted the concept and ceiling in 1996 and that the SCoF recommended that it do more work on this.

18. Should the current Fiscal Policy in fact be wrong and damaging to the economy, it would be incumbent on Parliament to ensure it is properly informed on this risk.

19. Statements made by the Minister for example, that the return from increased taxes has been difficult to gauge in the last few years as in some instances higher tax rates have not realised higher returns, have been made but the reasons for this was not made clear - is it damaging the economy or something else?

20. If this research has not occurred, and to our knowledge it has not, it should be investigated as recommended by JSCoF in 1996. Furthermore, the SCoF should review why it did not follow up with the implementation of its recommendations since 1996 given that it is accountable for oversight and clearly since 1996 has had a lingering question about this matter as relates to the appropriateness of fiscal policy.

21. <u>Submission:</u> We therefore ask the committee members are you properly informed to make an informed decision as required, to approve, without significant amendment, Budget 2022?

22. Does the Committee agree that there is a level at which high taxes (fiscal policy) becomes detrimental to the economy (macroeconomic policy)?

23. Why has the Committee not followed up on its own recommendations of 1996 to interrogate the 25% and will it be setting a deadline for this to be done by National Treasury?

Tax to GDP calculation methodology

24. Tax to GDP is globally used as a good indicator of the actual extraction of taxes from the economy for reapplication by government.

25. However, it seems that what is used to calculate this differs depending which source you reflect on with National Treasury's calculation differing from STATSSA[4], OECD[5], IMF and the World Bank[6].

26. We have sought to reconcile and understand these differences so we can properly consult with Parliament.

27. We understand that the National Treasury calculated Tax-to-GDP as follows:

Tax Revenue (net of SACU) / GDP = % ratio

[4] http://www.statssa.gov.za/wp-content/uploads/2019/06/pie3.png
[5] Revenue Statistics in Africa: Key findings for South Africa (oecd.org)
[6] https://data.worldbank.org/indicator/GC.TAX.TOTL.GD.ZS?locations=ZA

28. On page 41 of the Budget Review this is reflected as 24,7%.

29. We believe this methodology understates the total tax burden on the country and is not a proper reflection of what Parliament should be using to reflect on fiscal policy.

30. In our view Tax / GDP ratio must be calculated by including all taxes, whether direct benefits flow or not as they are in fact taxes as defined Constitutionally as included in a money bill. The calculation for 2021/2022 would then reflect approximately (*we don't have exact up to date numbers for all items) as follows:

    Gross Tax Revenue (i.e. before deducting SACU as it comes from actual taxes)

    ADD: UIF (this is a tax by Constitutional definition)

    ADD*: COID levy (this is a tax by Constitutional definition)

    ADD: RAF (this is a tax by Constitutional definition)

    ADD*: Provincial taxes (the budget is for National and Provincial government)

    TOTAL / GDP = % Ratio

31. This significantly changes the picture to **27,6%** and seems to better align with how tax-to-GDP is calculated by international bodies and also better reflects the actual tax extraction from the economy that government seeks for its developmental agenda.

32. Submission: Parliament should question whether the current National Treasury calculation methodology of tax-to-GDP properly and appropriately informs it of what the impact is of fiscal policy and whether our proposed calculation does not better inform this question but also makes our tax-to-GDP more comparable for Parliament to other jurisdiction.

33. It is submitted that as Parliament is accountable for the final approval (with or without amendment) of the budget it should request financial data that best informs its decision making.

Revenue estimates

34. Year-on-year medium-term revenue increases are estimated to be 2,9%, 4,7% and 6,7%, notwithstanding National Treasury's estimation that tax buoyancy and tax elasticity will decrease and GDP growth will be flat.

Table 3.3 Revised gross tax revenue projections

R million	2020/21	2021/22	2022/23	2023/24	2024/25
Revised estimate	**1 249 711**	**1 547 071**	**1 598 447**	**1 694 259**	**1 807 614**
Buoyancy	*3.69*	*1.93*	*1.09*	*1.06*	*1.06*
2021 MTBPS	**1 249 711**	**1 485 415**	**1 527 412**	**1 608 006**	**1 715 258**
Elasticity	*3.69*	*1.73*	*0.99*	*0.97*	*1.05*
2021 Budget	**1 212 206**	**1 365 124**	**1 457 653**	**1 548 512**	
Elasticity	*2.39*	*1.44*	*1.15*	*1.07*	

35. Tax buoyancy refers to the responsiveness of tax revenue growth to changes in GDP. When a tax is buoyant, its revenue increases without increasing the tax rate. There is a strong connection between the government's tax revenue earnings and economic growth because as the economy achieves faster growth, the tax revenue of the government also goes up.

36. To adjust for COVID, 2015/16 was 1, 2017/18 was 0,91 and 2018/19 was 0.98. It was already in 2019 estimated that by 2021 it would be on a decreasing trend. It is this decreasing trend rather than the outright number that should be concerning

37. GDP growth is expected to decrease and then remain flat as depicted below.

Table 1.1 Macroeconomic outlook – summary

Real percentage growth	2021 Estimate	2022 Forecast	2023 Forecast	2024 Forecast
Real GDP growth	**4.8**	**2.1**	**1.6**	**1.7**

38. We have also previously submitted to Parliament that over the last decade the initial GDP growth estimates at the beginning of a medium-term cycle have always been more positive than what is realised and usually face downward adjustment.

39. For 2021 that downward adjustment has already occurred from 5,1% to 4,8% from as recently as the 2021 MTBPS.

40. A similar pattern is followed by the expenditure which follows an inverted bell curve and which Fitch has already commented on, talks to the credibility of the Budget in that no one seems accountable in realising what is envisaged in the budget.

41. That is in essence what the budget represents, as relates to investor confidence as well, namely does South Africa have the political will to keep to its plans?

42. Submission: It is critical that the revenue estimates are as accurate as possible, as these estimations underpin the revised downwards estimations in the budget deficit and consequently the projected debt that will be needed to fund any deficit.

43. Over-estimating economic growth and revenue and underestimating expenditure trends is not in itself disastrous. However, given South Africa's trend in these matters, together

with the rising debt, it rather talks to the credibility of the budget and is it in fact a reasonable estimate and reflection of the state of the fiscus finances?

44. If GDP is expected to decrease/remain flat, but tax revenue is expected to increase, it must be asked if the increase in tax revenue will be realised through future tax increases?

45. We draw members attention to the caution provided in the Budget document that states that recent experience has suggested that one should be cautious in projecting revenue gains from tax rate hikes as a number of tax increases that were implemented between 2015/16 and 2018/19 failed to generate the tax revenue expected. Taxes inevitably distort economic activity as taxpayers change their behaviour. Furthermore, South Africa has a very small tax base, with only 7.1 million individuals actually paying tax, with only 7% of these being liable for just over 50% of the total tax payable.

46. Bearing this in mind, we ask the honourable members if they are satisfied that they know where the expected additional tax revenue will come from if the economy is not growing, and would they be comfortable if it was from increases in tax rates despite a declining/stagnant economy?

SARS funding

47. An efficient and effective SARS is crucial to tax revenue collection. However, in 2021, Commissioner Kieswetter stated that SARS will have to battle with a R9 billion deficit over the next three years, despite it receiving an additional R3 billion over the next three years. The 2022 Budget indicates that the National Treasury will continue to engage SARS on its funding challenges in light of its important work.

48. We are therefore still concerned that SARS has insufficient funds to meet its April 2022 deadline for implementation of GRAP[7] and that it cannot successfully fulfil its mandate. With regards to the later, research[8] has shown that improving the delivery of a Revenue Authority's services will in turn improve the taxpayer's experience and ultimately their compliance.

49. SAICA has seen an increase in taxpayer dissatisfaction with SARS' services as is evidenced by the number of operational queries received from our members as well as the lengthy agenda of the SARS/Recognised Controlling Body National Operations meeting. Concerns include SARS not taking responsibility for their actions, such as the recent identity theft of taxpayer profiles and delays in VAT refund payments.

50. Although we acknowledge that SARS has made some headway on bringing tax defaulters to book, there is a general concern that compliant taxpayers are being targeted whilst the evaders are getting away scot-free. Given the draconian powers SARS are vested with, that significantly but legally limit taxpayers' constitutional rights, a higher standard of oversight should be exercised over SARS. Unfortunately, as

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[7] The Accounting Standards Board, in April 2012, approved the adoption GRAP in the Public Sector to replace the Modified Cash Basis of Accounting (MCB) and SARS asked for multiple extensions, the last till April 2022.

[8] https://www.oecd.org/tax/forum-on-tax-administration/publications-and-products/46274793.pdf

documented in the Nugent Commission and various other reports including the Budget Review and Tax Ombud reports, this oversight has been lacking and it has become a challenge in elevating such oversight and intervention to a level that is appropriate for SARS' draconian powers.

51. A structural review of the governance of SARS was promised after the 2018 Nugent Commission, yet no public consultation process was followed, with taxpayers being one of the victims of the governance failures at SARS.

52. The Minister notes that a document will be published for comment yet concludes that most of the recommendations have been implemented. This is a major oversight by the Minister in ensuring an effective, fair and efficient SARS.

53. Submission: Optimistic tax revenue targets have been set, so are members satisfied that SARS has sufficient resources to continue its drive to use high-tech systems to target non-compliant taxpayers and to deliver its services to compliant taxpayers in such a way that it will not negatively influence their tax compliance behaviour?

54. Considering that the dubious practices resulting from the non-implementation of GRAP by SARS (and the whole public sector), are members aware of National Treasury's progress in this regard and is the delay acceptable to you?

ESTIMATES OF EXPENDITURE

Expenditure ceilings

55. It is admitted in the Budget Review that the effectiveness of expenditure ceilings has been limited. The below table indicates the inverse bell graph showing that expenditure is originally estimated high, followed by undertakings to reduce this in the medium term and then it starts increasing again the closer the relevant year end draws to a close.

Table 3.5 Main budget expenditure ceiling

R million	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
2019 MTBPS	1 307 235	1 404 675	1 493 029	1 591 287	1 673 601		
2020 Budget Review	1 307 119	1 409 244	1 457 703	1 538 590	1 605 098		
2020 MTBPS	1 307 112	1 418 408	1 502 867	1 479 709	1 516 052	1 529 585	
2021 Budget Review		1 418 399	1 504 656	1 514 934	1 521 721	1 530 664	
2021 MTBPS		1 418 456	1 487 399	1 570 890	1 552 268	1 558 725	1 627 154
2022 Budget			**1 487 399**	**1 575 002**	**1 630 905**	**1 613 671**	**1 686 932**

Source: National Treasury

56. Submission: Are members happy that consistent breaches of expenditure ceilings are acceptable considering the debt levels of the government?

57. Does Parliament accept that making promises of reducing expenditure just to "recover" to initial levels undermines Parliament's credibility as the approver of the budget given that it seems the reduced budgets were never realistic? If it does accept this, what will Parliament do about it?

Pre-spending of next year's budget

58. According to the 2020/21 Auditor General PFMA Report, *almost a third of departments* ended the year in a deficit, which came to a combined R41,74 billion. In addition, over 60% of departments did not have sufficient funds to settle all their liabilities at year-end, with cash shortfalls totalling R33,29 billion.

59. The consolidated cash shortfall of the 27 departments (18%) that had *<u>already spent more than 10% of their 2021-22 operating budget</u>* (excluding employee costs and transfers) amounted to R31,08 billion, with the highest percentage incurred by the Department of Social Development (national), the Office of the Premier (FS) and the Department of Public Works (KZN).

Key financial health indicators at departments – sustainability

Indicators	2020-21
Sustainability	
Deficit (expenditure exceeded revenue)	R41,74 billion
Number of departments with deficit	32% (50)
Cash shortfall (bank overdraft less prepaid expenses/advances plus money to be surrendered to treasury)	R33,29 billion
Number of departments with cash shortfall	61% (89)
>10% of following year's budget (excluding employee cost and transers) **will fund current year's shortfall**	18% (27)
Bank in overdraft	19% (30)
Estimated settlement value of claims against the state at year-end	R166,07 billion
Number of departments with unsettled claims	94% (138)
Claims settlement value >10% of following year's budget (excluding employee cost and transfers)	37% (55)

60. This means that the viability of these departments, and their ability to deliver on their mandates, is in question, *<u>as they started the 2021-22 financial year with part of their budgets effectively pre-spent</u>*.

61. From a local government perspective, there were many municipalities that owed creditors more money than what was available in the bank. As a result, these municipalities also had to dig into their next year's budget to cover the current year's expenditure. The total deficit in local government was R7,44 billion, and expenditure exceeded revenue at year-end at 55 municipalities.

62. <u>Submission</u>: Are members satisfied that allocating more resources to departments/municipalities that are unable to operate within their budgets is acceptable?

Unbudgeted expenditure

63. Unbudgeted items remain a significant risk to the credibility of the budget. These include:

63.1 *2018 Public Sector Wage Agreement* outcome – will cost R38 billion plus interest should the dispute be resolved in favour of unions.

63.2 *SOEs' contingent liabilities* – R1.17 trillion guarantees are a lot closer to being government debt. It is noted that the 2022/23 contingency reserve is increased by R5 billion to make provision for a conditional allocation to the Land Bank.

63.3 *Municipalities* – the financial position of just over a quarter of municipalities is so dire that there is significant doubt that they will be able to continue operating as a going concern in the near future. This effectively means that such a municipality does not have enough revenue to cover its expenditure and owes more money than it has. Almost half of the other municipalities are exhibiting indicators of financial strain, including low debt recovery, an inability to pay creditors, and deficits.

63.4 *Water and sanitation* – infrastructure is imploding and access to drinkable water is becoming more problematic and it is doubtful that the additional budget allocation of R2.3 billion over the next three years will be sufficient.

63.5 *Police* – Crime remains a fundamental problem in growing our economy and the state of the Police remains a concern with effective service delivery decreasing as reflected in the crime statistics. The Police's ability to apply resources effectively is also a concern with R4 billion unspent even with all the lack of vehicles and equipment and state of disrepair at most police stations. In this regard the Minister's assessment that the Police will be supported by an increase of R8,7 billion in the medium term requires unpacking.

Table 5.4 Consolidated government expenditure by function[1]

R million	2021/22 Revised estimate	2022/23	2023/24	2024/25	Percentage of total MTEF allocation	Average annual MTEF growth
		Medium-term estimates				
Police services	108 453	110 220	108 577	114 222	6.0%	1.7%

A R2bn increase is expected for 2022/23 and then a further R6bn in 2024/25. The latter increase will be eroded by inflation (assuming inflation at 5%, the effective budget available at 2025 would only be R97 billion) and this begs the question as to how the appointment of the 12 000 new police officers promised by the President in the SONA will be funded?

63.6 *Litigation costs* – the AG stated that there are increasing claims against departments, flagging an emergency risk. What we have noted is that for:

- Health this amounts to R105 bn[9],

[9] https://hsf.org.za/publications/hsf-briefs/addressing-provincial-health-departments-medicolegal-claims-liability-developing-the-law-of-delict

- Police it is R 16bn[10] ; and
- Education, (amount unconfirmed)[11].

It seems that no provision is made for contingent liabilities as to legal claims and therefore when they happen, they erode the current year budgets.

63.7 *GEPF* – potentially underfunded by between R8 to R16 billon[12].

64. Submission: As the Minister commented, to pay for a R50 billion item would require a 2% VAT increase or personal income tax marginal rate increase. The perilous state of SOEs and municipalities, are seriously concerning and access to clean water is under threat, yet many of these concerns have not/are only partially addressed in the Budget.

65. Are members satisfied that the budget is credible without considering these expenses items and that Parliament has exercised proper oversight when amounts that clearly should be budgeted for are not?

66. How does Parliament believe the 12 000 additional police officers will be appointed when after **adjusting for inflation** the police will have a lower budget in 2025 than in 2022?

Contingency reserve

67. A Contingency Reserve is meant to provide and be utilised for **unforeseen emergencies** such as natural disasters or pandemics**.**

68. A worrying trend has developed where the Contingency Reserve is being utilised by National Treasury as a "suspense account" where **foreseen expenditure** that Treasury want to keep as conditional grants are budgeted in the Contingency Reserve.

69. This happened with provisions for SAA and now R5bn for the Land Bank.

70. Submission: Are members satisfied that the contingency reserve is used as a 'suspense account' to pay the R5 billion to the Land Bank rather than an account for unforeseen emergencies and if a real unforeseen emergency occurs, will we have financial resources to address it?

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[10] https://www.iol.co.za/news/politics/r16bn-that-is-the-amount-police-are-facing-in-civil-claims-339bc82a-1263-4cbc-ab25-841ee656d585

[11] https://www.news24.com/news24/southafrica/news/sahrc-starts-legal-action-against-five-provincial-education-departments-over-pit-toilets-at-schools-20211221

[12] The GEPF, as at the valuation date in 2018, met the minimum funding level; however, it did not meet its long-term funding objectives (75,5% versus the required 100%). Based on the 2018 valuation report, should government be required to contribute an additional 2,5% to the fund, this would equate to **approximately R8 billion** and should the required contributions be 5%, this would equate to approximately R16 billion. Both these numbers exceed the proposed tax increases of R5 billion in 2021/22 and R10 billion in 2022/23.

VIP Protection for small groups of politicians

71. COSATU has over numerous years lamented the fact that the VIP protection cost is unconscionable in a society so unequal and underfunded like South Africa.

72. In 2021, Parliament approved a significant budget increase for the estimate of R1,7 bn that goes towards this unit.

73. Parliament would in the same budget cut the NPA budget by R400m and only allocate R4,5bn.

74. Parliament in effect approved a budget whereby the safety of a handful of politicians is funded at 38% of the budget of an organ of state that has to ensure justice for 60 million people.

75. This has occurred notwithstanding that we live in one of the most crime riddle countries in the world.

76. We expect a similar proposal in 2022.

77. <u>Submission</u>: Is Parliament confident it is meeting its oversight role in the interest of the people by approving this estimate of expenditure as meeting the goals of our country?

ESTIMATES OF BORROWING

Estimates of debt

78. The revenue estimations underpin the revised downwards estimations in the deficit and consequently the projected debt. Any over optimistic estimations will have a negative impact on debt.

79. So too will the lack of control over government spending result in any debt forecast being underestimated.

80. Unbudgeted items as mentioned above will also have a fundamental impact on the borrowing required and may push debt to unsustainable levels.

81. <u>Submission</u>: Are members satisfied that the debt levels are accurate considering the concerns raised with revenue estimations, expenditure controls and unbudgeted expenses?

82. Also given the historical inability of government to keep to these levels, why does Parliament believe these lowered estimates are credible?

Estimates of debt service costs

83. A significant exclusion by the Minister in his Budget Speech was the escalating violence (and now war) in the **Ukraine** and its impact to significantly undermine global and local

economic growth should it escalate, given that it has already had a material impact on our currency, markets and energy costs.

84. The impact of this on debt borrowing costs, especially foreign debt, does not appear to have been factored into the current budget.

85. Submission: Are members satisfied that the budget adequately reflects impact of the war in the Ukraine, especially in respect of the debt service costs?

OVERSIGHT AND ACCOUNTABILITY

86. It is important to note that a well-designed fiscal framework should help to lead to more sustainable public finances and *internalise the costs of fiscal indiscipline*[13]. The role of the SCoF and the Select Committee is to establish if the plan laid out by the 2022 Budget is sound and, more importantly, implementable.

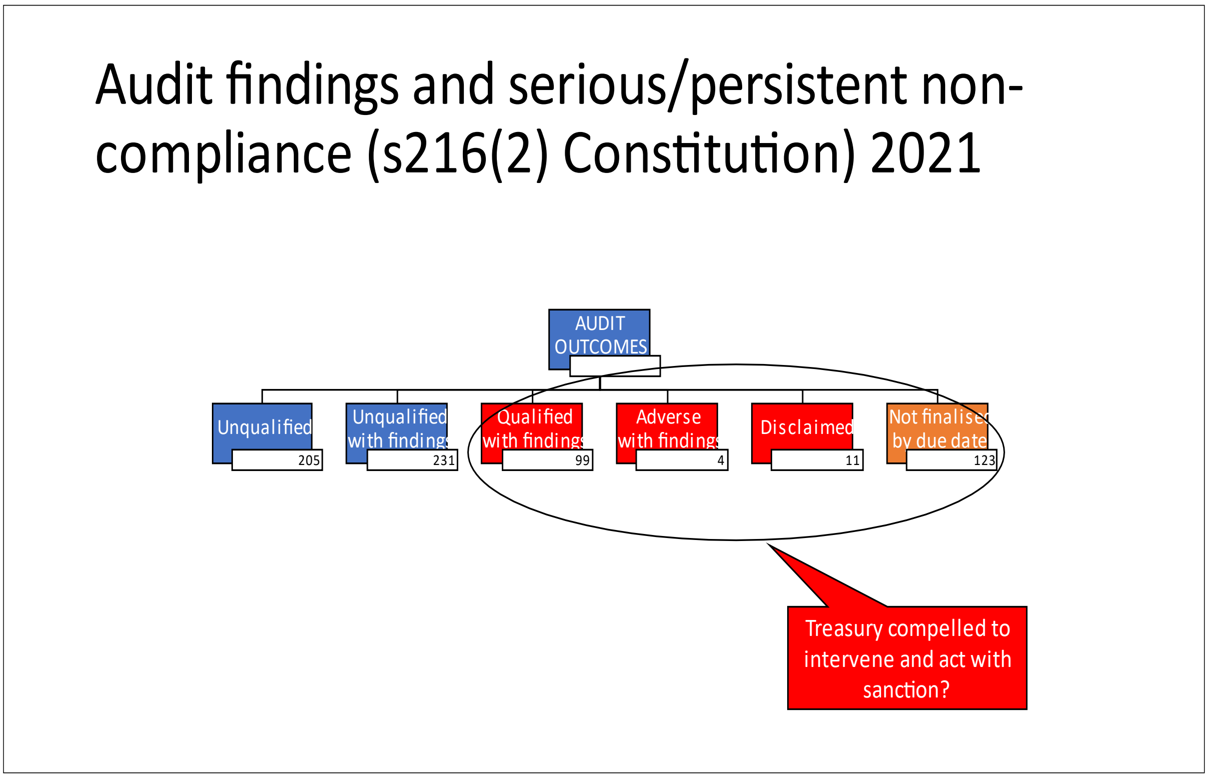
87. The United Nations University-Wider Working Paper 2022/3[14] and the IMF Report on South Africa[15] highlight that South Africa's policies are sound, but it's the implementation of these policies that is lacking.

88. This concern is evidenced by the yearly Auditor General Reports that continue to show a dismal picture of implementation of policies across the provincial and municipal sectors. If one merely considers the audit report status of these entities, it is evident that there are 99 departments/ municipalities that have qualified audit reports with findings, 4 with adverse findings, 11 with disclaimers and 123 with audits that were not finalised by due date (which is problematic in itself).

[13] Nerlich, C. & Reuter, W.H. 2013. The design of national fiscal frameworks and their budgetary impact. https://www.ecb.europa.eu/pub/pdf/scpwps/ecbwp1588.pdf

[14] Macroeconomic risks after a decade of microeconomic turbulence, South Africa (2007 – 2020): https://www.wider.unu.edu/publication/macroeconomic-risks-after-decade-microeconomic-turbulence

[15] South Africa: 2021 Article IV Consultation-Press Release: Staff Report; and Statement by the Executive Director for South Africa: https://www.elibrary.imf.org/view/journals/002/2022/037/002.2022.issue-037-en.xml



89. Why were those in charge of entities that received anything other than unqualified audits not disciplined/fired? Or were they? Do members know the answer to these questions?

90. As with any plan, the implementation thereof is a critical component for its success and the feasibility of implementation should be considered at the outset of any plan. It goes without saying, however, that when considering implementation, one also needs to consider who should be accountable therefor.

91. Section 216(2) states that the National Treasury **<u>must</u>** enforce compliance with the measures established in terms of subsection 216(1) of the Constitution – which includes the implementation of GRAP and enforcing sound treasury control measures – and may stop the transfer of funds to an organ of state if that organ of state commits a <u>serious or persistent material breach</u> of those measures.

92. The use by the Constitution of the word "may" is also in context permissive, not discretionary in our view given that National Treasury is compelled to implement treasury control by the use of the word "must" in the previous clause.

93. Thus, this section empowers the National Treasury to withhold allocations from the National Revenue Fund where there is a serious or persist contravention with Treasury Control measures. It is SAICA's view that the National Treasury has an obligation and not a discretion in enforcing treasury control as envisaged in section 216 and relevant other national legislation.

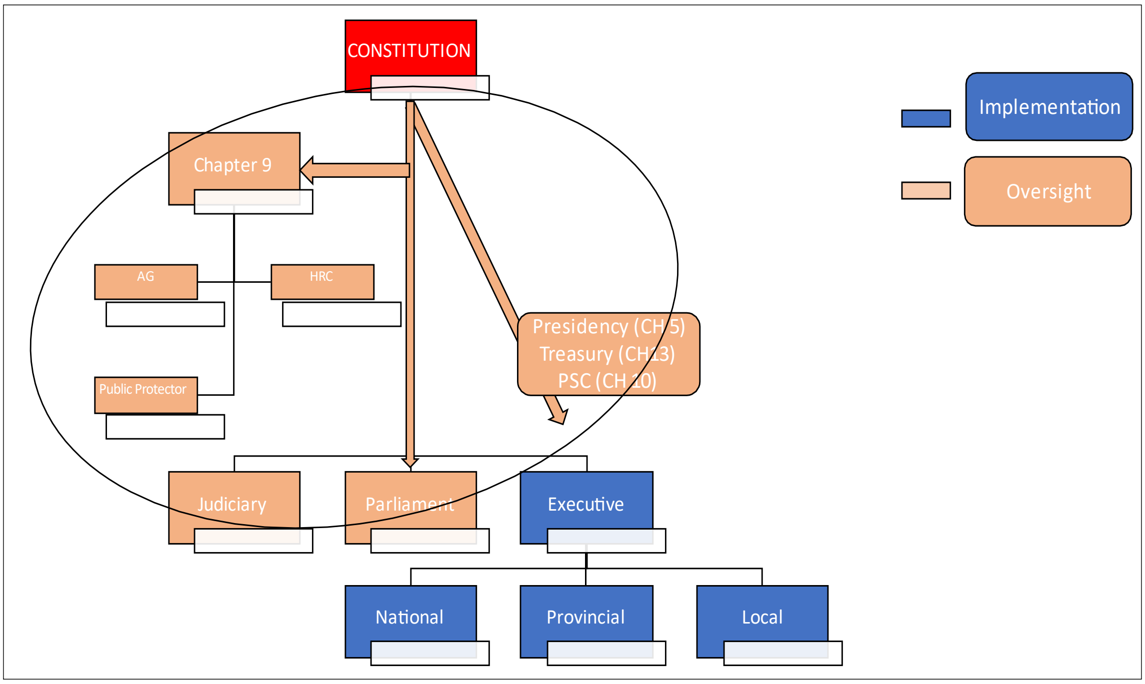
94. We have analysed various Parliamentary meetings and have noted isolated instances where the National Treasury has in fact applied the treasury control measures. However, SAICA's view is that the National Treasury is obligated to exercise treasury control

enforcement measures whenever a "serious or persistent breach" has occurred that has not been rectified.

95. This obligation, notwithstanding the extent of failure by all 3 spheres of the executive of the treasury control measures (especially in local government), is publicly documented in the AG Annual Report and is substantial rather than isolated.

96. <u>Submission</u>: Are members satisfied that the National Treasury has been sufficiently implementing its obligations in terms of section 216 of the Constitution to prevent not only pre-spending of future budgets but also the complete disregard for good financial management as is evident from the low number of unqualified audit opinions?

97. It is not only the National Treasury that bears the responsibility for ensuring that there is implementation especially as to fiscal sustainability. The accountability for oversight and implementation at the national, provincial and local levels of government can graphically be depicted as follows:



98. When delving further into who has the right of enforcement once oversight over implementation has been conducted, it was found that only a few "entities" have enforcement power. These include:

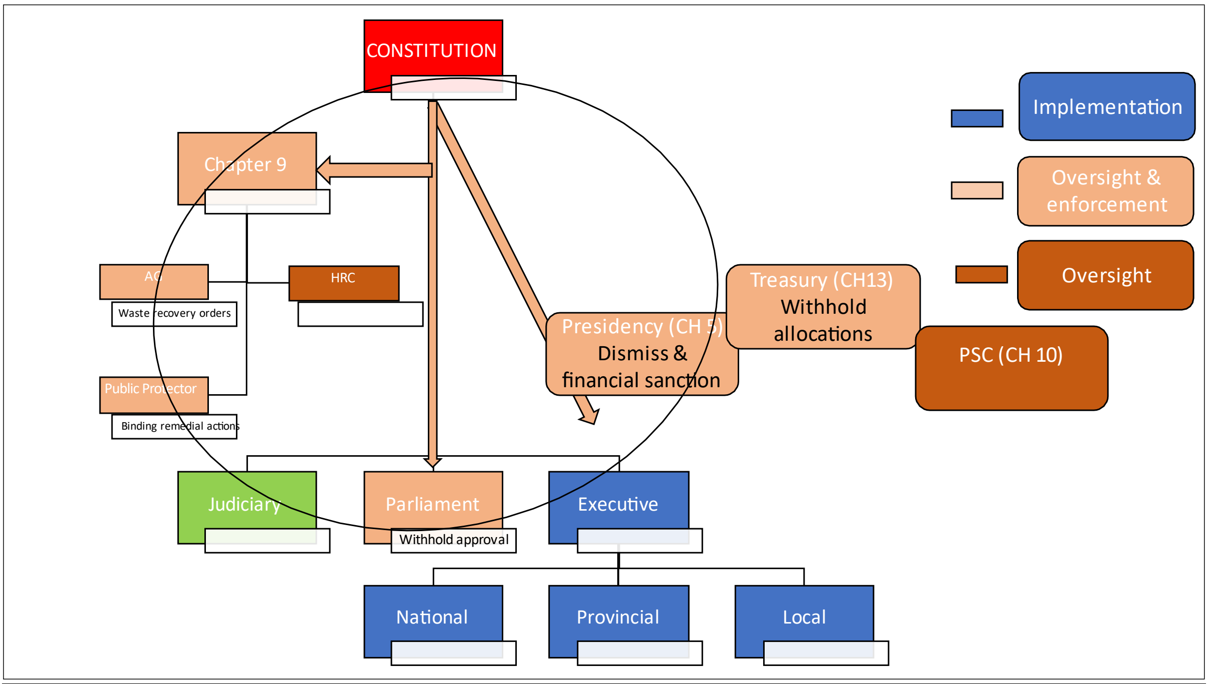
98.1 The Public Protector that can enforce binding remedial action;

98.2 Parliament that can withhold approval for appropriating legislation;

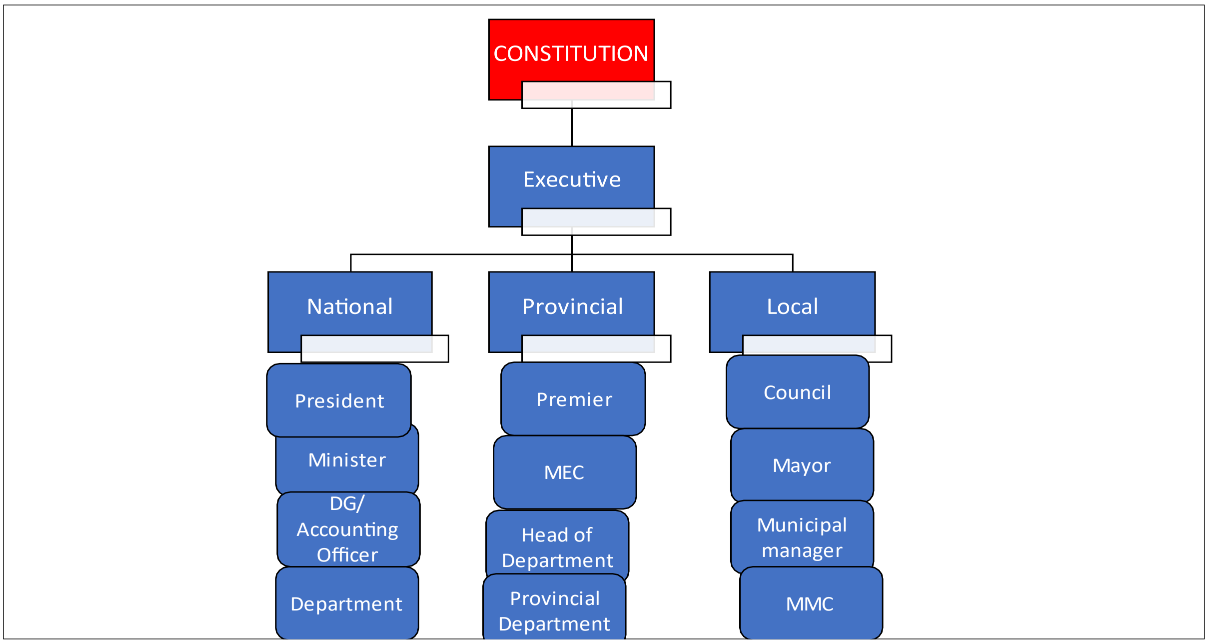
98.3 The Presidency that can dismiss individuals and call for financial sanctions of the Executive; and

98.4 The National Treasury that can withhold allocations from Departments (section 216 of the Constitution).

99. The above is depicted graphically on the next page:



100. This enforcement can be drilled down ever further in respect of the Executive:



101. Submission: Are members using their enforcement rights through amending budgets to ensure that the Executive is being held accountable for fiscal discipline failures?

CONCLUSION

102. On 23 February 2022, Fitch Ratings[16] noted that continuing breaches of expenditure ceilings points to difficulties in containing spending and it doubts that the National Treasury has the ability to contain government spending pressures.

103. Taking this into consideration, before accepting the Budget, we urge members to ask more questions not only about the credibility of budget itself but also of the budgeting process.

104. Parliament's credibility is at stake because Parliament has to ultimately approve the budget and prove that it has interrogated the assumptions and that it is confident that the budgeting process will lead to a credible outcome.

105. We therefore conclude with a question for each member of both committees – Are you confident that you trust the budgeting process and that the outcomes will realise the plans that National Treasury has presented as fiscal policy in the Budget, as ultimately you are accountable to the people that this is indeed the case?

[16] https://www.fitchratings.com/research/sovereigns/south-africas-debt-still-rising-despite-higher-revenue-23-02-2022