

① DIPS - AH. M.S. Kama
to prepare a statement for the
for the
11/12/22



REPUBLIC OF KENYA
THE NATIONAL TREASURY AND ECONOMIC PLANNING

② Statement for Preparation
of Communications.
Rkain
11/12/22

③ Communication
issued on
11/12/2022
Rkain
11/12/22

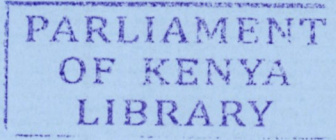
Telegraphic Address: 22921
Finance-Nairobi
Fax No.: 310833
Telephone: 2252299

Treasury Building
P.O. Box 30007 - 00100
NAIROBI

REF: NT/LEGAL/463/ (75)

30th November, 2022

Mr. Samuel Njoroge
Clerk of the National Assembly
Parliament Buildings
NAIROBI



Dear *Mr. Njoroge,*

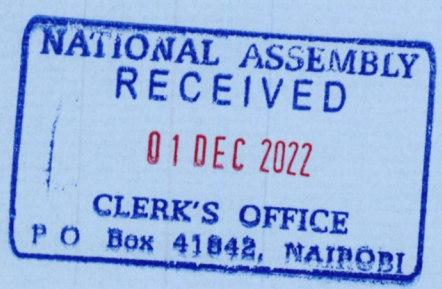
RE: STATEMENT BY THE NATIONAL TREASURY AND ECONOMIC
PLANNING ON STATUS OF DISBURSEMENT OF NATIONAL
GOVERNMENT-CONSTITUENCY DEVELOPMENT FUNDS FOR THE FY
2022/23

Reference is made to our letter No. MOF/TE 200/01 "E" (36) dated 15th November, 2022 on the above.

Attached please find a further statement from the National Treasury and Economic Planning on the above subject for your information and sharing with the National Assembly.

Yours *Sincerely,*
[Signature]

NJUGUNA NDUNG'U, CBS
CABINET SECRETARY





REPUBLIC OF KENYA
THE NATIONAL TREASURY AND ECONOMIC PLANNING

In response to the request of this Office regarding the effect of the Supreme Court's decision on the NGCDF Act and the accrued liabilities of the CDF and NGCDF, the Hon. Attorney-General has advised as follows:

- i) That all liabilities properly incurred by the Constituencies Development Fund and the national Government Constituencies Development Fund before the decision of the Supreme Court should be defrayed by the national Government;
- ii) That the NGCDF Act of 2015 has itself not been expressly declared unconstitutional despite the observations by the Supreme Court. The Attorney General notes that the constitutionality of the NGCDF Act is in fact pending determination by the High Court in *Wanjiru Gikonyo and Another versus The National Assembly of Kenya & 80thers (2016) eKLR*. The formal express declaration of the NGCDF Act 2015 as unconstitutional, therefore may only come from the High Court pursuant to its jurisdiction as provided for in Article 165(3) of the Constitution: and
- iii) Further, in the matter of *Interim Independent Electoral Commission (2011) eKLR*, the Supreme Court held as follows:

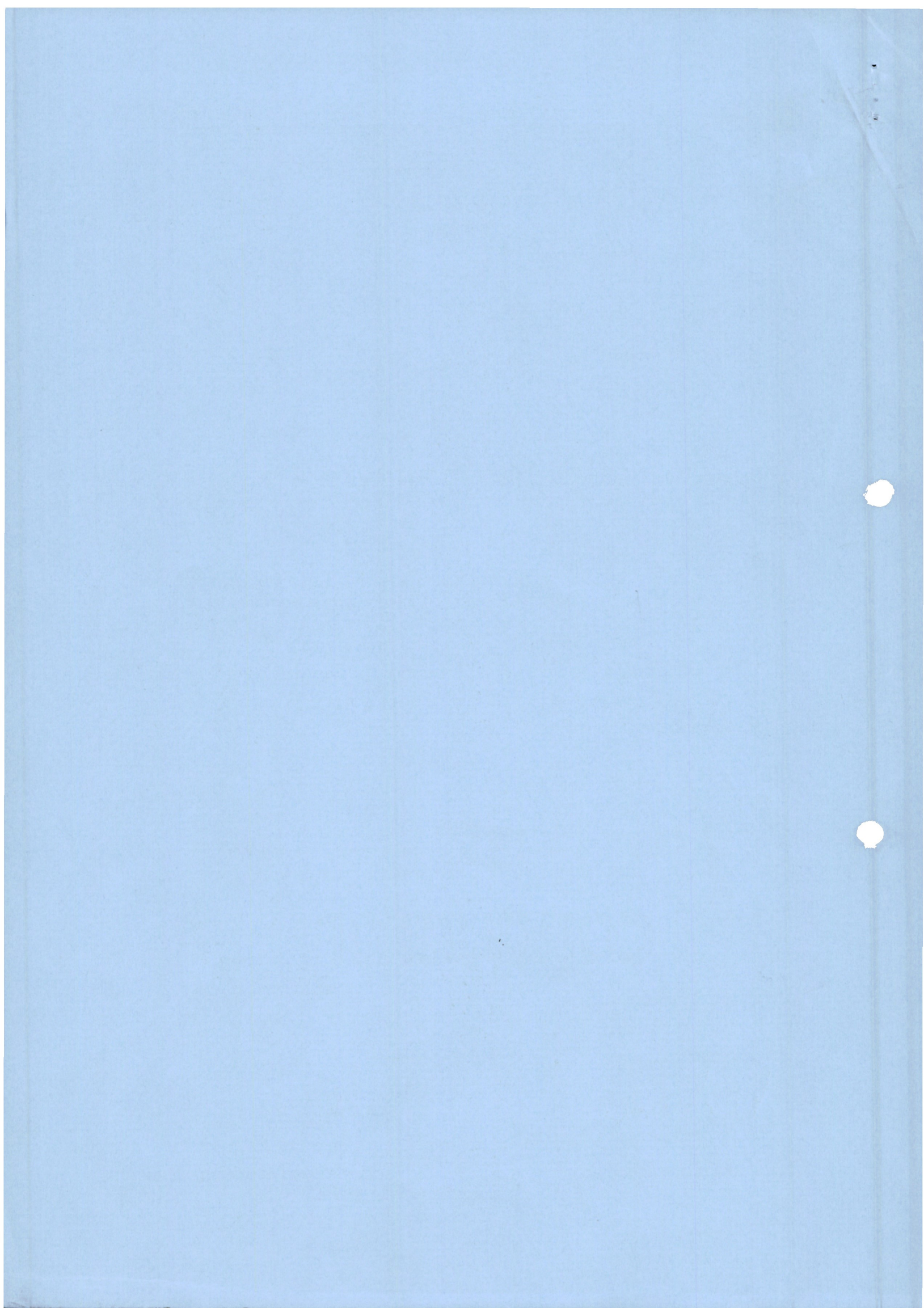
“Quite clearly, the High Court has been entrusted with the mandate to interpret the Constitution. This empowerment by itself, however, does not confer upon the High Court an exclusive jurisdiction: for, by the appellate process, both the court of Appeal and the Supreme Court are equally empowered to interpret the Constitution, certainly in respect of matters resolved at first instance by the High Court.

Only where litigation takes place entailing issues on constitutional interpretation, must the matter come in the first place before the High Court, with the effect that interpretation of the Constitution by both the Court of Appeal and the Supreme Court will have been limited to the appellate stages”

In light of the above the Attorney General has advised that the NGCDF Act 2015 technically remains in force until such express declaration is formally made by the High Court or other Superior Courts as may be seized of the matter on appeal.

Pursuant to the opinion of the Hon. Attorney-General, The National Treasury and Economic Planning confirms that it will embark on a plan aimed at disbursing Kshs. 2 Billion on a weekly basis w.e.f. 9th December, 2022 as per the attached schedule.

NJUGUNA NDUNG'U, CBS
CABINET SECRETARY



THE NATIONAL TREASURY AND PLANNING
 STATE DEPARTMENT FOR PLANNING
 DISBURSMENT TO SAGAS FY-2022/2023
 NG-CDF

CDF ALLOCATION

PRINTED BUDGET	AMOUNT DISBURSED	CUMULATIVE	Disbursement week	DISBURSEMENT	BALANCE
44,289,900,000.00	2,000,000,000.00	2,000,000,000.00	Week 1	9.12.2022	42,289,900,000.00
	2,000,000,000.00	4,000,000,000.00	Week2	16.12.2022	40,289,900,000.00
	2,000,000,000.00	6,000,000,000.00	Week 3	23.12.2022	38,289,900,000.00
	2,000,000,000.00	8,000,000,000.00	Week 4	30.12.2022	36,289,900,000.00
	2,000,000,000.00	10,000,000,000.00	Week 5	06.01.2023	34,289,900,000.00
	2,000,000,000.00	12,000,000,000.00	Week 6	13.01.2023	32,289,900,000.00
	2,000,000,000.00	14,000,000,000.00	Week 7	20.01.2023	30,289,900,000.00
	2,000,000,000.00	16,000,000,000.00	Week 8	27.01.2023	28,289,900,000.00
	2,000,000,000.00	18,000,000,000.00	Week 9	03.02.2023	26,289,900,000.00
	2,000,000,000.00	20,000,000,000.00	Week 10	10.02.2023	24,289,900,000.00
	2,000,000,000.00	22,000,000,000.00	Week 11	17.02.2023	22,289,900,000.00
	2,000,000,000.00	24,000,000,000.00	Week 12	24.02.2023	20,289,900,000.00
	2,000,000,000.00	26,000,000,000.00	Week 13	3.03.2023	18,289,900,000.00
	2,000,000,000.00	28,000,000,000.00	Week 14	10.03.2023	16,289,900,000.00
	2,000,000,000.00	30,000,000,000.00	Week 15	17.03.2023	14,289,900,000.00
	2,000,000,000.00	32,000,000,000.00	Week 16	24.03.2023	12,289,900,000.00
	2,000,000,000.00	34,000,000,000.00	Week 17	31.03.2023	10,289,900,000.00
	2,000,000,000.00	36,000,000,000.00	Week 18	07.04.2023	8,289,900,000.00
	2,000,000,000.00	38,000,000,000.00	Week 19	14.04.2023	6,289,900,000.00
	2,000,000,000.00	40,000,000,000.00	Week 20	21.04.2023	4,289,900,000.00
	2,000,000,000.00	42,000,000,000.00	Week 21	28.04.2023	2,289,900,000.00
	2,000,000,000.00	44,000,000,000.00	Week 22	05.05.2023	289,900,000.00
	289,900,000.00	44,289,900,000.00	Week 23	12.05.2023	NIL
44,289,900,000.00					