

**THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)**

(NPO REGISTRATION NUMBER : 004 - 997 NPO)

**ANNUAL FINANCIAL STATEMENTS
FOR THE YEAR ENDED
31 DECEMBER 2022**

**THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)**

Annual Financial Statements for the year ended 31 December 2022

General Information

**Country of incorporation
and domicile** South Africa

The object of the Trust is to promote democracy, constitutionalism and judicial independence particularly in the Republic of South Africa and the African region by enhancing and furthering the non-judicial activities of the Constitutional Court of South Africa and other Courts in the region by, Inter alia,

**Nature of business and
principal activities**

- providing opportunities for advancement by the Constitutional Court and other Courts, of inexperienced lawyers, law clerks, law library interns and the like, particularly those from groups under-represented in the legal profession of the Republic;
- augmenting the library and research facilities and infrastructure of the Constitutional Court and other Courts pursuant to the object aforementioned;
- providing such other assistance consistent with the foregoing object which the trustees consider to be appropriate and for the public benefit.

Trustees

The following trustees held office for the year under review:-

Name

NZ Mhlantla - Chairperson	SSV Khampepe (resigned)
DI Bilchitz	CN Jafta (resigned)
E Cameron	
SP Kana	SA Majiedt (appointed)
MM Katz	RS Mathopo (appointed)
PO Mokoena	
LL Tshiqi	
LN Xaso	

An application for an updated letter of authority from the Master of the High Court to reflect changes in board composition was made during the reporting period.

Legal form Not-for-profit Trust

Registration numbers Trust registration IT3836/95
NPO registration 004-997-NPO

**Registered office and
business address**

Constitutional Court Building
1 Hospital Street
Constitution Hill
Braamfontein
South Africa

Website address concourtrust.org.za

Bankers Investec Bank Limited

Preparer The financial statements were internally prepared by Mrs Jeanette Kleu.

Level of assurance These financial statements have been audited independently in compliance with the Trust Deed.

**THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)**

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THE YEAR ENDED 31 DECEMBER 2022**

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**THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)**

TRUSTEES' RESPONSIBILITIES AND APPROVAL

ANNUAL FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2022

The trustees are required by the Trust Property Control Act, 1988, and the trust deed, to maintain adequate accounting records and are responsible for the content and integrity of the financial statements and related financial information included in this report. It is their responsibility to ensure that the financial statements fairly present the state of affairs of the trust as at the end of the financial year and the results of its operations and cash flows for the year then ended, in conformity with its own accounting policies.

The external auditors are engaged to express an independent opinion on the financial statements. The financial statements are prepared in accordance with its own accounting policies and are based upon appropriate accounting policies consistently applied and supported by reasonable and prudent judgements and estimates.

The trustees acknowledge that they are ultimately responsible for the system of internal financial controls established by the trust and place considerable importance on maintaining a strong control environment. To enable the trustees to meet these responsibilities, the board of trustees sets out standards for internal control aimed at reducing the risk of error or loss in a cost effective manner. The standards include the proper delegation of responsibilities within a clearly defined framework, effective accounting procedures and adequate segregation of duties to ensure an acceptable level of risk. These controls are monitored throughout the trust and employees are required to maintain the highest ethical standards in ensuring the trust's business is conducted in a manner that in all reasonable circumstances is above reproach. The focus of risk management in the trust is on identifying, assessing, managing and monitoring all known forms of risk across the trust. While operating risk cannot be fully eliminated, the trust endeavours to minimize it by ensuring that appropriate infrastructure, controls, system and ethical behaviour are applied and managed within predetermined procedures and constraint.


The trustees are of the opinion, based on the information and explanations given by management, that the system of internal controls provides reasonable assurance that the financial records may be relied on for the presentation of the financial statements. However, any system of internal financial control can provide only reasonable, and not absolute, assurance against material misstatement or loss.

The trustees have reviewed the trust's cash flow forecast for the year to 31 December 2023 and, in the light of this review and the current financial position, they are satisfied that the trust has or has access to adequate resources to continue in operational existence for the foreseeable future.

Although the board of trustees is primarily responsible for the financial affairs of the trust, it is supported by the trust's external auditors.

The external auditors are responsible for independently auditing and reporting on the trust's financial statements. The financial statements have been examined by the trust's external auditors and their report is presented on pages 2 to 4.

The annual financial statements set out on pages 5 to 21 and the supporting schedules on pages 22 to 23, were approved by the board of trustees on the 30th August 2023 and were signed on its behalf by:



J Mhantla - Chairperson



Date



P O BOX 32707
BRAAMFONTEIN
2017
SOUTH AFRICA

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INDEPENDENT AUDITOR'S REPORT

TO THE TRUSTEES OF

THE CONSTITUTIONAL COURT TRUST (TRUST NUMBER 3836/95)

Opinion

We have audited the financial statements of The Constitutional Court Trust, set out on pages 9 to 21, which comprise the statement of financial position as at 31 December 2022, and the statement of comprehensive income, statement of changes in reserves and statement of cash flows for the financial year then ended, and the notes to the financial statements, including a summary of significant accounting policies.

In our opinion, the financial statements fairly present, in all material respects, the financial position of The Constitutional Court Trust as at 31 December 2022, and of its financial performance and its cash flows for year then ended in accordance with its accounting policies and the Trust Deed.

Basis for Opinion

We conducted our audit in accordance with International Standards on Auditing (ISAs). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are independent of the Trust in accordance with the Independent Regulatory Board for Auditors Code of Professional Conduct for Registered Auditors (IRBA Code), together with the ethical requirements that are relevant to our audit of financial statements in South Africa. We have fulfilled our other ethical requirements in accordance with these requirements and the IRBA Code. The IRBA Code is consistent with the International Ethics Standards Board for Accountants Code of Ethics for Professional Accountants (Part A and B). We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Other Information

The board of trustees is solely responsible for the other information, which comprises the Report of the Trustees and the Programme income statements for the years ended 31 December 2022 and 31 December 2021, set out on pages 5 to 8 and 22 to 23.

The other information does not include the financial statements and our auditor's report thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on the work we performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

Responsibilities of Management and Those Charged With Governance for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with their accounting policies, the International Financial Reporting Standards for Small and Medium-sized Entities and the requirements of the Trust Deed, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error. In preparing the financial statements, management is responsible for assessing the trust's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the trust or to cease operations, or has no realistic alternative but to do so. Those charged with governance are responsible for overseeing the trust's financial reporting process.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements. As part of an audit in accordance with ISAs, we exercise professional judgment and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the trust's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the trust's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the trust to cease to continue as a going concern.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information of the business activities within the trust to express an opinion on the financial statements. We are responsible for the direction, supervision and performance of the trust's audit. We remain solely responsible for our audit opinion.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and any significant audit findings, including any significant deficiencies in internal control that we may identify during our audit.

A handwritten signature in black ink, appearing to read 'Vincent Bhengu', written in a cursive style.

Rev Vincent Bhengu CA (SA), RA (IRBA 507361)
Douglas & Velcich
Chartered Accountants (S.A.)

Johannesburg
18 September 2023

Report of the Trustees for the year ended 31 December 2022

1. Introduction

During the 2022 financial year, the Constitutional Court Trust (CCT) continued to pursue its objectives, namely to enhance and further the non-judicial activities of the Constitutional Court of South Africa (CCSA) and other courts in the region. It did this primarily through its fellowship programme, and the Constitutional Court Art Collection (CCAC) programme. The African Law Clerks Exchange project remained in hiatus during this financial year, after planning and fundraising was halted by the COVID-19 pandemic, and new challenges emerged around securing visas for foreign clerks. Not much progress was made with the library project to enable public online access to documentation of Constitutional Court cases, as related upgrades scheduled by the Office of the Chief Justice (OCJ), have also been delayed.

2. Fellowships programme

Franklin Thomas fellow 2020/21 Nontobeko Ngubane, former clerk for Chief Justice Mogoeng Mogoeng, completed her studies at Notre Dame and returned to employment at the Public Service Commission, having deferred her studies the previous year due to the global COVID-19 pandemic. Franklin Thomas fellow 2021/22 Andisiwe Sipamla (former clerk to Justice Majiedt) also successfully completed her studies at Notre Dame.

Natasha Dusabe (former clerk of Justice Mhlantla) and Tshepo Skosana (former clerk of Justice Froneman, Chief Justice Mogoeng, and Justice Mathopo) were jointly awarded Franklin Thomas fellowships for 2022/23 in late 2021. They began their LLM studies abroad in the third quarter of 2022, Natasha at Georgetown Law, and Tshepo at Michigan Law. Rushaan Lewis, former clerk for Justice Tshiqi and Franklin Thomas fellow for 2021/22, started her studies at Notre Dame, having requested to defer her fellowship the previous year.

The inaugural Pius Langa Memorial fellow (2022/23), Mila Harding, a legal researcher previously working on education rights at civil society organisation SECTION 27, began her LLM studies at University College London (UCL) in the United Kingdom.

Interviews for 2023/24 fellowships were undertaken in September 2022, with a panel chaired by Justice Majiedt, along with trustees Justice Mathopo, David Bilchitz, Owen Mokoena, and the trust manager. Five shortlisted candidates were interviewed, three of whom were eligible for the Franklin Thomas fellowship, and four for the Pius Langa Memorial fellowship. Lehlohonolo January (clerk to Justice Tshiqi) was selected as the Franklin Thomas fellow for 2023/24. Rantsho Alfred Moraka, a lawyer and advocate who was working as a senior legal consultant at the South African Human Rights Commission, having previously clerked for the Justices of the Supreme Court, was selected as the Pius Langa Memorial fellow for 2024/25

3. The Constitutional Court Art Collection (CCAC) programme

After having worked the equivalent of three years full-time at the CCT, assistant curators Francois Lion-Cachet and Thina Miya were promoted to curator level at the beginning of 2022, in line with a decision taken in February 2021 board meeting. Francois began his PhD studies on the CCAC in 2022. Therefore, he assumed a part-time role at the start of the year,

working two days a week. Kay-Leigh Fisher, the CCAC graduate intern in late 2021, was invited to continue working for the CCT as a part-time assistant curator three days a week in 2022, so that there was the equivalent of two qualified, full-time staff members working on the CCAC. Based on this pilot, the decision was taken in late 2022 to offer interns who have performed well in their internships the opportunity to stay on for another 6 – 12 months, on a part-time basis, as an extension of the youth development internship programme. Two graduate interns, Micayla Mohamadie and Emma Prior, contributed to the CCAC's work through 6-month full-time internships. Catherine Kennedy, the trust manager, continued to manage the artworks project, supervise the curators, and raise funds for the CCAC, although it is planned that the curatorial team will take greater responsibility for the overall management of, and fundraising for, the CCAC project from 2023.

The Artworks Committee of the Court – chaired by Justice Mhlantla – met four times in 2022 to consider matters related to the growth and use of the collection. Membership of the Artworks Committee for 2022 was as follows: CCT trustees, Justices Mhlantla and Tshiqi, and the CCT trust manager, along with four independent members - Tiffany de Waynecourt-Steele (Switzerland-based art lawyer and former law clerk to Justice Yacoob), Tshegofatso Mabaso (curator of contemporary art at the Iziko South African National Gallery), and former CCAC curators, Stacey Vorster and Melissa Goba. In addition, five emeritus artwork committee members – Justice Edwin Cameron, Justice Albie Sachs, court architect Janina Masojada, Professor Karel Nel, and Advocate Carol Steinberg – generously continued to make themselves available to guide the work of the curatorial team.

The CCAC continues to grow with artwork donations received from local and international artists and court supporters both locally and abroad, including:

- Keiskamma *Our South Africa Tapestries* series (2022), donated by the Keiskamma Art Project;
- Gille de Vlieg's photograph, *Meeting under a tree to discuss possible forced removal from land, Ntombi's Camp, KwaZulu-Natal* (1988), donated by the artist and friends;
- Elisa Iannacone's *The Kingdom* (2018), donated by the artist and Just Art International;
- Sandile Radebe's *Isiqhaza esizimele II* (2021) and *Voor-teruger III* (2021), donated by the artist.

Under the guidance of Justice Tshiqi, in her capacity as chair of the CCSA Building Committee, and after repeated engagements between the CCT, CCSA management and DPW, permission was secured to proceed with the long-delayed enclosure of the courtyard in the public gallery. This project was completed by Genfodt Aluminium Technologies, and the artwork *Prison Sentences* reinstalled in the public gallery courtyard, in December 2022. Once written sign-off has been secured from the structural engineer, the final payment will be made.

Engagement with the South African Heritage Resources Agency (SAHRA), the Department of Public Works (DPW), the Office of the Chief Justice (OCJ) and court management, continued throughout the year in order to raise awareness around the implications of, and the opportunities presented by, the National Heritage status of the Constitutional Court building (since 2017), and the related World Heritage status application being spearheaded by Constitution Hill Development Company (CHDC) in relation to the requirements around caring for the integrated artworks in the CCAC.

Preparation work for a comprehensive web-based collection management system, in order to make information about all artworks in the CCAC available to the public, and to enable the CCAC curatorial team to manage the conservation, care and movement of the CCAC effectively through the back end of this system, was undertaken in the reporting period.

Public engagement events included:

- An artists' walkabout on Workers Day, including an acoustic performance by popular musician Msaki to celebrate the recent donation of a video artwork piece *Blood guns and revolutions: Passage of Time*, 2020 by Thabang Lehobye and Msaki.
- The CCT also partnered with Constitution Hill to host an exhibition in No. 4 by Richard 'Specs' Ndimande, the youngest artist in the CCAC. This was launched on Youth Day (June 16), with an artists' walkabout taking place on 2 July. A follow up panel discussion between Specs and fellow CCAC artist, Kagiso Pat Mautloa, entitled *Intergenerational Conversations* was held on 3 September 2022 in the foyer of the Constitutional Court. A related video documentary *Intergenerational Conversations: Art, Trauma, Freedom and Responsibility* was completed and installed on the video screen in the public gallery in October 2022, and made publicly accessible through the CCAC website.
- United States Deputy Secretary of State Wendy Sherman and embassy representatives viewed the CCAC on 18 May 2022, with Justice Cameron representing the board.
- On 8 October 2022, the CCT partnered with the French Institute of South Africa to host a discussion, *Exploring Spatial Democracy at Constitution Hill: From inception to today*, with Paul Wygers and Bongiwé Dhlomo-Mautloa. This formed part of the first regional forum in the 'Our Future: Africa-Europe Dialogues' series, titled *Paths to Democracy*.

Regular Art & Justice tours resumed in 2022, taking place on Saturdays twice a month. The first virtual tour of the CCAC was also developed in 2022, and is freely accessible through the CCAC website. Work was undertaken on the third issue in the Art & Justice series of short monographs, about the sun screens adorning the western facade of the Constitutional Court.

3. African Law Clerks' Exchange

Due to challenges with visas not being issued by the Department of Home Affairs for foreign law clerks selected to clerk at the Constitutional Court, the decision was taken not to attempt to raise funds for this programme until these challenges had been resolved.

4. Library Project

The Library Project: Constitutional Court of South Africa Judgments Database has been a joint project of the Constitutional Court Library and the Constitutional Court Trust, with the aim of ensuring that data on the Court's judgments is available in searchable format to all Internet users. Funding for this project has historically been provided by the South African Constitutional Court Trust in the United Kingdom. Work was undertaken in 2019 to investigate the feasibility of introducing live video streaming, and archiving of video recordings of Constitutional Court hearing, alongside documentation for each matter. Permission was secured from the Constitutional Court bench to pilot such a project, once the current recording system for internal record keeping has been upgraded by the OCJ. The tender process was not completed in 2022,

but it is hoped that the upgrade will take place in 2023. In the interim, work began on restoring historical court video recordings for inclusion in this project.

5. Trustees

During the year under review, resignations as trustees by retired Justices Johann van der Westhuizen and Edwin Cameron were accepted by the board. Justices Majiedt and Mathopo were selected by the current bench of the Constitutional Court to serve as CCT trustees, to replace Justices Jafta and Khampepe, who both retired from the Constitutional Court and indicated that they would be retiring from the board of the Constitutional Court Trust shortly thereafter. These changes in composition in the board were submitted to the Master of the High Court in 2022 in order for a new letter of authority to be issued, but by the end of 2022, no substantive response or updated letter of authority had been received

6. Administration of Trust

Ms Catherine Kennedy, Mrs Jeanette Kleu and Ms Elizabeth Moloto continued to provide services as CCT Manager, CCT Finance Officer and CCT Administrator respectively.

An organisational policy review was undertaken in the course of the reporting year, to ensure compliance with POPIA, PAIA, and with shifts in other relevant South African legislation. The revised policy was adopted at a special meeting of the trustees in November 2022.

7. Kindred bodies

The South African Constitutional Court Trust in the United Kingdom (SACCT(UK)) and Friends of the South African Constitutional Court in the United States (SACCO) were both established to support the work of the Constitutional Court. SACCO has been dormant since the 2012 financial year. In 2014, the US-registered Foundation for Society, Law and Art in South Africa (FSLASA) was established by a group of former clerks, lawyers, business figures passionate about art, reconciliation, justice and the rule of law to support the CCAC project. SACCT(UK) continues to administer the residue of the Rhodes Trust bequest and other funds. These bodies are independent of the Court and the CCT and of one another, with their own boards and administration. The Trust recognises and remains grateful for the support of these bodies.

8. Donors

Once again, the board wishes to express its gratitude to its donors – the Constitutional Court Trust (UK), the Ford Foundation, the Foundation for Society, Law and Art in South Africa (FSLASA), the Mellon Foundation, the Open Society Foundations for South Africa, and the US Ambassadors Fund for Cultural Preservation – not only for the generous grants made to the Trust but also for their enthusiasm for and interest in its various projects. Without their support, the Trust would not be able to continue with its projects.



J Mhlantla – Chairperson

07 September 2023

Date

**THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)**

STATEMENT OF FINANCIAL POSITION AS AT 31 DECEMBER 2022

	Note	2022 R	2021 R
ASSETS		12 813 320	14 780 291
Non current assets		11 359 431	11 496 063
Equipment	3	1	1
Artworks	3	1	1
Investments	4	11 359 429	11 496 061
Accounts receivable	5	-	-
Current assets		1 453 889	3 284 228
Accounts receivable	5	5 631	2 000
Cash and cash equivalents	6	1 448 258	3 282 228
TOTAL ASSETS		12 813 320	14 780 291
RESERVES AND LIABILITIES		12 813 320	14 780 291
Equity and reserves		11 501 494	12 128 259
Trust capital		10 958 405	11 573 588
Operating reserve		543 089	554 671
Current liabilities		1 311 827	2 652 032
Accounts payable	7	80 500	261 565
Deferred grant income	8	1 231 327	2 390 467
TOTAL RESERVES AND LIABILITIES		12 813 320	14 780 291

**THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)**

**STATEMENT OF COMPREHENSIVE INCOME
FOR THE YEAR ENDED 31 DECEMBER 2022**

OPERATING FUND

	Note	2022 R	2021 R
Income		53 867	87 024
Dividends received	4	19 558	3 185
Other income		5 631	2 000
Interest received	10	101 462	47 491
Revaluation of investments	4	(72 783)	34 348
Expenditure		(65 449)	(83 302)
Audit fees		-	(4 803)
Bank and portfolio management charges		(27 174)	(5 912)
General expenses		(115)	-
Salaries and other contributions		(37 390)	(72 586)
Travel and accommodation		(770)	-
(Deficit)/surplus for the year		(11 582)	3 722

**THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)**

**STATEMENT OF COMPREHENSIVE INCOME
FOR THE YEAR ENDED 31 DECEMBER 2022**

PROJECT FUNDS

	Note	2022 R	2021 R
Income		2 841 390	2 801 617
Grants and donations	9	2 247 072	1 721 384
Dividends received	4	-	12 821
Interest received	10	95 502	117 581
Unrealised forex gain on US\$ investment		612 121	713 641
Revaluation of investments	4	(113 305)	236 191
Expenditure		(3 456 573)	(2 768 591)
Advertising and marketing		(12 512)	(15 644)
Amos Miller expenses		-	(22 911)
Audit fees		(34 851)	(28 173)
Bank and portfolio management charges		(8 194)	(28 880)
Exhibition and event costs		(178 337)	(261 206)
General expenses		(3 435)	(2 849)
Insurance		(54 113)	(21 300)
Printing and stationery		(57 889)	(40 067)
Repairs, preservation and maintenance		(236 037)	(374 433)
Research costs		(22 094)	(22 870)
Salaries and other contributions		(1 067 178)	(982 238)
Scholarships		(1 230 432)	(943 705)
Specific project costs		(529 783)	-
Travel and accommodation		(522)	(3 004)
Webhosting and computer expenses		(21 197)	(21 310)
(Deficit)/surplus for the year		(615 184)	33 026

**THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)**

**STATEMENT OF CHANGES IN THE TRUST CAPITAL
AND RESERVES FOR THE YEAR ENDED
31 DECEMBER 2022**

	Trust capital R	Operating reserve R	Total R
Balance at 31 December 2020	11 540 562	550 949	12 091 511
Surplus on trust projects	33 026	-	33 026
Surplus on operating reserve	-	3 722	3 722
Balance at 31 December 2021	11 573 588	554 671	12 128 259
(Deficit) on trust projects	(615 184)	-	(615 184)
(Deficit) on operating reserve	-	(11 582)	(11 582)
Balance at 31 December 2022	10 958 405	543 089	11 501 494

**THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)**

**STATEMENT OF CASH FLOWS FOR THE
YEAR ENDED 31 DECEMBER 2022**

	Note	2022 R	2021 R
Cash flows from operating activities			
Cash received from funders		1 093 564	3 130 876
Cash paid to suppliers, employees and projects		(3 706 719)	(2 503 759)
Cash (utilised in)/generated from operations	12	(2 613 155)	627 117
Dividends received	4	19 558	16 006
Interest received	10	196 963	165 071
Net cash (outflow)/inflow from operating activities		(2 396 634)	808 194
Cash flows generated from/(utilised in) investing activities			
Acquisition of and additions to investments	4	(81 975)	(55 891)
Cash withdrawal from the Momentum investments	4	644 640	-
Net (decrease)/increase in cash resources		(1 833 969)	752 303
Cash and cash equivalents at beginning of year		3 282 228	2 529 924
Cash and cash equivalents at end of year	6	1 448 258	3 282 228

**THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)**

**NOTES TO THE ANNUAL FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2022**

ACCOUNTING POLICIES

1. PRESENTATION OF ANNUAL FINANCIAL STATEMENTS

The financial statements are prepared on the historical cost basis, except for financial instruments, which are reflected at fair value. Policies applied include the following principal accounting policies which are consistent with those applied in the previous year :

1.1 EQUIPMENT

Equipment is reflected in the statement of financial position at nominal value, in accordance with a decision made by trustees with effect from the 2006/7 financial year. The trust acquires equipment with funds raised from donors, and trustees have taken the view that the accounting treatment adopted is more appropriate for a donor-funded organisation.

1.2 ARTWORKS

Although artworks acquired through purchase and donation are assets of the trust, they are reflected in the statement of financial position at nominal value, as the trustees are not at liberty to dispose of them.

1.3 FINANCIAL INSTRUMENTS

Measurement

Financial instruments carried on the statement of financial position include investments, bank balances, accounts receivable and accounts payable. Financial instruments are initially measured at cost as at trade date, which includes transaction costs. Subsequent to initial recognition, the following instruments are measured as set out below :-

Investments

Investments in financial assets are initially recognised at cost. Subsequently, financial assets are re-measured at fair value through profit and loss.

Accounts receivable

Accounts receivable are stated at cost less provision for impairment losses.

Cash and cash equivalents

Cash and cash equivalents are measured at fair value.

Cash and cash equivalents comprise cash on hand and demand deposits, and other deposits with maturities less than 12 months.

Accounts payable

Accounts payable are stated at actual invoiced value.

**THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)**

**NOTES TO THE ANNUAL FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2022 (Continued)**

ACCOUNTING POLICIES (Continued)

1.4 PROVISIONS

Provisions are recognised when the trust has a present legal or constructive obligation as a result of past events, it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation and a reliable estimate of the amount of the obligation can be made.

1.5 REVENUE

Grants and donations

Grants and donations are generally accounted for in the year in which they are received. Where the donor contract explicitly makes allowance for retrospective expenditure, income will be accrued. Similarly, where donor funds are received in advance of the period specified by the contract, or in circumstances where funds received are earmarked for use in more than one year, the deferral of all or a portion of the donor funds will be processed.

Dividends

Dividends on invested funds are brought to account when reflected for by portfolio managers.

Interest

Interest is accounted for on the accrual basis.

1.6 EXPENDITURE

Expenditure is accounted for on the accrual basis.

1.7 PROJECT INCOME AND EXPENDITURE

In terms of its contractual obligations to donors, the trust's policy is to allocate project costs that are clearly identifiable as such directly against the donor funds. Where funding agreements permit, shared costs and income items other than grants are allocated between project funds on the basis of estimated activity within the individual projects.

1.8 FOREIGN CURRENCIES

Income accrued in a foreign currency is accounted for at the year-end exchange rate. Gains or losses resulting from the settlement of such accruals are recognised in the statement of comprehensive income for the operating reserve. Currency gains and losses related to project funds are recognised in the statement of comprehensive income for projects.

Foreign currency balances held at year end are translated at year-end exchange rates.

**THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)**

**NOTES TO THE ANNUAL FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2022 (Continued)**

2. FINANCIAL RISK MANAGEMENT

2.1 Financial risk factors

The trust's activities could expose it to a variety of financial risks: market risk (including fair value interest rate risk), credit risk, liquidity risk and cash flow interest rate risk. The trust's overall risk management programme focuses on the unpredictability of financial markets and seeks to minimise potential adverse effects on the trustee's financial performance.

Risk management is carried out by the trustees, who evaluate financial risks.

(a) Market risk

The trust is exposed to currency risk to the extent that some of its funds are invested off - shore.

(b) Credit risk

The trust's credit risk is attributable to investments, accounts receivable and liquid funds. The credit risk on liquid funds is limited because the counter parties are banks with credit ratings assigned by international credit-rating agencies. The risk relating to the trust's investments is dealt with through an ongoing review of the risk profile provided to the fund managers. The credit risk on the accounts receivable is considered to be insignificant and recovery of these amounts is monitored on a regular basis.

(c) Liquidity risk

The trust manages liquidity risk by monitoring forecast cash flows and ensuring that adequate reserves are maintained to meet anticipated obligations.

(d) Cash flow and fair value interest rate risk

The trust is exposed to interest rate risk, as it places funds at both fixed and floating interest rates. The risk is managed by maintaining an appropriate mix between fixed and floating rates and placings within market expectations.

**THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)**

**NOTES TO THE ANNUAL FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2022 (Continued)**

	2022 R	2021 R
3. EQUIPMENT AND ARTWORKS		
Equipment - at nominal value	<u>1</u>	<u>1</u>
Artworks - at nominal value	<u>1</u>	<u>1</u>
<p>Trustees decided with effect from the 2006/7 year to write off costs incurred for additions to fixed assets and the artworks collection in the year of acquisition. The reason for this is that the trust is donor-funded and raises money specifically for the acquisition of such assets.</p> <p>It is the view of trustees that writing off such assets against funds raised by the trust is more appropriate than the conventional accounting treatment of capitalising and depreciating such assets.</p> <p>The trust will continue to maintain registers containing all necessary details of equipment and artworks acquired, as this is needed for control and insurance purposes. (Refer to note 14.)</p>		
4. INVESTMENTS		
Opening balance	11 496 061	10 455 991
Movements for the year	(562 665)	55 891
Administration costs and accruals	(25 674)	(24 568)
Distributions - Dividends	19 558	16 006
Distributions - Local interest	88 092	64 453
Withdrawals	(644 640)	-
	<u>10 933 396</u>	<u>10 511 882</u>
Revaluation to market value	(186 088)	270 539
Unrealised foreign exchange gain on US\$ investment	612 121	713 641
Closing balance	<u>11 359 429</u>	<u>11 496 061</u>
Investment portfolio		
Allan Gray Stable Fund (C)	-	11 397
Consult Optimum Cautious Portfolio	1 941 132	-
Coronation Balanced Defensive Fund (P)	-	1 331 917
Coronation Global Strategic USD Income Fund A	9 418 297	8 919 482
Nedbank Investments Stable Fund (A2)	-	1 233 265
	<u>11 359 429</u>	<u>11 496 061</u>

Investments are stated at fair value.

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NOTES TO THE ANNUAL FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2022 (Continued)

	2022 R	2021 R
5. ACCOUNTS RECEIVABLE		
Current assets		
Student loan	-	2 000
Sundry debtors	5 631	-
	<u>5 631</u>	<u>2 000</u>
Non - Current assets		
Student loan	-	-
	<u>-</u>	<u>-</u>
6. CASH AND CASH EQUIVALENTS		
Investec Bank - current account	3 368	5 489
Investec Bank - investment account	1 444 890	3 276 739
	<u>1 448 258</u>	<u>3 282 228</u>
7. ACCOUNTS PAYABLE		
Accrued expenses	80 500	261 565
Payroll liabilities	-	-
	<u>80 500</u>	<u>261 565</u>
8. DEFERRED GRANT INCOME		
The Andrew W. Mellon Foundation	829 295	1 546 025
The Ford Foundation	105 524	285 488
Marlene Dumas	17 261	17 698
Open Society Foundation of South Africa - 03769	-	54 700
SA Constitutional Court Trust UK	279 247	354 566
US Department of State (AFCP)	-	131 989
	<u>1 231 327</u>	<u>2 390 467</u>

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**NOTES TO THE ANNUAL FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2022 (Continued)**

	2022 R	2021 R
9. GRANTS AND DONATIONS		
Artworks project	2 117 052	1 644 701
Amos Miller	-	23 271
Received	-	23 271
The Andrew W. Mellon Foundation via Foundation for Society, Law and Art in South Africa (FLSASA)	1 357 827	695 456
Received	641 097	1 787 353
Recognised	-	454 127
Recognised/(deferred)	1 546 025	(1 546 025)
(Deferred)	(829 295)	-
The Ford Foundation via Foundation for Society, Law and Art in South Africa (FLSASA)	179 964	182 418
Received	-	320 350
Recognised	-	147 556
Recognised/(deferred)	285 488	(285 488)
(Deferred)	(105 524)	-
Marlene Dumas via Foundation for Society, Law and Art in South Africa (FLSASA)	437	32 760
Received	-	50 458
Recognised/(deferred)	17 698	(17 698)
(Deferred)	(17 261)	-
US Department of State (AFCP)	578 825	710 795
Received	446 836	547 443
Recognised	-	295 341
Recognised/(deferred)	131 989	(131 989)
Library project	53 933	37 380
SA Constitutional Court Trust UK	53 933	37 380
Received	-	370 560
Recognised/(deferred)	333 180	(333 180)
(Deferred)	(279 247)	-
OSF25 Scholarships	54 700	31 250
Open Society Foundation for South Africa - 03766	-	11 250
Recognised	-	11 250
Open Society Foundation of South Africa - 03769	54 700	20 000
Recognised	-	74 700
Recognised/(deferred)	54 700	(54 700)
Balance carried forward	2 225 686	1 713 331

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**NOTES TO THE ANNUAL FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2022 (Continued)**

	2022 R	2021 R
9. GRANTS AND DONATIONS (continued)		
Balance brought forward	2 225 686	1 713 331
Pius Langa Memorial Fellowship (PLMF)	21 387	8 053
SA Constitutional Court Trust UK	21 387	8 053
Received	-	29 440
Recognised/(deferred)	21 387	(21 387)
	<u>2 247 072</u>	<u>1 721 384</u>
10. INTEREST RECEIVED		
Interest received - call account	108 871	100 618
Interest received - investments	88 092	64 453
	<u>196 963</u>	<u>165 071</u>
11. TAXATION		
<p>No provision has been made for income taxation as the trust is exempt from income tax in terms of section 10(1)(cN) as read with Section 30 of the Act 58 of 1962.</p>		
12. CASH (UTILISED IN)/GENERATED FROM OPERATIONS		
(Deficit)/surplus for the year on operating reserve	(11 582)	3 722
Surplus for the year on trust projects	(615 184)	33 026
Adjusted for :		
Dividend received	(19 558)	(16 006)
Interest received	(196 963)	(165 071)
Forex (gain) on US\$ investment	(612 121)	(713 641)
(Decrease)/increase in deferred income	(1 159 140)	1 407 492
Revaluation of investments	186 088	(270 539)
Operating (deficit)/surplus before working capital changes	(2 428 459)	278 983
Changes in working capital	(184 696)	348 134
(Increase)/decrease in accounts receivable	(3 631)	101 701
(Decrease)/increase in accounts payable	(181 065)	246 432
Cash (utilised in)/generated from operations	(2 613 155)	627 117

**THE CONSTITUTIONAL COURT TRUST
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**NOTES TO THE ANNUAL FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2022 (Continued)**

13. GOING CONCERN

The level of deferred income and the trust capital will allow for the Trust to continue into the foreseeable future.

The existence of the trust is dependent on the continued support of its donors.

14. COLLECTION OF ARTWORKS

A detailed register of artworks is maintained and updated regularly for control purposes.

15. LIBRARY

The trust purchases books and publications for the library and donates these on the condition that they remain the property of the Constitutional Court.

THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)

ANALYSIS OF TRUST ACCOUNTS FOR
THE YEAR ENDED 31 DECEMBER 2022

	Total R	Operating fund R	Artworks Collection R	Franklin Thomas Fellowship R	Library Project R	OSF25 Scholarships R	Pius Langa Memorial Fellowship R
Income	2 895 257	53 867	2 184 392	526 977	53 933	54 700	21 387
Grants and donations Received	2 247 072	-	2 117 052	-	53 933	54 700	21 387
Recognised in 2022	1 087 933	-	1 087 933	-	-	-	-
Deferred to 2023	2 390 467	-	1 981 200	-	333 180	54 700	21 387
Other income	(1 231 327)	-	(952 080)	-	(279 247)	-	-
Dividends received	5 631	5 631	-	-	-	-	-
Interest received	19 558	19 558	-	-	-	-	-
Unrealised forex gain on US\$ investment	196 963	101 462	67 340	28 162	-	-	-
Share of revaluation of investments	612 121	-	-	612 121	-	-	-
	(186 088)	(72 783)	-	(113 305)	-	-	-
Expenditure	(3 522 023)	(65 449)	(2 057 434)	(1 261 838)	(53 933)	(16 600)	(66 768)
Advertising and marketing	(12 512)	-	(12 512)	-	-	-	-
Audit fees	(34 851)	-	(22 045)	(5 175)	(5 906)	-	(1 725)
Bank and portfolio management charges	(35 368)	(27 174)	(4 788)	(2 670)	(556)	-	(180)
Exhibition and event costs	(178 337)	-	(173 819)	-	(4 518)	-	-
General expenses	(3 550)	(115)	(2 954)	(200)	-	-	(281)
Insurance	(54 113)	-	(54 113)	-	-	-	-
Printing and stationery	(57 889)	-	(57 499)	(390)	-	-	-
Repairs, preservation and maintenance	(236 037)	-	(236 037)	-	-	-	-
Research costs	(22 094)	-	(22 094)	-	-	-	-
Salaries and other contributions	(1 104 568)	(37 390)	(922 741)	(77 656)	(42 408)	-	(24 372)
Scholarships	(1 230 432)	-	-	(1 173 712)	-	(16 600)	(40 120)
Specific project costs	(529 783)	-	(529 783)	-	-	-	-
Travel and accommodation	(1 292)	(770)	(337)	-	(185)	-	-
Webhosting and computer expenses	(21 197)	-	(18 712)	(2 035)	(360)	-	(90)
Surplus/(deficit) for the year	(626 766)	(11 582)	126 959	(734 861)	-	38 100	(45 382)
Balance at beginning of year	12 128 259	554 671	591 529	10 969 348	-	-	12 712
Transfer between programme funds	-	126 959	(126 959)	38 100	-	(38 100)	-
Balance at end of year	11 501 494	670 048	591 529	10 272 587	-	-	(32 670)

THE CONSTITUTIONAL COURT TRUST
(TRUST NUMBER 3836/95)

ANALYSIS OF TRUST ACCOUNTS FOR
THE YEAR ENDED 31 DECEMBER 2021

	Operating fund R	Artworks Collection R	Franklin Thomas Fellowship R	Ismail Mahomed Fellowship R	Library Project R	OSF25 Scholarships R	Pius Langa Memorial Fellowship R
Income	2 888 641	1 733 518	991 416	-	37 380	31 250	8 053
Grants and donations Received	-	1 644 701	-	-	37 380	31 250	8 053
Recognised in 2021	-	2 728 876	-	-	370 560	-	29 440
Deferred to 2022	-	897 025	-	-	-	85 950	-
	(2 390 467)	(1 981 200)	-	-	(333 180)	(54 700)	(21 387)
Other income	2 000	-	-	-	-	-	-
Dividends received	3 185	3 675	9 146	-	-	-	-
Interest received	47 491	45 519	72 062	-	-	-	-
Unrealised forex gain on US\$ investment	-	-	713 641	-	-	-	-
Share of revaluation of investments	34 348	39 624	196 567	-	-	-	-
Expenditure	(2 851 893)	(1 661 797)	(724 103)	(317 258)	(37 380)	(20 000)	(8 053)
Advertising and marketing	(15 644)	(15 644)	-	-	-	-	-
Amos Miller expenses	(22 911)	(22 911)	-	-	-	-	-
Audit fees	(4 803)	(20 473)	(5 775)	(1 925)	-	-	-
Bank and portfolio management charges	(5 912)	(11 889)	(15 028)	(330)	(1 080)	-	(553)
Exhibition and event costs	-	(261 206)	-	-	-	-	-
General expenses	(2 849)	(1 805)	(1 044)	-	-	-	-
Insurance	(21 300)	(21 300)	-	-	-	-	-
Printing and stationery	(40 067)	(39 927)	(140)	-	-	-	-
Repairs, preservation and maintenance	-	(374 433)	-	-	-	-	-
Research costs	(22 870)	(22 870)	-	-	-	-	-
Salaries and other contributions	(1 054 825)	(845 025)	(70 433)	(22 980)	(36 300)	-	(7 500)
Scholarships	(943 705)	-	(631 682)	(292 023)	-	(20 000)	-
Travel and accommodation	(3 004)	(3 004)	-	-	-	-	-
Webhosting and computer expenses	(21 310)	(21 310)	-	-	-	-	-
Surplus/(deficit) for the year	3 722	71 721	267 313	(317 258)	-	11 250	-
Balance at beginning of year	12 091 511	519 808	10 690 785	329 970	-	-	-
Transfer between programme funds	-	-	11 250	(12 712)	-	(11 250)	12 712
Balance at end of year	12 128 259	554 671	10 969 348	-	-	-	12 712