

Approved for tabling

*[Signature]*  
SNA  
3/11/2020

*Paper laid  
by chairperson of  
Communication, Information &  
Innovation, Hon. KISANG*

*[Signature]*

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT -

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 03 NOV 2020	DAY: Tuesday
BY: <i>[Signature]</i>	Hon. William Sang MP
CLERK-AT	Evans Banda

**DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION**

**REPORT ON THE VETTING OF MS. IMMACULATE KASSAIT, THE NOMINEE FOR APPOINTMENT AS DATA COMMISSIONER**

**DIRECTORATE OF DEPARTMENTAL COMMITTEES  
CLERK'S CHAMBERS  
PARLIAMENT BUILDINGS  
NAIROBI**

NOVEMBER, 2020



## Table of Contents

CHAPTER ONE.....	6
1.0 PREFACE.....	6
1.1 Establishment of the Committee.....	6
1.2 Committee Subjects.....	6
1.3 Committee Membership.....	7
1.4 Secretariat of the Committee.....	8
CHAPTER TWO.....	9
2.0 BACKGROUND.....	9
2.1 Message from H.E the President.....	9
2.2 Committal to the Departmental Committee on Communication, Information and Innovation.....	9
2.3 Request for Memoranda and Notification to the public.....	9
2.4 Notification to the Nominee.....	9
2.5 Clearance reports.....	9
2.6 Extension of the vetting period.....	10
2.7 Committee proceedings.....	10
CHAPTER THREE.....	11
3.0 PROCEDURE FOR NOMINATION AND RECRUITMENT PROCESS.....	11
3.1 Nomination and appointment process.....	11
3.2 Legal framework.....	11
3.2.1 The Public Appointment (Parliamentary Approval) Act (No.33 of 2011).....	12
3.2.2 Chapter 6 of the Constitution (Leadership and Integrity).....	12
3.2.3 Article 27 of the Constitution on two thirds gender rule.....	12
3.2.4 Article 77 of the Constitution on engaging in other gainful employment.....	12
3.2.5 Article 232 of the Constitution on Values and principles of public service.....	12
3.2.6 Article 102 of the Constitution on national values and principles of governance.....	13
3.2.7 The Leadership and Integrity Act.....	13
3.2.8 The Public Officer Ethics Act.....	13
3.3 Qualification of a Data Commissioner.....	13
3.4 Report of the Selection Panel on the rrecruitment process.....	14
3.5 Submission of Memoranda.....	14
CHAPTER FOUR.....	18
4.0 APPROVAL HEARING.....	18
CHAPTER FIVE.....	23
5.0 COMMITTEE OBSERVATIONS.....	23
6.0 COMMITTEE RECOMMENDATION.....	25

## LIST OF ABBREVIATIONS AND ACROYNMS

BRIDGE	Bridging Resources in Democracy, Governance and Elections
CCTV	Closed Circuit Television
DCI	Directorate of Criminal Investigations
DVREO	Director Voter Registration and Electoral Operations
EACC	Ethics and Anti-Corruption Commission
ELOG	Elections Observation Group
EMBA	Executive Master in Business Administration
FAQ	Frequently Asked Questions
FIDA	Federation of Women Lawyers
H.E.	His Excellency
HELB	Higher Education Loans Board
ICJ	International Commission of Jurists
IEBC	Independent Electoral and Boundary Commission
IED	Institute of Education in Democracy
KIEMS	Kenya Integrated Electoral Management System
KPMG	Klynveld Peat Marwick Goerdeler
KRA	Kenya Revenue Authority
KSG	Kenya School of Government
LLB	Bachelor of Laws
MBS	Moran of the Burning Spear
MUKESA	Makerere Kenyan University Student Association
ORPP	Office of the Registrar of Political Parties
RoV	Registration of Voters

## ANNEXTURES

- Adoption List
- Minutes of the Committee
- Annexure 1 - Letter of notification from the Appointing Authority
- Annexure 2 - Advertisement inviting submissions of memoranda from the public
- Annexure 3 - Advertisement notifying the public of the approval hearing
- Annexure 4 - Invitation letter from the Clerk of the National Assembly to the Nominee for the approval hearing
- Annexure 5 - Letters from the Clerk of the National Assembly to the various government agencies
- Annexure 6 - Letter from the Ethics and Anti-Corruption Commission (EACC)
- Annexure 7 - Letter from the Kenya Revenue Authority (KRA)
- Annexure 8a - Letter from the Directorate of Criminal Investigations (DCI)
- Annexure 8b - Certificate from the Directorate of Criminal Investigations
- Annexure 9 - Letter from Office of the Registrar of Political Parties (ORPP)
- Annexure 10 - Letter from the Higher Education Loans Board (HELB)
- Annexure 11 - Report of the Selection Panel
- Annexure 12 - Memoranda
- Annexure 13 - Nominee's response to the ICJ memorandum
- Annexure 14 - Affidavit of the Nominee

## **CHAIRPERSON'S FOREWORD**

This report contains details of the proceedings of the Departmental Committee on Communication, Information and Innovation in carrying out approval hearing of Ms. Immaculate Kassait for appointment to the position of the Data Commissioner. This follows her nomination by H.E. the President through a message communicated to the House by the Hon. Speaker on Tuesday, 13<sup>th</sup> October, 2020, in accordance with the provisions of section 6(4) of the Data Protection Act, 2019.

H.E. the President's notification, together with the Nominee's curriculum vitae were committed to the Departmental Committee on Communication, Information and Innovation to consider and report back to the House as per the provisions of the National Assembly Standing Order (S.O.) 45(3).

On Thursday, October 15, 2020, the Committee in compliance with the provisions of Section 13 of the Public Appointments (Parliamentary) Act (No. 33 of 2011) sought and obtained approval of the House to extend the period for consideration by a further fourteen (14) days with effect from 28<sup>th</sup> October 2020. This was done in view of the fact that the statutory period of fourteen (14) days would lapse during the period of the National Assembly short recess.

The Clerk of the National Assembly placed an advertisement in the print media on Monday, 19<sup>th</sup> October 2020 in which the public were invited to submit memoranda by way of written statements on oath (*affidavit*) on the suitability or otherwise of the nominee. This was done in accordance with the provisions of Sec. 6(9) of the Public Appointment (Parliamentary Approval) Act (No. 33 of 2011). The submissions were required to be submitted to the Committee on or before Monday, 26 October 2020.

In addition, the Clerk of the National Assembly, through an advertisement in the print media on Monday, 19<sup>th</sup> October 2020, notified members of the public of the intention of the Committee to conduct the approval hearing of the nominee on Wednesday, 28 October 2020 at the Mini Chamber, County Hall, Parliament buildings at 10.00 a.m. (annexure 3). This notification was done in compliance with the provisions of Article 118 of the Constitution and Section. 6(4) of the Public Appointments (Parliamentary Approval) Act (No.33 of 2011).

By close of the submission deadline, the Committee had received two memoranda in support of the nominee from Mr. Ahmed Isaak Hassan and Ms. Anne W. Ileri. The Committee also received a memorandum from International Commission of Jurists (ICJ) challenging the suitability of the nominee for appointment as the Data Commissioner. The Committee considered the ICJ memorandum and the Nominee's response and observed that ICJ failed to demonstrate the nominee's personal culpability as the issues raised in their memorandum did not touch on her action or inaction as an individual but directly indicted the corporate standing of the IEBC.

The Committee conducted the approval hearing on Wednesday, 28<sup>th</sup> October 2020 at 10.00 a.m during which the nominee was examined on her suitability based on the criteria set out by the Public Appointments (Parliamentary Approval) Act, 2011 and section 6(4) of the Data Protection Act, 2019. In addition, The Nominee was interviewed on her academic credentials, relevant experience, and knowledge of the sector issues, leadership and integrity.

Based on her performance during the vetting exercise the Committee determined that Ms. Kassait had vast and relevant experience which would enable her to serve as the Data Commissioner having worked as the Director for Voter Education, Partnerships and Communication.

Furthermore, she met all the minimum qualifications required by section 7 of the Data Protection Act, 2019 and demonstrated extensive knowledge in Data Management and Protection. Her educational background was also relevant to the requirements for the office of the Data Commissioner.

In terms of the nominee's abilities, Ms. Kassait demonstrated tenacity to hold this position as shown in her response to questions posed by Members of the Committee.

May I take this opportunity to thank all the Members of the Committee for their input and valuable contributions and time during the approval hearing and deliberations during the writing of the report. The Committee also takes this opportunity to thank the Offices of the Speaker and the Clerk of the National Assembly for the technical support accorded to it during the exercise.

On behalf of the Departmental Committee on Communication, Information and Innovation, and pursuant to sections 6(4) and 7 of the Data Protection Act, 2019, Section 8(1) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) and the provisions of Standing Order 199(6), it is now my pleasant duty to table the Report of the Committee on the approval hearings of Ms. Immaculate Kassait, the Nominee for appointment as the Data Commissioner with the recommendation that the Nominee be approved.

**Hon. William Kisang M.P**

**Chairperson, Departmental Committee on Communication, Information and Innovation**

## CHAPTER ONE

### 1.0 PREFACE

#### 1.1 Establishment of the Committee

1. The Departmental Committee on Communications, Information and Innovation is established under Standing Order 216 whose mandate pursuant to the Standing Order 216 (5) is as follows;
  - a. Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
  - b. Study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
  - c. Study and review all legislation referred to it;
  - d. Study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
  - e. Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
  - f. Vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);**
    - (fa) examine treaties, agreements and conventions;
  - g. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
  - h. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
  - i. consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
  - j. Examine any questions raised by Members on a matter within its mandate

#### 1.2 Committee Subjects

2. In accordance with Second Schedule of the Standing Orders, the Committee is mandated to oversee Communication, Information, media and broadcasting (except for broadcast of parliamentary proceedings), Information Communications Technology (ICT) development and advancement of technology and modernization of production strategies.
3. In executing its mandate, the Committee oversees the following Departments;
  - a. State Department of Broadcasting and Telecommunications
  - b. State Department of ICT & Innovation



### 1.3 Committee Membership

4. The Departmental Committee on Communication, Information and Innovation was constituted by the House in December 2017 and comprises of the following Members-

#### **Chairperson**

Hon. Kisang William Kipkemoi, M.P  
MP for Marakwet West Constituency

#### **Jubilee Party**

#### **Vice-Chairperson**

Hon. Jane Wanjiku Njiru  
MP for Embu County

#### **Jubilee Party**

Hon. George Theuri, MP  
M.P for Embakasi West Constituency  
**Jubilee Party**

Hon. Gertrude Mbeyu , MP  
MP for Kilifi County  
**Orange Democratic Party**

Hon. Alfah O. Miruka, MP  
M.P for Bomachoge Chache Constituency  
**Kenya National Congress**

Hon. Anthony Kiai, MP  
MP for Mukurweini Constituency  
**Jubilee Party**

Hon. Annie Wanjiku Kibeh, MP  
MP for Gatundu North Constituency  
**Jubilee Party**

Hon. (Eng.) Mark Nyamita Ogola, MP  
MP for Uriri Constituency  
**Orange Democratic Party**

Hon. Joshua Kimilu, Kivinda, MP  
MP for Kaiti Constituency  
**Wiper Democratic Party**

Hon. Victor Munyaka, MP  
MP for Machakos Town Constituency  
**Jubilee Party**

Hon. Marwa Kitayama Maisori, MP  
MP for Kuria East Constituency  
**Jubilee Party**

Hon. Erastus Nzioka Kivasu, M.P.  
MP for Mbooni  
**New Democrats Party**

Hon. Mwambu Mabongah, MP  
MP for Bumula Constituency  
**Independent**

Hon. Innocent Momanyi Obiri, MP  
Bobasi Constituency  
**People's Democratic Party**

Hon. Maritim Sylvanus, MP  
MP for Ainamoi Constituency  
**Jubilee Party**

Hon. Godfrey Osotsi Atieno, MP  
Nominated  
**African National Congress**

Hon. Mwangaza Kawira, MP  
MP for Meru County  
**Independent**

Hon. Anthony, Tom Oluoch, MP  
MP for Mathare Constituency  
**Orange Democratic Party**

Hon. Jonah Mburu, MP  
MP for Lari Constituency  
**Jubilee Party**

#### **1.4 Secretariat of the Committee**

5. The secretariat comprises -

##### **Head of the Secretariat**

Ms. Hellen Kina  
**Clerk Assistant II**

Ms. Ella Kendi  
**Clerk Assistant II**

Mr. Donald Manyala  
**Research Officer II**

Ms. Marlene Ayiro  
**Senior Legal Counsel**

Mr. Thomas Ogwel  
**Fiscal Analyst II**

## CHAPTER TWO

### 2.0 BACKGROUND

#### 2.1 Message from H.E the President

6. Pursuant to the provisions of Standing Order No. 42, the Speaker of the National Assembly on Tuesday 13<sup>th</sup> October 2020 communicated to the House a Message from H.E the President regarding nomination of **Ms. Immaculate Kassait** for appointment as the Data Commissioner.

#### 2.2 Committal to the Departmental Committee on Communication, Information and Innovation

7. In accordance with Standing Order 42(3) (c), the Speaker having read the Message from H.E the President referred the name of the Nominee together with her curriculum vitae to the Departmental Committee on Communication, Information and Innovation to conduct approval hearings. The Speaker advised the Committee to notify the Nominee and the public and commence the approval hearings within fourteen days.

#### 2.3 Request for Memoranda and Notification to the public

8. Section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) provides that *“any person may, prior to the approval hearing and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated”*.
9. The Clerk of the National Assembly placed an advertisement in the print media on **Monday 19<sup>th</sup> October, 2020** (*Annexure 4*) inviting the public to submit memoranda by way of a written statement on oath (**affidavit**) on the suitability or otherwise of the Nominee in conformity with section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011). The notification gave provision for the submission of memoranda, on the suitability or otherwise of the Nominee by **Monday 26<sup>th</sup> October, 2020 at 5.00 pm**.

#### 2.4 Notification to the Nominee

10. On Friday, 16<sup>th</sup> October, 2020, pursuant to sections 4 and 6(3) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Clerk of the National Assembly in writing vide a letter referenced NA/DCS/CII/2020(23) invited the Nominee for the approval hearing on Wednesday 28<sup>th</sup> October, 2020 in the Main Chamber, Parliament Buildings at 10.00am. (*Annexure 6*). The Clerk further requested the Nominee to bring with her clearance certificates from Kenya Revenue Authority (KRA), Higher Education Loans Board (HELB), Ethics and Anti- Corruption Commission (EACC), Office of the Registrar of Political Parties (ORPP) and Directorate of Criminal Investigations (DCI).

#### 2.5 Clearance reports

11. The Clerk also wrote to KRA, HELB, EACC, ORPP and DCI on 16<sup>th</sup> October, 2020 requesting for the status of the Nominee in regard to tax compliance, higher education loan repayment status, leadership and integrity, affiliation to any political party and criminal records (*Annexure 5*).
12. The above – mentioned institutions responded to the letters from the National Assembly clearing the Nominee vide the following letters: -

- (i) The KRA confirmed *vide* a letter dated 22<sup>nd</sup> October 2020 and Referenced: KRA/5/1002/5(5035) (*Annexure 7*) which stated that the Nominee was tax compliant.
- (ii) The DCI through a letter dated 23<sup>rd</sup> October, 2020 and Referenced: CID/CRO/SEC/6/7/A/VOL.IX/28 (*Annexure 8a*) confirmed that the Nominee, was genuinely issued with a Police Clearance Certificate No. PCC-KOT9P5 on 25<sup>th</sup> June 2020. (see *Annexure 8b*)
- (iii) The HELB confirmed *vide* a letter dated 23<sup>rd</sup> October 2020 and Referenced: HELB/RR/112009/V/79) (*Annexure 10*) stated that the Nominee was not a beneficiary of the GOK/HELB Loans Scheme.
- (iv) On the issue of party affiliation, the Office of the Registrar of Political Parties (ORPP), vide a letter dated 21<sup>st</sup> October 2020 and Referenced: RPP/ORG/34 Vol. IV (40) (*Annexure 9*) indicated that the Nominee, was not an official of any registered political party.
- (v) On matters of ethics and integrity, the EACC *vide* a letter dated 26<sup>th</sup> October 2020 and Referenced: EACC.7/10/5 VOL.XVI (85) (*Annexure 6*) confirmed that the Commission has not undertaken any investigations where the Nominee has been adversely mentioned or found culpable as at 26<sup>th</sup> October 2020.

## **2.6 Extension of the vetting period**

13. The nomination was conveyed by the Honourable Speaker of the National on Tuesday 13<sup>th</sup> October, 2020 who referred the Nominee's name together with her curriculum vitae to the Departmental Committee on Communication, Information and Innovation for vetting and reporting to the House within fourteen (14) days in accordance with section 8(1) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011). However, the Committee noted that the period in which it is expected to consider and table its report would lapse during the period of the short recess and sought extension of time for a further period of fourteen days from 28<sup>th</sup> October, 2020 as provided for under Section 13 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011).

## **2.7 Committee proceedings**

14. The Committee held a total of four sitting to examine and review the Nominee's certificates, testimonials, consider the public views and hold an approval hearing with the Nominee.

## CHAPTER THREE

### 3.0 PROCEDURE FOR NOMINATION AND RECRUITMENT PROCESS

#### 3.1 Nomination and appointment process

15. Section 6 of the Data Protection Act, 2019 provides for the process through which the position of Data Commissioner is recruited. Article 232 of the Constitution of Kenya provides that the recruitment of officers to the public office shall be conducted in a competitive, transparent and fair process before nomination for appointment by H.E the President with the approval of the National Assembly.
16. The National Assembly having received the name of the Nominee was obligated to conduct approval hearings and make a determination of the Nominee's suitability or otherwise within fourteen days as provided for in section 8(1) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011).

#### 3.2 Legal framework

17. Section 6 (4) of the Data Protection as read together with Section 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) the President is required to notify the National Assembly upon nomination of a person for appointment as Data Commissioner. Section 6(4) of the Data Protection Act provides-
- (a) The president shall nominate, and with the approval of the National Assembly, appoint the Data Commissioner.*
18. Section 6 of the Data Protection Act, 2019 provides for the procedure for nomination and appointment of the Data Commissioner as follows: -
- 1. The Public Service Commission shall, whenever there is a vacancy arises in the Position of the Data Commissioner, initiate the recruitment process.*
  - 2. The Public Service Commission shall within seven days of being notified of a vacancy under subsection (1) invite applications from persons who qualify for nomination and appointment for the position of the Data Commissioner.*
  - 3. The Public Service Commission shall, within twenty-one days of receipt of applications under sub-section (2)-*
    - a) consider the applications received to determine their compliance with this Act;*
    - b) shortlist qualified applicants;*
    - c) publish and publicise the names of the applicants and the shortlisted applicants;*
    - d) conduct interviews of the shortlisted persons in an open and transparent process;*
    - e) nominate three qualified applicants in the order of merit for the position of Data Commissioner; and*
    - f) submit the names of the persons nominated under paragraph (e) to the President;*
  - 4. The President shall nominate and, with approval of the National Assembly, appoint the Data Commissioner.*

### **3.2.1 The Public Appointment (Parliamentary Approval) Act (No.33 of 2011)**

19. Section 7 of the Public Appointment (Parliamentary Approval) Act (No.33 of 2011) provides for issues which the relevant House of Parliament is required to take into consideration in relation to any nomination. This includes;
- (a) the procedure used to arrive at the Nominee;
  - (b) any constitutional or statutory requirements relating to the office in question; and,
  - (c) the suitability of the Nominee for appointment proposed having regard to whether the Nominee's abilities, experience and qualities meet the needs of the body to which nomination is being made.
20. Section 6 of the Public Appointment (Parliamentary Approval) Act (No. 33 of 2011) provides as follows;
- (i) *An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background;*
  - (ii) *The criteria specified in the schedule shall be used by a Committee during an approval hearing for the purpose of vetting a candidate;*
  - (iii) *Any person may prior to the approval hearing, and by written statement on oath provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated; and*
  - (iv) *A candidate may at any time by notice in writing addressed to the Clerk withdraw from the approval process and the candidate's nomination shall end.*

### **3.2.2 Chapter 6 of the Constitution (Leadership and Integrity)**

21. Article 73 of the Constitution provides that the authority assigned to a State Officer is a public trust to be exercised in a manner that is consistent with the Constitution, demonstrates respect for people, brings honour to the nation and dignity to the office and promotes public confidence in the integrity of the office. Also, the State officer shall have the responsibility to serve the people, rather than the power to rule them.
22. The guiding principles of leadership and integrity are listed as selection based on personal integrity, competence and suitability, objectivity and impartiality in decision making, selfless service based solely on the public interest, accountability and discipline and commitment in service to the people.

### **3.2.3 Article 27 of the Constitution on two thirds gender rule**

23. Article 27 provides that the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. The Nominee is of the female gender, and if approved, her appointment will be promoting the two thirds gender requirement.

### **3.2.4 Article 77 of the Constitution on engaging in other gainful employment**

24. Article 77 provides that a full time State Officer shall not participate in any other gainful employment. It further state that any appointed State Officer shall not hold office in a political party.

### **3.2.5 Article 232 of the Constitution on Values and principles of public service**

25. Article 232 provides for the values and principles of the public service which include: high standards of professional ethics; efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable; provision of services; involvement of the people in the process of policy making; accountability for administrative acts; transparency and provision to the public of timely, accurate information; fair competition and merit as the basis

of appointments and promotions; representation of Kenya's diverse communities; and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of-- men and women; the members of all ethnic groups; and persons with disabilities.

### **3.2.6 Article 102 of the Constitution on national values and principles of governance**

26. Article 102 provides for the national values and principles of governance which include patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised; good governance, integrity, transparency and accountability; and sustainable development.

### **3.2.7 The Leadership and Integrity Act**

27. The Act provides for a number of obligations to a State officer. These are among others; to respect and abide by the Constitution and the law, public trust, performance of duties in an honest and accountable manner, professionalism, financial integrity, not to engage in activities that amount to abuse of office, not misuse of public resources, accepting gifts that may compromise the officer's duties, wrongful or unlawful acquisition of property, conflict of interest etc.

### **3.2.8 The Public Officer Ethics Act**

28. The Act provides for obligations to be carried out by a public office. These includes among others; professionalism, carrying out of duties in accordance with the law, prohibition from unjust enrichment, avoiding conflict of interest, not using office as a venue for soliciting or collecting harambees, not acting for foreigners, care for property, political neutrality, not practising nepotism or favouritism etc.

## **3.3 Qualification of a Data Commissioner**

29. In conducting the approval hearing, the Committee was guided by Section 6(7) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) and Section 7 of the Data Protection Act, 2019.
30. Section 7 of the Data Protection Act, 2019 provides for the qualifications for appointment as the Data Commissioner as follows;
- (1) A person shall be qualified for appointment as the Data Commissioner if the person—*
- (a) holds a degree from a university recognized in Kenya in—*
    - (i) data science;*
    - (ii) law;*
    - (iii) information technology; or*
    - (iv) any other related field;*
  - (b) has knowledge and relevant experience of not less than ten years;*
  - (c) meets the requirements of Chapter Six of the Constitution; and*
  - (d) has knowledge and relevant experience of not less than ten years;*
  - (e) meets the requirements of Chapter Six of the Constitution; and*
  - (f) holds a master's degree*

### **3.4 Report of the Selection Panel on the rrecruitment process for the position of Data Commissioner**

31. The Principal Secretary, Ministry of ICT, Innovation and Youth Affairs vide letter Ref No. MICT/CONF/12/34 dated 28th November 2019 declared the vacancy in the position of Data Commissioner to the Public Service Commission for advertisement.
32. Pursuant to the provisions of Section 6(2) of the Data Protection Act, the Public Service Commission invited applications from suitably qualified Kenyans interested in being considered for nomination for the position of Data Commissioner in the print media and the Commission's website on 25<sup>th</sup> March 2020.
33. By the end of the set out advertisement period on 14<sup>th</sup> April 2020, the Public Service Commission (PSC) had received two hundred and six (206) applications. Thereafter, ten (10) applicants were shortlisted in a process conducted on 5<sup>th</sup> June, 2020 and invited for interviews on 7<sup>th</sup> July, 2020.
34. However, the interviews did not proceed due to a petition filed in the High Court vide *Judicial Review No. 22 of 2020 Adrian Kamotho Njenga Vs Public Service Commission*. Following the consent between the parties dated on 15<sup>th</sup> July 2020 which was adopted as an order of the High Court on 28<sup>th</sup> July 2020, The Attorney General vide letter Ref. No. AG/LIC/PSC/68/20 dated 12<sup>th</sup> August 2020 to the Public Service Commission advised the Commission to commence the recruitment process afresh in consultation with his office.
35. In line with the Attorney General's advice, the Commission re-advertised the position on 18<sup>th</sup> August 2020, and at the closure of the advertisement period on 8<sup>th</sup> September 2020, a total of one hundred and twenty-six (126) applications were received. On 10<sup>th</sup> September 2020, twelve (12) candidates, who met the requirements of the advertisement were shortlisted and invited for interviews on 21<sup>st</sup> and 22<sup>nd</sup> September 2020.
36. The Public Service Commission ranked the interviewee's' according to their performance during the interviews and in line with Section 6(3) (e) and (f) nominated three (3) qualified applicants in order of merit and submitted their names to H.E the President for consideration of appointment.
37. The results of the three (3) candidates in terms of total percentage were provided as follows-
  1. Immaculate Kassait, MBS 80.1%
  2. Thomas Oganga Odhiambo 75.1
  3. Murshid Abdalla 69.6
38. On Public Participation, by the Public Service Commission, Mr. Kevin Omogeni, the Chairman for ICJ Kenya vide email dated 21<sup>st</sup> September, 2020 wrote to the Public Service Commission on the suitability of two candidates: Ms. Immaculate Kassait and Brian Gichana Omwenga. The interview panel considered the information submitted in the two affidavits and decided that the information submitted did not meet the threshold required to disqualify the two candidates.

### **3.5 Submission of Memoranda**

39. By close of business on Monday 26<sup>th</sup> October, the Committee had received a total of three (3) memoranda, one from Anne W. Ireri on behalf of FIDA in support of her nomination, one from



former IEBC Chairman Mr. Ahmed Isaack Hassan and one from Mr. Kelvin Mogeni on behalf of International Commission of Jurists (ICJ) challenging her suitability.

40. The ICJ presented the following grounds for challenging the suitability of Ms. Kassait for appointment to the position of the Data Commissioner:
- a. That Ms. Immaculate Kassait does not meet the standards stipulated under Chapter six of the Constitution owing to her track record and performance as an employee of the Independent Electoral and Boundaries Commission (IEBC);
  - b. That the Nominee held the position of Director, Voter Registration and Electoral Operations at IEBC in the 2013 General Elections and subsequently the 2017 General Elections, whose results were disputed and were subject to a Judicial review whose rulings indicted her office for malpractices;
  - c. That the Nominee, from the foregoing, could not be said to be either capable of demonstrating that she could exercise authority in a professional nor did she possess the ability to act independently as expected of a public officer;
  - d. That the Nominee while holding the previous positions at IEBC, which entailed the handling of voter data, did not execute her role in a manner that guaranteed or promoted the integrity of the voters data;
  - e. That an independent audit of the voters register, which the Nominee was responsible for, by KPMG in 2017, revealed that the register of voters contained various inconsistencies, errors, missing information and inclusion of deceased voters' data;
  - f. That KPMG audit revealed that voter data was stored and transported on flash drives collected from the registration centres on a weekly basis which were then taken to regional offices before being uploaded to secure servers. The heavy reliance on manual transfer of such sensitive data and information, fully aware of the emotive nature of elections in Kenya, exposed the data to the risks of loss or manipulation, which happened under the watch of the Nominee;
  - g. That the infamous "Green Book" which was the manual register of voters, widely criticized for its vulnerability to manipulation in past elections, was used in 2013 and 2017 general elections despite the fact that voters were registered using biometric technology, a fact that IEBC refused to acknowledge, casting doubts on transparency over the voter register. These irregularities occurred while the Nominee was the Director of Voter registration and Electoral Operations, thus casts doubts on her ability to be entrusted with confidential and sensitive public data of the magnitude that the Data Commissioner will inevitably be entrusted with;
  - h. That the Nominee in her previous role in public office, has not acted in a manner that promotes public confidence in her capabilities to hold the office of the Data Commissioner with the integrity required of such an office.
41. The memoranda from FIDA supporting her suitability of the Nominee for nomination averred that the Nominee was in good standing with FIDA-Kenya and had been actively involved in various activities of the organization since she joined the membership in 2003. FIDA further

averred that the Nominee is a diligent lawyer a dedicated defender of human rights, and has demonstrated a high sense of responsibility, discipline, integrity and strong commitment to women's rights issues.

42. Similarly, the memoranda from the former IEBC Chairman Mr. Ahmed Isaack Hassan averred that he chaired the full Commission meeting that interviewed and recruited the Nominee as Director Voter Registration and Electoral Operations (DVREO), hence has full knowledge and confidence in her suitability for the position of Data Commissioner. He further averred that the Nominee had demonstrated various skills-sets that included leadership, resilience, ability, teamwork and was always result-oriented throughout her work as she demonstrated the capacity to overcome challenges and offer solutions. Mr Hassan, in his memorandum demonstrates total dedication, the Nominee has had during her work in election administration, instances where she had to cut short her maternity leave to attend to pressing and urgent assignments at work.
43. The Nominee was given a chance to respond to the affidavit by ICJ, and in her response, she submitted that:
  - a. she had read the affidavit of Mr. Kelvin Mogeni and the accompanying annexures. That the affidavit is based on a misunderstanding of both the process of Registration of Voters (RoV) creation and the role of Data Commissioner. While the former makes one a data controller, the latter makes one a data regulator. Secondly, the object is based on erroneous foundation as regards the manner in which the 2013 RoV was created and the role of KPMG in the audit of RoV in the run up to 2017 General Elections.
  - b. Mr. Mogeni's averments on the position the Nominee held in IEBC in 2013 and 2017 are misplaced, since in as much as the same adduces a factual account of what transpired, his annexures produced to support this assertion raises nothing substantive to do with both her involvement and/or culpability then.
  - c. the issue of the green book as put across by Mr. Mogeni was settled by Supreme court as a primary register of voters, and the court directed that it should be provided for in law. Indeed, the Voter Records Book is now Law as articulated under regulation 13A (3) of the Elections (Registration of Voters) Regulations 2012. Mr. Mogeni has also misled this committee by stating that the green book was used during the 2017 general elections, yet the Commission adopted the Kenya Integrated Electoral Management System (KIEMS) to identify voters.
  - d. in response to Mr. Mogeni's assertions on the independent audit of the register of voters by KPMG in 2017, the Nominee stated as follows that Mr. Mogeni chose to cherry pick sections from the KPMG Report and failed to fully analyse the overall findings of the report. In any event, the register of voters was used to conduct the 2017 General Elections and was not a subject of contestation during the presidential petition of 2017.
  - e. in addition to the averments above, an independent audit, titled "In their Own Voices" Citizens Independent Audit on quality of the 2017 Register of voters by Elections Observation Group (ELOG), the register enjoyed 95% confidence level or a margin of error of +/- 2%.

- f. the affidavit sworn on 21<sup>st</sup> October, 2020 by the ICJ chairman Mr. Kelvin Mogeni challenging the candidature of the Nominee is not only malicious, but also made in bad taste and meant to cast aspersions in the her character as a person.
  - g. in the upshot, the ICJ Chairman's averment that the nomination for appointment to the position of Data Commissioner as required under the Data Protection Act, 2019 is not suitable in the interest of the public, public policy and the values of leadership and integrity as espoused under Chapter 6 of the Constitution of Kenya, 2010 is untenable.
44. The Committee considered the memorandum and the Nominee's response and observed that ICJ had failed to demonstrate the Nominee's personal culpability as the issues canvassed by ICJ did not raise substantive matters to do with both her involvement and /or culpability then but the corporate standing of the Commission.

## **CHAPTER FOUR**

### **4.0 APPROVAL HEARING**

45. The Committee conducted the approval hearing of the Nominee for appointment as the Data Commissioner on **Wednesday 28<sup>th</sup> October, 2020**. In conducting the vetting exercise the Committee was guided by among other documents, the Constitution, the Public Appointment (Parliamentary Approval) Act (No. 33 of 2011), the Data Protection Act, 2019 and the National Assembly Standing Orders.
46. The Committee examined the Nominee based on the the guidelines provided for in the Public Appointment (Parliamentary Approval) Act(No. 33 of 2011). The Committee considered the following in vetting the Nominee:-
- a) Academic qualifications
  - b) Employment record and work experience
  - c) Professional association
  - d) Public Office, political activities and affiliations
  - e) Potential conflict of interest
  - f) Suitability to the position
  - g) Tax compliance
  - h) Vision and Leadership
  - i) Integrity
  - j) Expectations and key priorities

### **4.1 Ms. Immaculate Kassait Nominee for appointment as the Data Commissioner**

47. Ms. Immaculate Kassait was nominated for appointment as the Data Commissioner by H.E the President pursuant to Section 6 of the Data Protection Act, 2019. She appeared before the Committee for vetting on **Wednesday 28<sup>th</sup> October, 2020** at 10.00am. She was orally interviewed by the Committee and responded to questions during the vetting as follows: -

#### **4.1.1 Personal Background**

48. She is Kenyan citizen of identity card number 20049697 and was born in 1977 in Thika, Kiambu County. She submitted an affidavit on her other names which included Immaculate Kassait (*Annexure 14*).

#### **4.1.2 Education Background**

49. The Nominee is a holder of Executive Master in Business Administration from United States International University, awarded in 2016. She attained a Bachelors of Laws (LLB) degree from Makerere University which was awarded in 2002 a Post Graduate Diploma in Law from the Kenya School of Law awarded in 2007 and a Diploma in Legal studies from Kenya School of Professional Studies Government in 1997.
50. With regard to professional training and qualifications the Nominee has been awarded with certificates having completed various courses, some of which include; certificate in strategic Leadership Development from Kenya School of Government (KSG), Accrediting Facilitator at Bridging Resources in Democracy, Governance and Elections (BRIDGE) Secretariat, Women leadership forum at Centre for Corporate Governance, among others.
51. The Nominee sat for her Kenya Certificate of Secondary Education (KCSE) in 1994.

#### **4.1.3 Professional Associations**

52. The Nominee is a Member of Law Society of Kenya, The East African Law Society and Federation of Women Lawyers (FIDA-Kenya).

#### **4.1.4 Work Experience/Career Progression**

53. In terms of work and professional progression, the Nominee is currently serving as Director Voter Education Partnerships and Communication, at the Independent Electoral and Boundaries Commission (IEBC) from January 2019 to date. Previously, she served as the Director Voter Registration and Electoral Operations at IEBC between January 2010 and December 2018.

54. The Nominee also served as Program Manager/ Team leader Electoral Process at the Institute for Education in Democracy (IED) between November 2005 and December 2009. Prior to that she was a program officer Women Rights Advocacy, Awareness and Monitoring at FIDA Kenya from 2002 to 2005.

#### **4.1.5 Honours and Awards**

55. She was awarded Moran of the Burning Spear (MBS) by the President of the Republic of Kenya in 2017.

56. The Nominee was also awarded the most outstanding member of Staff of FIDA Kenya in 2003; Most Outstanding member, Makerere Kenyan University Student Association (MUKESA) in 2002; and Uongozi Leadership Programme, Leader of the Year at St. Patrick Youth Makerere Contest, 2001.

#### **4.1.6 Potential conflicts of interests**

57. The Nominee stated that she has no immediate associations that are likely to present potential conflict of interest when she assumes the position.

#### **4.1.7 Clearance Requirement**

58. The Committee confirmed that the Nominee had been cleared by KRA, ORPP, DCI EACC and HELB having obtained clearance certificates to that effect.

#### **4.1.8 Public Office, Political Activities and Affiliation**

59. The Nominee submitted that she has held positions in public offices as highlighted under the section on work and professional experiences.

60. On political affiliations the Nominee, indicated that she is not an official in any registered political party, which position was confirmed by the Registrar of Political Parties vide letter dated 21<sup>st</sup> October, 2020.

#### **4.1.9 Suitability for appointment**

61. On her suitability to serve as Data Commissioner, the Nominee confirmed with a Masters degree and a Bachelors in Law degree which are basic requirements for appointment to the Office of the Data Commissioner. The Nominee further informed that her experience and achievements as a Director at the IEBC had equipped her with the requisite skills needed to confidently serve as of the Data Commissioner if so appointed. She highlighted the following as her key achievements:-

- i. The Nominee averred that she was the team leader in the development of voter registration strategy that saw the historic registration of 14.3 million Kenyans using bio-metric technology in November and December 2013: and 12.4 million voters during the 2010 referendum;
- ii. Served as the team leader Elections Operations, that saw the development and implementation of the two-year operation plan for the 2017 General Elections;
- iii. Oversaw the successful conduct of the historic six elections in less than one year.
- iv. Development of various publications and papers notably the Frequently Asked Questions (FAQ) which were key in effective and efficient management of Elections.
- v. Provided leadership in the implementation of voter registration plan that increased the number of registered voters from 14.3 million to 19.6 Million.

#### **4.1.10 Integrity**

62. The Nominee stated that she has not been dismissed or otherwise removed from office for contravening the provisions of Article 75 of the Constitution. She had also not been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties. She informed the Committee that she has fully complied with her tax obligations to the State for the financial year immediately preceding her nomination for the appointment as evidenced by the Tax Compliance Certificate issued by Kenya Revenue Authority.

#### **4.1.11 Public trust and confidence in data**

63. Arising from the concerns that were raised on the management of data during the 2013 and 2017 general elections, the Nominee stated that she was not criminally culpable and therefore this does not impair her suitability for the job.

64. She informed the Committee that she will institute a robust stakeholders' engagement in various aspects of data protection to enhance the public trust. Further, she affirmed her resolve to develop and operationalize a service charter that ensures effective and efficient public service delivery.

#### **4.1.12 Enforcement of Protection of personal data including Huduma Number**

65. The Nominee submitted to the Committee that she will ensure that personal data is protected as provided for in the data protection Act 2019. Further, she stated that she will develop relevant regulations in collaboration with the relevant stakeholders to enhance the legal framework in protection of personal data. These regulations will be on key areas of registration, encryption, backing-up, uploading, processing of data for the intended purpose and ensuring that a release protocol is in place.

66. Furthermore, the Nominee indicated that there has been a considerable misuse of data collected by CCTV footages due to lack of regulatory framework to curb the misuse of the footages. She further said that in the event there is breach of such data then the Data Protection Act, 2019 has a provision that addresses breach of personal data.

67. The Nominee stated that the Office of the Data Commissioner will need a high level of innovation with very clear timelines and processes that deter contraventions of prescribed standards in data protection.

#### **4.1.13 Establishment of an effective Data Protection Office**

68. The Nominee informed the Committee that if appointed as the Data Commissioner, she will endeavour to create synergies with stakeholders in government and private sector by engaging them to facilitate the setting up of the office. She further underscored the need to have a supportive budgetary allocation to facilitate the execution of the office mandate.
69. Under human resource, the Nominee indicated that she will engage the right personnel with the right skills-set and experience for the success of the office. In addition, she stated how she intends to put in place procedures and processes on efficient and effective operations of the office such as the areas of handling of complains, documentations and development of service charter.

#### **4.1.14 The Independence of the office of the Data Protection**

70. In response to the concern of any possible interference by other government authorities, the Nominee affirmed her commitment to follow the provisions of the notification and communication of breach as provided for in the Data Protection Act, 2019 in executing her mandate in an objective manner.
71. The Nominee affirmed that she will not be under directions of any other office and that she will exercise full independence as has been the case with her previous engagement at IEBC.
72. The Nominee urged the Committee to enact legislations that will enhance the independence of the Office of the Data Commissioner progressively so that in future, it can be delinked from the line Ministry.

#### **4.1.15 Dealing with International players in Data Management and transfer such as Twitter, Facebook, Google among others**

73. The Nominee submitted that the regulation of the international data controllers and processors especially those that are not registered in Kenya is clearly provided for in the Data Protection Act 2019.
74. The Nominee expressed her commitment to strictly enforce the existing provisions on conditions for transferring data outside Kenya. Further, the Nominee pointed out that any identified legislative gap shall be filled through development of necessary regulations and policies.

#### **4.1.16 How to spur digital economy**

75. The Nominee demonstrated how personal data protection contributes to economic growth and development. She noted that such protection is key in encouraging innovations among the youth and boosting both local and foreign investor's confidence. In addition, she pointed out that data protection increases the compliance level of the Multinational companies and thereby generates positive socio-economic impacts. She also illustrated how cybercrime leads to substantial economic loss, a menace she was optimistic that effective data protection will curtail.

#### **4.1.17 Sources of Income and Net-worth**

76. The Nominee submitted that her sources of income during the calendar year preceding his nomination and the current calendar year comprise of: -

- a. Gross salary and allowances of Ksh 17,663,227.00 (for two years)
- b. Tiaty Honey Enterprises Kshs. 30,000/= per month
- c. Dividends from Saccos Kshs. 390,000/= annually
- d. Rental from Matrimonial property Kshs. 54,000/=
- e. Monthly, Allowance from spouse Kshs. 100,000/=
- f. BRIDGE Facilitator consultancy fee. Kshs. 720,000/= Once.

77. She estimated her financial net worth at **Kshs. 42, 611,067.00.**



## **CHAPTER FIVE**

### **5.0 COMMITTEE OBSERVATIONS**

76 Having considered the Nominee's curriculum vitae, filled questionnaire, Memoranda from the public and oral submissions by the Nominee during the approval hearing, the Committee made the following observations and findings; That the Nominee, Ms. Immaculate Kassait:-

- (i) is a Kenyan citizen born on 1<sup>st</sup> May 1977 in Kiambu County;
- (ii) holds a Bachelor of Laws (LLB) from Makerere University, a Post Graduate Diploma in Law from the Kenya School of Law and an Executive Master in Business Administration (EMBA) from the United States International University, which are pre-requisite for appointment as a Data Commissioner in line with Section 7 of the Data Protection Act, 2019;
- (iii) has work experience spanning to over seventeen (17) years in various senior management positions including positions held at IEBC and Institute for Education in Democracy, in line with the requirements on knowledge and relevant experience of not less than ten years as espoused under Section 7(1)(b) of the Data Protection Act, 2019;
- (iv) was cleared by Ethics and Anti-Corruption Commission, on integrity, Kenya Revenue Authority on Tax Compliance, Directorate of Criminal Investigation on her criminal status, Office of the Registrar of Political Parties on holding any office in a political party, and the Higher Education Loans Board on the payment of her education loan in line with Chapter 6 of the Constitution of Kenya;
- (v) has no potential conflict of interest thus complying with the provision of Article 75(1) of the Constitution;
- (vi) does not intend to participate in any other gainful employment during his tenure as a Data Protection Commissioner in compliance to the requirements of Article 77(1) of the Constitution;
- (vii) does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- (viii) has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), Article 76 (financial probity), Article 77 (restriction on activities of State Officers) and Article 78(2) (dual citizenship) of the Constitution and is therefore fit to hold office as Data Commissioner; and,
- (ix) has exhibited immense knowledge on policy issues, governance, technical matters relating to data protection, global trends and best international practices in data processing & protection and has vast experience in public service. Further her experience in voter registration and stakeholder engagement affirms her suitability for appointment as Data Commissioner.

- 77 The Nominee had been ranked at the first position by the Public Service Commission's recruitment panel that interviewed her with a score of 80.1%.
- 78 The Committee considered the memorandum and the Nominee's response and observed that ICJ had not demonstrated the Nominee's personal culpability as the issues raised in their memorandum did not directly implicate her in her personal capacity but squarely implicated corporate standing of the IEBC.
- 79 The former Chairman of IEBC Kenya , Mr. Ahmed Isaack Hassan and Ms. Anne W. Ireri, the Executive Director of FIDA-Kenya in their memoranda supported the appointment of the Nominee as they lauded her competency, dedication, and requisite skills- set that had enabled her to carry out her previous assignments and affirmed her suitability and capability to serve as the Data Commissioner.



## 6.0 COMMITTEE RECOMMENDATION

80. Having conducted the approval hearing of the Nominee pursuant to Section 6(4) of the Data Protection Act, 2019, Sections 8(1) of the Public Appointments (Parliamentary Approval) Act (No.33 of 2011) and the National Assembly Standing Order 45(4) to determine the Nominee's suitability for the appointment to the Office of the Data Commissioner, **the Departmental Committee on Communication, Information and Innovation recommends that this House approves the nomination of Ms. Immaculate Kassait, MBS for appointment as Data Commissioner by His Excellency the President of the Republic of Kenya.**

SIGNED .....



DATE.....

29/10/2020

HON. WILLIAM KISANG, M.P  
CHAIRPERSON

DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND  
INNOVATION

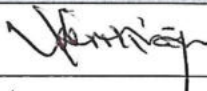

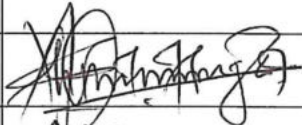



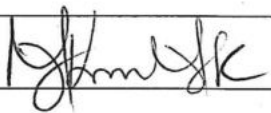
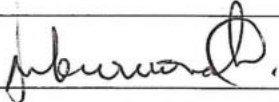

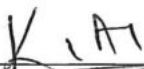




## **ADOPTION LIST**



**DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION**

**THE NATIONAL ASSEMBLY  
12TH PARLIAMENT - FOURTH SESSION (2020)  
REPORT ON VETTING OF MS. IMMACULATE KASSAIT, THE NOMINEE FOR  
APPOINTMENT AS THE DATA COMMISSIONER**

**We, the undersigned, hereby affix our signatures to this Report to affirm our approval**

	HON. MEMBER	SIGNATURE
1.	Hon. Kisang, William MP (Chairperson)	
2.	Hon. Jane Wanjuki Njiru, MP (Vice Chairperson)	
3.	Hon. George Theuri, M.P.	
4.	Hon. Alfah, O. Miruka, M.P.	
5.	Hon. Annie Wanjiku Kibeh, M.P.	
6.	Hon. Joshua Kimilu, Kivinda, M.P.	
7.	Hon. Marwa Kitayama Maisori, M.P.	
8.	Hon. Mwambu Mabongah, M.P.	
9.	Hon. Maritim Sylvanus, M.P.	
10.	Hon. Mwangaza Kawira, M.P.	
11.	Hon. Jonah Mburu, M.P.	
12.	Hon. Gertrude Mbeyu Mwanyanje, M.P.	
13.	Hon. Victor Munyaka, M.P.	
14.	Hon. (Eng.) Mark Nyamita Ogola, M.P.	
15.	Hon. Anthony Githiaka Kiai, M.P.	
16.	Hon. Erastus Nzioka Kivasu, M.P.	
17.	Hon. Godfrey Osotsi, Atieno, M.P.	
18.	Hon. Innocent Momanyi, Obiri, M.P.	
19.	Hon. Anthony, Tom Oluoch, M.P.	





# MINUTES



**MINUTES OF THE 31<sup>ST</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION & INNOVATION HELD AT ENASHIPAI RESORT AND SPA, IN NAIVASHA ON WEDNESDAY 21<sup>ST</sup> OCTOBER 2020 AT 2.30PM**

---

**PRESENT**

1. Hon. William Kipkemoi, M.P. **-Chairperson**
2. Hon. Joshua Kimilu Kivinda, M.P
3. Hon. Marwa Kitayama Maisori, M.P
4. Hon. Annie Wanjiku Kibeh, M.P
5. Hon. Maritim Sylvanus, MP
6. Hon. Jonah Mburu, M.P
7. Hon. Anthony Githiaka Kiai, M.P
8. Hon. Erastus Nzioka Kivasu, M.P
9. Hon. Godfrey Osotsi Atieno, M.P
10. Hon. Anthony Oluoch, M.P.
11. Hon. Victor Munyaka, MP
12. Hon. (Eng.). Mark Nyamita, M.P
13. Hon. Gertrude Mbeyu Mwanyanje, M.P
14. Hon. Mwangaza Kawira, M.P
15. Hon. Mwambu Mabongah, M.P
16. Hon. Alfah O. Miruka, M.P

**APOLOGIES**

1. Hon. Jane Wanjuki Njiru, M.P. **-Vice- Chairperson**
2. Hon. George Theuri, M.P
3. Hon. Innocent Momanyi Obiri, M.P

**THE SECRETARIAT**

1. Ms. Ella Kendi **-Clerk Assistant II**
2. Ms. Marlene Ayiro **- Senior Legal Counsel**
3. Mr. Donald Manyala **- Research Officer**
4. Mr. Ndemo Atunga **- Searjeant At-Arms**
5. Ms. Rahima Manzura **- Secretary**
6. Mr. John Mungai **- Audio Recording Officer**

**MIN.NO/NA/CII/2020/122:PRELIMINARIES**

The Chairperson called the meeting to order at thirty minutes past two o'clock followed by a word of prayer.

**MIN.NO/NA/CII/2020/123: ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Hon. Jonah Mburu, MP and seconded by Hon. Alfa Miruka, MP.

**MIN.NO/NA/CII/2020/124: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTING**

Confirmation of the minutes of the previous sitting was deferred to the next meeting.

**MIN.NO/NA/CII/2020/125: BRIEFING ON THE VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER**

The Chairperson informed the Committee that: -

1. Hon. Speaker on Tuesday 13<sup>th</sup>, October 2020, communicated to the House the nomination of Ms. Immaculate Kassait, as the Data Commissioner. The message, together with the Nominee's Curriculum vitae, were consequently referred to the Departmental Committee on Communication, Information and Innovation to consider and table its report within fourteen days.
2. However, noting that the fourteen (14) days period within which the Committee was expected to consider the nominee and table the report was lapsing during the period of short the recess, the Committee sought the approval of the House on Thursday, October 15, 2020 to extend the period for consideration by a further fourteen (14) days with effect from 28<sup>th</sup> October, 2020

The Chairperson thereafter invited the legal counsel to brief the Committee on the legal procedure of vetting the nominee. The Legal Counsel briefed the Committee as follows: -

### **Establishment of the office of the Data Commissioner**

3. The office of the Data Commissioner was established by an Act of Parliament in August 2019, with the objectives of making provision for the regulation of the processing of personal data, and protection of the privacy of individuals in accordance with the provisions of the law.

#### ***Notification of nomination***

*In accordance with Article 250(2) of the Constitution, section 5 of the Public Appointments (Parliamentary Approval) Act and section 6(4) of the Data Protection Act, which requires the President to notify the National Assembly upon nomination of a person for appointment Data Commissioner*

Section 6(4) of the Data Protection Act provides-

- (a) *The president shall nominate, and with the approval of the National Assembly, appoint the Data Commissioner.*

### **Section 6. Procedure for appointment of the Data Commissioner**

4. 6(1) The Public Service Commissioner shall, whenever there is a vacancy arises in the Position of the Data Commissioner, initiate the recruitment process.
- (2) The Public Service Commissioner shall within seven days of being notified of a vacancy under subsection (1) invite applications from persons who qualify for nomination and appointment for the position of the Data Commissioner.

- (3) The Public Service Commissioner shall, within twenty-one days of receipt of applications under subsection (2)-

- (a) consider the applications received to determine their compliance with this Act;
- (b) shortlist qualified applicants;
- (c) publish and publicise the names of the applicants and the shortlisted applicants;
- (d) conduct interviews of the shortlisted persons in an open and transparent process;
- (e) nominate three qualified applicants in the order of merit for the position of Data Commissioner; and
- (f) submit the names of the persons nominated under paragraph (e) to the President (4)

### **Areas of focus during the approval hearing/ Criteria for Vetting**

5. It was worth noting that section 6(7) of the Public Appointments (Parliamentary Approval) Act guides that the approval hearing should focus on a **candidate's academic credentials, professional training and experience, personal integrity and background.**

## Academic credentials

Section 7 of the Data Protection Act provides—

### 10. *Qualifications for the Data Commissioner*

(1) A person shall be qualified for appointment as the Data Commissioner if the person—

- (a) holds a degree from a university recognized in Kenya in—
  - (i) data science;
  - (ii) law;
  - (iii) information technology; or
  - (iv) any other related field;
- (b) has knowledge and relevant experience of not less than ten years;
- (c) meets the requirements of Chapter Six of the Constitution; and
- (d) has knowledge and relevant experience of not less than ten years;
- (e) meets the requirements of Chapter Six of the Constitution; and
- (f) holds a master's degree

### Professional Training and Experience

6. As aforementioned, the length of experience required for the Data Commissioner is at least 10 years. (Curricula Vitae.

### Personal Integrity

7. In terms of personal integrity, Chapter 6 of the Constitution applies to State Officers; Chapter six provides the following with respect to leadership and integrity-

- (i) **Article 73** outlines the responsibilities of leadership including the authority assigned to a state officer and guiding principles of leadership and integrity.
- (ii) **Article 75** requires a State Officer, whether in public or private life, to behave in a manner that avoids conflict between personal interest and public official duties. Additionally, a person dismissed or otherwise removed from office under Section 75(3), that is, for contravention of Articles 76,77 or 78(2) is disqualified from holding any other State Office;
- (iii) **Article 76** deals with financial probity of officers and requires State Officers to maintain the stipulated standards of financial integrity such as not maintaining a bank account outside Kenya except in accordance with an Act of Parliament, not seeking or accepting personal loan or benefit in circumstances that compromise the integrity of the State Officer;
- (iv) **Article 77(1)** does not allow a full time state officer to participate in gainful employment. Section 26 of the Leadership and Integrity Act.
- (v) **Article 77(2)** prohibits an appointed State Officer from holding office in a political party;
- (vi) **Article 78** requires that an appointee must hold Kenyan Citizenship but not hold dual citizenship.
- (vii) As a matter of practice, the National Assembly undertakes due diligence on the background of nominee and has requested for the following information from the stated agencies:-
  - (a) information on a nominee's tax compliance status from the Kenya Revenue Authority;
  - (b) a nominee's education loan repayment status from Higher Education Loans Board; and
  - (c) a nominee's political affiliations from the Registrar of Political Parties.

- (d) In addition, the Directorate of Criminal Investigations to conduct background checks on a nominee to ascertain whether there are any criminal proceedings pending against the nominee;
- (viii) In conclusion, as regards the issue of personal integrity, it is important to note that pursuant to Article 79, the Ethics and Anti-Corruption Commission (EACC) is the relevant body mandated to ensuring compliance with and enforcement of the provisions of Chapter 6. Bearing this in mind, it is prudent to seek from the EACC, information whether the nominee may have any adverse information, unresolved complaints or investigations pending against him and, if any, seek further information that is relevant to assist the Committee to discharge its mandate effectively.

**Issues for Consideration**

8. Section 7 of the Public Appointments (Parliamentary Approval) Act outlines the issues for consideration by the House in relation to nomination of the nominee as -
- a) the procedure used to arrive at the nominee;
  - b) the constitutional and statutory requirements relating to the office in question; and
  - c) the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which the nomination is being made.

**Suitability of the nominee**

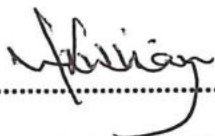
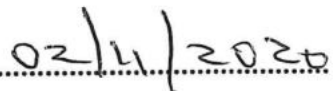
9. The suitability of the nominee should be gauged holistically after scrutiny of the nominee's credentials, experience, background and qualities as well as the performance of the nominee during the approval hearing and whether these qualities meet the needs of the position.

**Committee resolutions;**

10. The Committee resolved to write to Public Service Commission requesting for the following documentation to assist the Committee to undertake the approval hearing; -
- i.) Advertisement inviting persons who qualified for the nomination and appointment for the position of the Data Commissioner;
  - ii.) The shortlist and long list of the qualified applicants
  - iii.) The detailed results of the interview process
  - iv.) The details of the three qualified applicants presented to H.E the president for nomination; and
  - v.) Verified copies of academic credentials that were presented to the Public Service Commission by the nominee

**MIN.NO/NA/CII/2019/126: ADJOURNEMENT**

There being no other business, the meeting was adjourned at six minutes past four o'clock. The next meeting to be held on Thursday 23<sup>rd</sup> October, 2020 at 10.30am.

SIGNED.......... DATE..........

HON.WILLIAM KISANG, MP - CHAIRPERSON

**MINUTES OF THE 34<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION & INNOVATION HELD IN BOARDROOM ON 2<sup>ND</sup> FLOOR CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON TUESDAY 27<sup>TH</sup> OCTOBER 2020 AT 10.30AM**

---

**PRESENT**

- |                                     |                           |
|-------------------------------------|---------------------------|
| 1. Hon. William Kipkemoi, M.P.      | <b>-Chairperson</b>       |
| 2. Hon. Jane Wanjuki Njiru, M.P.    | <b>-Vice- Chairperson</b> |
| 3. Hon. Joshua Kimilu Kivinda, M.P  |                           |
| 4. Hon. Marwa Kitayama Maisori, M.P |                           |
| 5. Hon. Jonah Mburu, M.P            |                           |
| 6. Hon. Anthony Githiaka Kiai, M.P  |                           |
| 7. Hon. Erastus Nzioka Kivasu, M.P  |                           |
| 8. Hon. Godfrey Osotsi Atieno, M.P  |                           |
| 9. Hon. Anthony Oluoch, M.P.        |                           |
| 10. Hon. Victor Munyaka, MP         |                           |
| 11. Hon. Mwangaza Kawira, M.P       |                           |
| 12. Hon. Mwambu Mabongah, M.P       |                           |
| 13. Hon. Alfah O. Miruka, M.P       |                           |

**APOLOGIES**

1. Hon. Gertrude Mbeyu Mwanyanje, M.P
2. Hon. George Theuri, M.P
3. Hon. Innocent Momanyi Obiri, M.P
4. Hon. Maritim Sylvanus, MP
5. Hon. (Eng.). Mark Nyamita, M.P
6. Hon. Annie Wanjiku Kibeh, M.P

**THE SECRETARIAT**

- |                       |                               |
|-----------------------|-------------------------------|
| 1. Mr. Daniel Mutunga | - Principal Clerk Assistant I |
| 2. Ms. Ella Kendi     | -Clerk Assistant II           |
| 3. Mr. Donald Manyala | - Research Officer            |
| 4. Mr. Ndemo Atunga   | - Serjeant At-Arms            |
| 5. Mr.Eugene Luteshi  | - Audio Recording Officer     |

**MIN.NO/NA/CII/2020/138: PRELIMINARIES**

The Chairperson called the meeting to order at thirty minutes past ten o'clock followed by a word of prayer.

**MIN.NO/NA/CII/2020/139: ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Hon.Jane Wanjiru, MP and seconded by Hon. Joshua Kimilu,MP.

**MIN.NO/NA/CII/2020/140: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTING**

Confirmation of the minutes of the previous sitting was deferred to the next meeting.

**MIN.NO/NA/CII/2020/141: CONSIDERATION OF THE MEMORANDA RECEIVED ON THE VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER**

The Chairperson informed the Committee that following the advertisements placed in the local dailies the Committee had received two memoranda in support of the nominee from the former IEBC Chairman, Mr. Ahmed Isaak Hassan and Ms. Anne W. Ileri , the Executive Director, FIDA-Kenya and one from International Commission of Jurists (ICJ) challenging the suitability of the nominee for appointment as the Data Commissioner. Further, the meeting was informed that the nominee had been requested to submit a response on the issues raised by ICJ in their memoranda.

The Committee was further informed that the memorandum from ICJ challenging the suitability of the nominee for appointment as the Data Commissioner raised the following issues: -

- a. That Ms. Immaculate Kassait did not meet the standards stipulated under Chapter six of the Constitution owing to her track record and performance as an employee of the Independent Electoral and Boundaries Commission (IEBC);
- b. That the nominee held the position of Director, Voter Registration and Electoral Operations at IEBC in the 2013 General Elections and subsequently the 2017 General Elections, whose results were disputed and were subject to a Judicial review whose rulings indicted her office for malpractices;
- c. That the nominee, from the foregoing, could not be said to be either capable of demonstrating that she could exercise authority in a professional manner nor did she possess the ability to act independently as expected of a public officer;
- d. That the nominee while holding the previous positions at IEBC, which entailed the handling of voter data, did not execute her role in a manner that guaranteed or promoted the integrity of the voter's data;
- e. That an independent audit of the voters register, which the nominee was responsible for, by KPMG in 2017, revealed that the register of voters contained various inconsistencies, errors, missing information and inclusion of deceased voters' data;
- f. That the KPMG audit report revealed that voter data was stored and transported on flash drives collected from the registration centres on a weekly basis which were then taken to regional offices before being uploaded to secure servers. The heavy reliance on manual transfer of such sensitive data and information, fully aware of the emotive nature of elections in Kenya, exposed the data to the risks of loss or manipulation, which happened under the watch of the nominee;
- g. That the infamous "Green Book" which was the manual register of voters, widely criticized for its vulnerability to manipulation in past elections, was used in 2013 and 2017 general elections despite the fact that voters were registered using biometric technology, a fact that IEBC refused to acknowledge, casting doubts on transparency over the voter register. These irregularities occurred while the nominee was the Director of Voter registration and Electoral Operations, thus casts doubts on her ability to be entrusted with confidential and sensitive public data of the magnitude that the Data Commissioner will inevitably be entrusted with;
- h. That the nominee in her previous role in public office, has not acted in a manner that promotes public confidence in her capabilities to hold the office of the Data Commissioner with the integrity required of such an office.



2. The memoranda from FIDA-Kenya supporting the suitability of the nominee for nomination averred that the nominee was in good standing with FIDA-Kenya and had actively been involved in various activities of the organization since she joined the membership in 2003. FIDA-Kenya further stated that the nominee was a diligent lawyer a dedicated defender of human rights, and has demonstrated a high sense of responsibility, discipline, integrity and strong commitment to women's rights issues.
3. Similarly, the memoranda from the former IEBC Chairman Mr. Ahmed Isaack Hassan stated that the former Chairman of IEBC chaired the full Commission meeting that interviewed and recruited the nominee as Director Voter Registration and Electoral Operations (DVREO), hence has full knowledge and confidence in her suitability for the position of Data Commissioner. The former Chairman of IEBC further indicated that the nominee had demonstrated various skills-sets that included leadership, resilience, ability, teamwork and was always result-oriented throughout her work as she demonstrated the capacity to overcome challenges and offer solutions. Mr Hassan, in his memorandum demonstrated the total dedication, the nominee has had during her work in election administration, instances where she had to cut short her maternity leave to attend to pressing and urgent assignments at work.

**MIN.NO/NA/CII/2020/141:                    CONSIDERATION OF THE REPORT FROM  
PUBLIC SERVICE COMMISSION SELECTION  
PANEL**

The Committee was informed as follows: -

The Principal Secretary, Ministry of ICT, Innovation and Youth Affairs vide letter Ref No. MICT/CONF/12/34 dated 28th November 2019 declared the vacancy in the position of Data Commissioner to the Public Service Commission for advertisement

Pursuant to the provisions of Section 6(2) of the Data Protection Act, the Public Service Commission invited applications from suitably qualified Kenyans interested in being considered for nomination for the position of Data Commissioner in the print media and the Commission's website on 25<sup>th</sup> March 2020.

By the end of the set-out advertisement period on 14<sup>th</sup> April 2020, the Public Service Commission (PSC) had received two hundred and six (206) applications. Thereafter, ten (10) applicants were shortlisted in a process conducted on 5<sup>th</sup> June, 2020 and invited for interviews on 7<sup>th</sup> July, 2020.

However, the interviews did not proceed due to a petition filed in the High Court vide *Judicial Review No. 22 of 2020 Adrian Kamotho Njenga Vs Public Service Commission*. Following the consent between the parties dated on 15<sup>th</sup> July 2020 which was adopted as an order of the High Court on 28<sup>th</sup> July 2020, The Attorney General vide letter Ref. No. AG/LIC/PSC/68/20 dated 12<sup>th</sup> August 2020 to the Public Service Commission advised the Commission to commence the recruitment process afresh in consultation with his office.

In line with the Attorney General's advice, the Commission re-advertised the position on 18<sup>th</sup> August 2020, and at the closure of the advertisement period on 8<sup>th</sup> September 2020, a total of one hundred and twenty-six (126) applications were received. On 10<sup>th</sup> September 2020, twelve (12) candidates, who met the requirements of the advertisement were shortlisted and invited for interviews on 21<sup>st</sup> and 22<sup>nd</sup> September 2020.



12<sup>th</sup> August 2020 to the Public Service Commission advised the Commission to commence the recruitment process afresh in consultation with his office.

In line with the Attorney General's advice, the Commission re-advertised the position on 18<sup>th</sup> August 2020, and at the closure of the advertisement period on 8<sup>th</sup> September 2020, a total of one hundred and twenty-six (126) applications were received. On 10<sup>th</sup> September 2020, twelve (12) candidates, who met the requirements of the advertisement were shortlisted and invited for interviews on 21<sup>st</sup> and 22<sup>nd</sup> September 2020.

The Public Service Commission ranked the interviewee's' according to their performance during the interviews and in line with Section 6(3) (e) and (f) nominated three (3) qualified applicants in order of merit and submitted their names to H.E the President for consideration of appointment.

The results of the three (3) candidates in terms of total percentage were provided as follows-

- |                            |       |
|----------------------------|-------|
| 1. Immaculate Kassait, MBS | 80.1% |
| 2. Thomas Oganga Odhiambo  | 75.1  |
| 3. Murshid Abdalla         | 69.6  |

On Public Participation, by the Public Service Commission, Mr. Kevin Omogeni, the Chairman for ICJ Kenya vide email dated 21<sup>st</sup> September 2020 wrote to the Public Service Commission on the suitability of two candidates: Ms. Immaculate Kassait and Brian Gichana Omwenga. The interview panel considered the information submitted in the two affidavits and decided that the information submitted did not meet the threshold required to disqualify the two candidates.

#### **Committee Observations and Resolutions**

- a) The Committee noted that the ICJ memorandum had made reference to Judgement *Raila Amolo Odinga v Independent Electoral and Boundaries Commission & 2 others*, Chapter 5 and 6 on report on the findings of the KPMG and report on the finding of the Africa Centre for Open Governance and Kenyans for Peace with Truth and Justice. The secretariat was tasked to prepare a matrix analysis of the ICJ memorandum highlighting the specific sections that ICJ had made reference to in the above stated documents.
- b) The secretariat was tasked to prepare a brief on the role and responsibility of the nominee as Director in the IEBC during the conduct of 2013 and 2017 General Elections.
- c) The Committee further noted that the Nominee had been mentioned in a Parliamentary Report of the 11<sup>th</sup> Parliament's Public Accounts Committee on the Special Audit Report of June, 2014 over procurement of Electronic Voting Devices for the 2013 General Elections. The Committee deliberated the matter and secretariat was tasked to liaise with the Committee on Implementation and confirm the implementation status of the resolution. Further, they resolved to raise the matter during the approval hearing.
- d) The Committee noted that that the Ethics and Anti-Corruption Commission in their response had confirmed that the Commission had not undertaken any investigations where the nominee had been found culpable

**MIN.NO/NA/CII/2019/142: ADJOURNEMENT**

There being no other business, the meeting was adjourned at thirty minutes past eleven o'clock.  
The next meeting to be held on Wednesday 28<sup>th</sup> October 2020 at 10.00am.

SIGNED.......... DATE..........

HON.WILLIAM KISANG, MP - CHAIRPERSON

**MINUTES OF THE 35<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION & INNOVATION HELD IN THE MAIN CHAMBER, PARLIAMENT BUILDINGS ON WEDNESDAY 28<sup>TH</sup> OCTOBER, 2020 AT 10.00AM**

---

**PRESENT**

- |                                      |                    |
|--------------------------------------|--------------------|
| 1. Hon. William Kipkemoi, M.P.       | -Chairperson       |
| 2. Hon. Jane Wanjuki Njiru, M.P.     | -Vice- Chairperson |
| 3. Hon. Joshua Kimilu Kivinda, M.P   |                    |
| 4. Hon. Jonah Mburu, M.P             |                    |
| 5. Hon. Anthony Githiaka Kiai, M.P   |                    |
| 6. Hon. Erastus Nzioka Kivasu, M.P   |                    |
| 7. Hon. Godfrey Osotsi Atieno, M.P   |                    |
| 8. Hon. Anthony Oluoch, M.P.         |                    |
| 9. Hon. Victor Munyaka, MP           |                    |
| 10. Hon. Mwambu Mabongah, M.P        |                    |
| 11. Hon. Alfah O. Miruka, M.P        |                    |
| 12. Hon. Maritim Sylvanus, MP        |                    |
| 13. Hon. Annie Wanjiku Kibeh, M.P    |                    |
| 14. Hon. Innocent Momanyi Obiri, M.P |                    |

**APOLOGIES**

1. Hon. Marwa Kitayama Maisori, M.P
2. Hon. Mwangaza Kawira, M.P
3. Hon. Gertrude Mbeyu Mwanyanje, M.P
4. Hon. George Theuri, M.P
5. Hon. (Eng.). Mark Nyamita, M.P

**IN ATTENDANCE**

Ms. Immaculate Kassait - Nominee for appointment as the Data Commissioner

**THE SECRETARIAT**

- |                       |                               |
|-----------------------|-------------------------------|
| 1. Mr. Daniel Mutunga | - Principal Clerk Assistant I |
| 2. Ms. Ella Kendi     | -Clerk Assistant II           |
| 3. Mr. Douglas Katho  | - Clerk Assistant II          |
| 4. Mr. Donald Manyala | - Research Officer II         |
| 5. Mr. Thomas Ogwel   | - Fiscal Analyst II           |
| 6. Mr. Ndemo Atunga   | - Searjeant At-Arms           |
| 7. Mr.Eugene Luteshi  | - Audio Recording Officer     |

**MIN.NO/NA/CII/2020/143: PRELIMINARIES**

The Chairperson called the meeting to order at ten o'clock followed by a word of prayer and thereafter a round of introductions.

**MIN.NO/NA/CII/2020/144: ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Hon.Annie Kibeh, MP and seconded by Hon.Godfrey Ososti,MP.

**MIN.NO/NA/CII/2020/145: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTING**

The confirmation of the minutes of the previous sitting was deferred to the next sitting.

**MIN.NO/NA/CII/2020/146: VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER**

Ms. Immaculate Kassait was nominated for appointment as the Data Commissioner by H.E the President pursuant to Section 6 of the Data Protection Act, 2019. She appeared before the Committee for vetting on **Wednesday 28<sup>th</sup> October 2020** at 10.00am. She was orally interviewed by the Committee under oath and responded to questions during the vetting as follows: -

**Personal Background**

1. She is Kenyan citizen of identity card number 20049697 and was born in 1977 in Thika, Kiambu County. She submitted an affidavit of name stating names including Immaculate Kassait.(Annexure 14)

**Education Background**

2. The Nominee is a holder of Executive Master in Business Administration from United States International University, awarded in 2016. She attained a Bachelors of Laws (LLB) degree from Makerere University which was awarded in 2002 a Post Graduate Diploma in Law from the Kenya School of Law awarded in 2007 and a Diploma in Legal studies from Kenya School of Professional Studies Government in 1997.
3. With regard to professional training and qualifications the Nominee has been awarded with certificates having completed various courses, some of which include; certificate in strategic Leadership Development from Kenya School of Government (KSG), Accrediting Facilitator at Bridging Resources in Democracy, Governance and Elections (BRIDGE) Secretariat, Women leadership forum at Centre for Corporate Governance, among others.
4. The Nominee sat for her Kenya Certificate of Secondary Education (KCSE) in 1994.

**Professional Associations**

5. The Nominee is a Member of Law Society of Kenya, The East African Law Society and Federation of Women Lawyers (FIDA-Kenya).

**Work Experience/Career Progression**

6. In terms of work and professional progression, the Nominee is currently serving as Director Voter Education Partnerships and Communication, at the Independent Electoral and Boundaries Commission (IEBC) from January 2019 to date. Previously, she served as the Director Voter Registration and Electoral Operations at IEBC between January 2010 and December 2018.
7. The Nominee also served as Program Manager/ Team leader Electoral Process at the Institute for Education in Democracy (IED) between November 2005 and December 2009. Prior to that she was a program officer Women Rights Advocacy, Awareness and Monitoring at FIDA Kenya from 2002 to 2005.

**Honours and Awards**

8. She was awarded Moran of the Burning Spear (MBS) by the President of the Republic of Kenya in 2017.

9. The Nominee was also awarded the most outstanding member of Staff of FIDA Kenya in 2003; Most Outstanding member, Makerere Kenyan University Student Association (MUKESA) in 2002; and Uongozi Leadership Programme, Leader of the Year at St. Patrick Youth Makerere Contest, 2001.

**Potential conflicts of interests**

10. The Nominee stated that she has no immediate associations that are likely to present potential conflict of interest when she assumes the position.

**Clearance Requirement**

11. The Committee confirmed that the Nominee had been cleared by KRA, ORPP, DCI EACC and HELB having obtained clearance certificates to that effect.

**Public Office, Political Activities and Affiliation**

12. The Nominee submitted that she has held positions in public offices as highlighted under the section on work and professional experiences.
13. On political affiliations the Nominee, indicated that she is not an official in any registered political party, which position was confirmed by the Registrar of Political Parties vide letter dated 21<sup>st</sup> October, 2020.

**Suitability for appointment**

14. On her suitability to serve as Data Commissioner, the Nominee confirmed with a Masters degree and a Bachelors in Law degree which are basic requirements for appointment to the Office of the Data Commissioner. The Nominee further informed that her experience and achievements as a Director at the IEBC had equipped her with the requisite skills needed to confidently serve as of the Data Commissioner if so appointed. She highlighted the following as her key achievements: -
  - i. The Nominee averred that she was the team leader in the development of voter registration strategy that saw the historic registration of 14.3 million Kenyans using bio-metric technology in November and December 2013: and 12.4 million voters during the 2010 referendum;
  - ii. Served as the team leader Elections Operations, that saw the development and implementation of the two-year operation plan for the 2017 General Elections;
  - iii. Oversaw the successful conduct of the historic six elections in less than one year.
  - iv. Development of various publications and papers notably the Frequently Asked Questions (FAQ) which were key in effective and efficient management of Elections.
  - v. Provided leadership in the implementation of voter registration plan that increased the number of registered voters from 14.3 million to 19.6 Million.

**Integrity**

15. The Nominee stated that she has not been dismissed or otherwise removed from office for contravening the provisions of Article 75 of the Constitution. She had also not been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties. She informed the Committee that she has fully complied with her tax obligations to the State for the financial year immediately preceding her nomination for the appointment as evidenced by the Tax Compliance Certificate issued by Kenya Revenue Authority.

### **Public trust and confidence in data**

16. Arising from the concerns that were raised on the management of data during the 2013 and 2017 general elections, the Nominee stated that she was not criminally culpable and therefore this does not impair her suitability for the job.
17. She informed the Committee that she will institute a robust stakeholders' engagement in various aspects of data protection to enhance the public trust. Further, she affirmed her resolve to develop and operationalize a service charter that ensures effective and efficient public service delivery.

### **Enforcement of Protection of personal data including Huduma Number**

18. The Nominee submitted to the Committee that she will ensure that personal data is protected as provided for in the data protection Act 2019. Further, she stated that she will develop relevant regulations in collaboration with the relevant stakeholders to enhance the legal framework in protection of personal data. These regulations will be on key areas of registration, encryption, backing-up, uploading, processing of data for the intended purpose and ensuring that a release protocol is in place.
19. Furthermore, the Nominee indicated that there has been a considerable misuse of data collected by CCTV footages due to lack of regulatory framework to curb the misuse of the footages. She further said that in the event there is breach of such data then the Data Protection Act, 2019 has a provision that addresses breach of personal data.
20. The Nominee stated that the Office of the Data Commissioner will need a high level of innovation with very clear timelines and processes that deter contraventions of prescribed standards in data protection.

### **Establishment of an effective Data Protection Office**

21. The Nominee informed the Committee that if appointed as the Data Commissioner, she will endeavour to create synergies with stakeholders in government and private sector by engaging them to facilitate the setting up of the office. She further underscored the need to have a supportive budgetary allocation to facilitate the execution of the office mandate.
22. Under human resource, the Nominee indicated that she will engage the right personnel with the right skills-set and experience for the success of the office. In addition, she stated how she intends to put in place procedures and processes on efficient and effective operations of the office such as the areas of handling of complains, documentations and development of service charter.

### **The Independence of the office of the Data Protection**

23. In response to the concern of any possible interference by other government authorities, the Nominee affirmed her commitment to follow the provisions of the notification and communication of breach as provided for in the Data Protection Act, 2019 in executing her mandate in an objective manner.
24. The Nominee affirmed that she will not be under directions of any other office and that she will exercise full independence as has been the case with her previous engagement at IEBC.
25. The Nominee urged the Committee to enact legislations that will enhance the independence of the Office of the Data Commissioner progressively so that in future, it can be delinked from the line Ministry.



**Dealing with International players in Data Management and transfer such as Twitter, Facebook, Google among others**

26. The Nominee submitted that the regulation of the international data controllers and processors especially those that are not registered in Kenya is clearly provided for in the Data Protection Act 2019.
27. The Nominee expressed her commitment to strictly enforce the existing provisions on conditions for transferring data outside Kenya. Further, the Nominee pointed out that any identified legislative gap shall be filled through development of necessary regulations and policies.

**How to spur digital economy**

28. The Nominee demonstrated how personal data protection contributes to economic growth and development. She noted that such protection is key in encouraging innovations among the youth and boosting both local and foreign investor's confidence. In addition, she pointed out that data protection increases the compliance level of the Multinational companies and thereby generates positive socio-economic impacts. She also illustrated how cybercrime leads to substantial economic loss, a menace she was optimistic that effective data protection will curtail.

**Sources of Income and Net-worth**

29. The Nominee submitted that her sources of income during the calendar year preceding his nomination and the current calendar year comprise of: -
  - a. Gross salary and allowances of Ksh 17,663,227.00 (for two years)
  - b. Tiaty Honey Enterprises Kshs. 30,000/= per month
  - c. Dividends from Saccos Kshs. 390,000/= annually
  - d. Rental from Matrimonial property Kshs. 54,000/=
  - e. Monthly, Allowance from spouse Kshs. 100,000/=
  - f. BRIDGE Facilitator consultancy fee. Kshs. 720,000/= Once.

She estimated her financial net worth at **Kshs. 42, 611,067.**

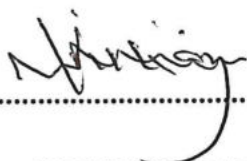
**MIN.NO/NA/CII/2019/147: ANY OTHER BUSINESS**

The Committee was informed that the report writing retreat on the vetting of the nominee for appointment as the Data Commissioner was scheduled from Thursday 29<sup>th</sup> to Saturday 31<sup>st</sup> October 2020 in Kiambu County.

**MIN.NO/NA/CII/2019/148: ADJOURNEMENT**

There being no other business, the meeting was adjourned at fifteen minutes past twelve o'clock

SIGNED.....



DATE.....

02/11/2020

HON.WILLIAM KISANG, MP

- CHAIRPERSON



**MINUTES OF THE 36<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION & INNOVATION HELD IN THE BOARDROOM ON 6<sup>TH</sup> FLOOR AT HILTON GARDEN INN HOTEL ON THURSDAY 29<sup>TH</sup> OCTOBER 2020 AT 10.00AM**

---

**PRESENT**

- |                                      |                           |
|--------------------------------------|---------------------------|
| 1. Hon. William Kipkemoi, M.P.       | <b>-Chairperson</b>       |
| 2. Hon. Jane Wanjuki Njiru, M.P.     | <b>-Vice- Chairperson</b> |
| 3. Hon. Joshua Kimilu Kivinda, M.P   |                           |
| 4. Hon. Jonah Mburu, M.P             |                           |
| 5. Hon. Anthony Githiaka Kiai, M.P   |                           |
| 6. Hon. Erastus Nzioka Kivasu, M.P   |                           |
| 7. Hon. Godfrey Osotsi Atieno, M.P   |                           |
| 8. Hon. Anthony Oluoch, M.P.         |                           |
| 9. Hon. Alfah O. Miruka, M.P         |                           |
| 10. Hon. Maritim Sylvanus, MP        |                           |
| 11. Hon. Annie Wanjiku Kibeh, M.P    |                           |
| 12. Hon. Marwa Kitayama Maisori, M.P |                           |
| 13. Hon. Victor Munyaka, MP          |                           |
| 14. Hon. Innocent Momanyi Obiri, M.P |                           |

**APOLOGIES**

1. Hon. Mwambu Mabongah, M.P
2. Hon. Mwangaza Kawira, M.P
3. Hon. Gertrude Mbeyu Mwanyanje, M.P
4. Hon. George Theuri, M.P
5. Hon. (Eng.). Mark Nyamita, M.P

**THE SECRETARIAT**

- |                       |   |                             |
|-----------------------|---|-----------------------------|
| 1. Mr. Daniel Mutunga | - | Principal Clerk Assistant I |
| 2. Ms. Ella Kendi     | - | Clerk Assistant II          |
| 3. Mr. Douglas Katho  | - | Clerk Assistant II          |
| 4. Mr. Donald Manyala | - | Research Officer II         |
| 5. Mr. Thomas Ogwel   | - | Fiscal Analyst II           |
| 6. Mr. Ndemo Atunga   | - | Searjeant At-Arms           |
| 7. Mr. Eugene Luteshi | - | Audio Recording Officer     |
| 8. Mr. Steve Omunzi   | - | Office Assistant            |

**MIN.NO/NA/CII/2020/148: PRELIMINARIES**

The Chairperson called the meeting to order at fifteen minutes past ten o'clock followed by a word of prayer.

**MIN.NO/NA/CII/2020/149: ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Hon. Alfa Miruka, MP and seconded by Hon. Jonah Mburu, MP.

**MIN.NO/NA/CII/2020/150: CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTING**

The confirmation of the minutes of the previous sitting was deferred to the next sitting agenda was deferred.

**MIN.NO/NA/CII/2020/151: CONSIDERATION AND ADOPTION OF THE REPORT ON VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER**

The Committee considered the draft report, made changes and adopted it with the following observations and recommendations having been proposed by Hon. Jonah Mburu, MP and seconded by Hon. Erastus Kivasu,MP.

**Committee Observations**

1. The Committee having considered the Nominee's curriculum vitae, filled questionnaire, memoranda from the public and oral submissions made by the Nominee during the approval hearing, it made the following observations and findings; That the Nominee, Ms. Immaculate Kassait:-

- (i) is a Kenyan citizen born on 1<sup>st</sup> May 1977 in Kiambu County;
- (ii) holds a Bachelor of Laws (LLB) from Makerere University, a Post Graduate Diploma in Law from the Kenya School of Law and an Executive Master in Business Administration (EMBA) from the United States International University, which are pre-requisite for appointment as a Data Commissioner in line with Section 7 of the Data Protection Act, 2019;
- (iii)has work experience spanning to over seventeen (17) years in various senior management positions including positions held at IEBC and Institute for Education in Democracy, in line with the requirements on knowledge and relevant experience of not less than ten years as espoused under Section 7(1)(b) of the Data Protection Act, 2019;
- (iv)was cleared by Ethics and Anti-Corruption Commission, on integrity, Kenya Revenue Authority on Tax Compliance, Directorate of Criminal Investigation on her criminal status, Office of the Registrar of Political Parties on holding any office in a political party, and the Higher Education Loans Board on the payment of her education loan in line with Chapter 6 of the Constitution of Kenya;
- (v) has no potential conflict of interest thus complying with the provision of Article 75(1) of the Constitution;
- (vi)does not intend to participate in any other gainful employment during his tenure as a Data Protection Commissioner in compliance to the requirements of Article 77(1) of the Constitution;
- (vii) does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- (viii) has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (conflict of interest), Article 76 (financial probity), Article 77 (restriction on activities of State Officers) and Article

78(2) (dual citizenship) of the Constitution and is therefore fit to hold office as Data Commissioner; and ,

(ix) has exhibited immense knowledge on policy issues, governance, technical matters relating to data protection, global trends and best international practices in data processing & protection and has vast experience in public service. Further her experience in voter registration and stakeholder engagement affirms her suitability for appointment as Data Commissioner.

2. The Nominee had been ranked at the first position by the Public Service Commission's recruitment panel that interviewed her with a score of 80.1%.
3. The Committee considered the memorandum and the Nominee's response and observed that ICJ had not demonstrated the Nominee's personal culpability as the issues raised in their memorandum did not directly implicate her in her personal capacity but squarely implicated corporate standing of the IEBC.
4. The former Chairman of IEBC Kenya , Mr. Ahmed Isaack Hassan and Ms. Anne W. Ileri, the Executive Director of FIDA-Kenya in their memoranda supported the appointment of the Nominee as they lauded her competency, dedication, and requisite skills- set that had enabled her to carry out her previous assignments and affirmed her suitability and capability to serve as the Data Commissioner.

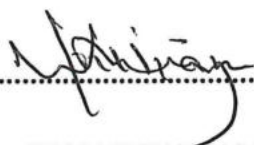
#### **Committee Recommendation**

Having conducted the approval hearing of the Nominee pursuant to Section 6(4) of the Data Protection Act, 2019, Sections 8(1) of the Public Appointments (Parliamentary Approval) Act (No.33 of 2011) and the National Assembly Standing Order 45(4) to determine the Nominee's suitability for the appointment to the Office of the Data Commissioner, **the Committee recommended that the House approves the nomination of Ms. Immaculate Kassait, MBS for appointment as Data Commissioner by His Excellency the President of the Republic of Kenya.**

#### **MIN.NO/NA/CII/2019/152: ADJOURNEMENT**

There being no other business, the meeting was adjourned at thirty-two minutes past twelve o'clock. It was resolved the next meeting to be held at 2.30pm.

SIGNED.....



DATE.....

02/11/2020

HON. WILLIAM KISANG, MP -

CHAIRPERSON



**ANNEXURE 1**

**NOTIFICATION FROM THE APPOINTING  
AUTHORITY, H.E THE PRESIDENT**







Directorate of Legislative &  
Procedural Services (NA)  
The Table Office

## MEMO

TO : DIRECTOR, COMMITTEE SERVICES (NA)  
FROM : HEAD OF TABLE OFFICE DEPARTMENT  
DATE : TUESDAY, OCTOBER 13, 2020  
SUBJECT : MESSAGE FROM H.E. THE PRESIDENT

---

The following message from the H.E the President was Speaker conveyed by the Speaker to the House today **Tuesday, October 13, 2020 (Afternoon Sitting)**: -

- **Message on the Nomination of Person for Appointment as the Data Commissioner.** (*Referred to the Departmental Committee on Communication, Information, and Innovation*)

Enclosed herewith please, find the said Message, together with the Curriculum Vitae and Testimonials of the Nominee for your necessary action.

R. K. TIAMPATI

Copy: Clerk of the National Assembly  
Deputy Clerks  
Director, Legislative & Procedural Services  
Chief Librarian/Deputy Director, DDIRS

(Encls).

HENTON KINA  
TALA KENO I  
Please process  
for vetting  
FOA  
14/10/20





**REPUBLIC OF KENYA**



**TWELFTH PARLIAMENT (FOURTH SESSION)**

**THE NATIONAL ASSEMBLY**

**MESSAGES**

**MESSAGE FROM THE PRESIDENT**

\_\_\_\_ (No. 08 of 2020) \_\_\_\_

**ON THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER**

**Honourable Members,**

Pursuant to the provisions of Standing Order 42(1) of the National Assembly Standing Orders, I wish to report to the House that I have received a Message from His Excellency the President seeking the National Assembly's approval for the appointment of **Ms. Immaculate Kassait** as the **Data Commissioner**, in accordance with the provisions of section 6(4) of the Data Protection Act, 2019, as read together with section 5 (1) of the Public Appointments (Parliamentary Approval) Act, 2011.

**Honourable Members,** section 6(4) of the Data Protection Act, 2019, requires the President to nominate, and with approval of the National Assembly, appoint the Data Commissioner. Further, section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011, provides that -

*"Unless otherwise provided in any law, a Committee shall consider a nomination and table its report in the relevant House for debate and decision within fourteen days from the date on which the notification of nomination was given in accordance with section 5."*

**Honourable Members,** Pursuant to the provisions of Standing Order 45, I hereby refer this Message, together with the *Curriculum Vitae* of the Nominee to the Departmental Committee on Communication, Information and Innovation to undertake the necessary approval hearings and Table its Report to enable the House to consider the matter within the statutory timelines. The Committee is therefore advised to expeditiously proceed to notify the nominee and the public and thereafter commence the approval hearings. Noting that the fourteen days period within which the Committee is expected to consider the nominee and Table its Report for debate will lapse during the period of the short recess, the Committee is at liberty to seek extension of time for consideration of the nominee in accordance with the provisions of section 13(1) of the Public Appointments (Parliamentary Approval) Act, 2011.

**I thank you!**

A handwritten signature in black ink, appearing to read 'Justin B.N. Muturi', is written over a horizontal line. The signature is stylized and somewhat cursive.

**THE HON. JUSTIN B.N. MUTURI, EGH, MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

Tuesday, October 13, 2020



**NATIONAL ASSEMBLY  
RECEIVED**  
07 OCT 2020  
SPEAKER'S OFFICE  
P. O. Box 41842, NAIROBI.

**THE PRESIDENCY  
EXECUTIVE OFFICE OF THE PRESIDENT  
HEAD OF THE PUBLIC SERVICE**

Telegraphic Address  
Telephone: +254-20-2227436  
When replying please quote

STATE HOUSE  
P.O. Box 40530-00100  
Nairobi Kenya

**OP/CAB. 1/40A**

Ref. No. ....  
and date

October, 2020  
9/10/2020 20.....

*Handwritten notes:*  
② DL & P  
pse deal  
CNA

*Handwritten note:*  
① Noted. CNA to prepare the communication.  
BNA  
SNA

**Hon. Justin B. Muturi, EGH, MP**  
Speaker  
The National Assembly  
Parliament Road  
**NAIROBI**

Dear *Hon. Muturi*

**NOMINEE FOR APPOINTMENT TO THE POSITION OF DATA COMMISSIONER**

We refer to the above subject matter.

You are notified that **His Excellency the President** has in exercise of the powers conferred vide Section 6 (4) of the Data Protection Act (No. 24 of 2019), nominated **Ms. Immaculate Kassait**, for appointment to serve the nation in the position of the **Data Commissioner**.

In that regard and in full discharge of the requirements set out under Section 6(4) of the Data Protection Act (No. 24 of 2019), as read together with Section 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), I hereby forward to the National Assembly, His Excellency's nominee for consideration by the August House.

To aid the National Assembly in its consideration and approval process we convey herewith the Nominee's Curriculum Vitae.

Yours *Swigereh*  
*Joseph K. Kinyua*

**JOSEPH K. KINYUA, EGH  
HEAD OF THE PUBLIC SERVICE**

**Copy to: Mr. Michael Sialai, EBS**  
Clerk of the National Assembly  
The National Assembly  
Parliament Building  
**NAIROBI**

**NATIONAL ASSEMBLY  
RECEIVED**  
08 OCT 2020  
CLERK'S OFFICE  
P. O. Box 41842, NAIROBI



59

Zimbra

datacommissioner2020@publicservice.go.ke

---

**RE: Application for the Position of Data Commissioner**

---

**From :** immaculate njenge-Kassait  
<ikassait@gmail.com>

Mon, Aug 31, 2020 08:20 AM

📎 17 attachments

**Subject :** RE: Application for the Position of Data  
Commissioner

**To :** datacommissioner2020@publicservice.go.ke

Dear Sir,

Attached please find my application for the aforementioned position.

Looking forward to a positive response.

Kind Regards

**Immaculate Kassait, MBS,  
Advocate of the High Court,  
BRIDGE Trainer and Elections Expert.**







---

## CURRICULUM VITAE

MRS. IMMACULATE KASSAIT, MBS

---

---

P.O Box 7867-00100

Nairobi, Kenya

Cell phone: +254-723826178

Email: [muringo\\_njenge@yahoo.com](mailto:muringo_njenge@yahoo.com) /  
[ikassait@gmail.com](mailto:ikassait@gmail.com)

Nationality: Kenya

Date of Birth: 1<sup>st</sup> May 1977

Gender: Female

Languages: English & Kiswahili

Marital Status: Married

## Summary Experience

A public reform leader and a lawyer and Advocate of the High Court of Kenya and is of good standing. She has more than sixteen (16) years of experience in both public and private sector organizations. She has exceptional record of accomplishment in managing elections, a Building Resources In Democracy Governance and Elections (BRIDGE) facilitator. She is currently the Director Voter Education Partnerships and Communication at the Independent Electoral and Boundaries Commission (IEBC). She previously held the position of Director Voter Registration and Electoral Operations at IEBC. She was Manager Electoral Process Programme at the Institute for Education in Democracy (IED) and worked at Federation of Women Lawyers (FIDA Kenya) as a Programme Officer in Women's Rights and Advocacy Programme where she represented FIDA.

## Awards & Honors

- Moran Of the Burning Spear (MBS), Presidential Award, 2017
- Most outstanding member of Staff FIDA Kenya, 2003
- Most outstanding member Makerere Kenyan University Student Association (MUKESA), 2002
- Uongozi Leadership Programme; Leader of the Year- St Patrick Youth Makerere Contest, 2001

## Personal Values

- Professional integrity & transparency,
- Stewardship & accountability
- Teamwork

## Academic Qualifications

- Executive Master in Business Administration (EMBA) – 2016, United States International University Africa (USIU)
- Post Graduate Diploma In Law – 2007, Kenya School of Law
- Undergraduate in Law (LLB) – 2002, Makerere University
- Diploma in Legal Studies – 1997, Kenya School of Professional Studies

## Professional Training and Qualifications

Selected professional training and qualifications are summarized below.

Institution	Year	Qualification
BRIDGE Secretariat	Feb 2020	Accrediting Facilitator
Kenya School of Government	Sep-October 2014	Certificate in Strategic Leadership Development Course (SLDP)
Kenya School of Government	September 2014	Certificate in Performance Management
Harvard Business School	May 2012	Certificate for attending the

Curriculum Vitae – Immaculate Kassait, MBS

Centre For Corporate Governance	November 2011	Women Leadership Forum
International IDEA	April 2011 (Nairobi)	Corporate Governance Training Course
PACT Kenya (USAID)	July 2008	Semi accreditation for Democracy and Governance BRIDGE Advocacy
International IDEA	July 2008 (Dakar)	Fully accredited BRIDGE facilitator
International IDEA, and the Independent Electoral Commission of South Africa	May 2007 (South Africa)	Bridging Resources in Democracy, Governance and Elections (BRIDGE) Facilitator
Canadian Human Rights Foundation (Equitas)	June-July 2005	Course on Human Rights based approach to development
FIDA Kenya	2003	Results Based Management for Programming
FIDA Kenya	2003	Gender mainstreaming

Professional Societies

- The Law Society of Kenya
- Federation of Women Lawyers (FIDA-Kenya) – Member

Employment History

Date & Employer	Role Summary
January 2019 to Date: Director Voter Education Partnerships and Communication	Responsible for overseeing the effective and efficient execution of Commission voter education, civic education and promoting a culture of democracy. The job holder is also responsible for overseeing the coordination of national and international partnerships. Other key responsibilities include:
Independent Electoral and Boundaries Commission (IEBC)	<ul style="list-style-type: none"> <li>• Oversee the coordination of national, regional and international partnerships</li> <li>• Develop voter education and civic education policies and strategies.</li> <li>• Oversee the development and implementation of a national voter education curriculum.</li> <li>• Develop accountability structures, review voter education and partnership reports and monitor the performance indicators for the voter education and partnership departments.</li> <li>• Ensure the directorate is adequately resourced by professional and competent personnel</li> <li>• Oversee the development of a criteria for civic/voter education providers and accreditation of such providers, their training and</li> </ul>

facilitate voter education collaborators.

- Oversee the development of voter education quality control measures and ensure timely execution.
- Develop resource mobilization strategies and advise management on complementary funding opportunities for civic/voter education.
- Overseeing the implementation of the Commission mandate on conducting continuous voter registration and conducting elections;
- Liaise with government and civil society institutions to facilitate voter education and civic education, liaise with the media and other Commission Directorates in implementing voter education.
- Oversee the development of information, education and communication materials and national voter education campaigns and programmes.
- Oversee the facilitation of regional voter education and civic education programmes.
- Advise the Commission on innovative strategies for voter education, civic education and promotion of democracy.
- In liaison with ICT directorate, develop effective, reliable and secure internal communication systems; and responsible for management of Commission website and media.
- Develop and implement internal and external communication policies, strategies plans and protocols.

January 2010 to  
December 2018:  
Director Voter  
Registration and  
Electoral  
Operations

Independent  
Electoral and  
Boundaries  
Commission (IEBC)

Responsible for planning, budget development and implementation of electoral process strategies and oversee development of specifications of all elections items and initiating requisitions. The role also includes oversight in the logistics and the distribution of all elections materials to 44,000 polling centers. As a director, she supervises three managers, 47 counties and 290 Constituency Coordinators. Other key responsibilities include:

- Overseeing the implementation of the Commission mandate on conducting continuous voter registration and conducting elections;
- Overseeing the effective and efficient voter registration, electoral operations, logistics and electoral training and managing and coordinating the Commission regional offices in implementation of voter education and elections;
- Leading development and overseeing implementation of planning and logistics, training, and voter registration strategies and work plans to enable commission to implement its mandate;
- Management and supervision of staff under the directorate;
- Conducting performance management, evaluation of directorate and field staff;
- Supervision of regional offices, which includes timely services delivery, operational efficiency and monitoring performance;
- Providing technical advice and input on electoral matters at inter-ministerial forum with the judiciary, police and civil society.

Key Achievements:

- Team leader Elections operations that saw the development and implementation of the two-year operation plan for the 2017 General Elections;
- Provided leadership in the implementation of Voter Registration plan that increased the numbers of Registered Voters from 14.3 to 19.6 Million;
- Directing the review and development of all training manuals for elections officials during registration and General Elections in 2017;
- Overseeing the development of specifications for all elections materials, which guided the procurement of all materials;
- Overseeing the development and implementation of training strategy of over 350,000 elections officials;
- Team leader in the development of voter registration strategy that saw the historic registration of 14.3 Million Kenyan using Biometric Technology in Nov-December 2013;
- Training of over 200,000 elections officials in three weeks;
- Overseeing the successful conduct of historic 6 elections in less than one year a phenomenon that has not happened anywhere in the world;
- Team leader delimitation of 290 Constituency Boundaries, 1450 County Assembly Wards;
- Team leader registration of 12.4 million voters during the 2010 referendum
- Programme management including conceptualisation, design, co-ordinating and implementation, monitoring, evaluation and reporting;
- Designing gender responsive monitoring and evaluation tools for collecting gender disaggregated data;
- Networking with other stakeholders including government agencies, Electoral Management Bodies and other stakeholders involved in governance for the benefit of IED;
- Monitoring programme budgets and expenditure in accordance with established guidelines.

November 2005 to  
December 2009:  
Program  
Manager/Team  
leader Electoral  
Process

Institute for  
Education in  
Democracy (IED)

Key Achievements

- Supervising the recruitment, training of observers on electoral laws and regulations and deployment of over 1000 elections observers during elections;
- Contributing to the review and Consolidation of Electoral Laws, which culminated in the IEBC and Elections Act 2011;
- Successfully implemented regular update of news, articles and research on elections on the Administration of Elections Network (ACE) Regional Centre Project (which is the largest on-line reservoir of information on election).
- Member of the team that developed Strategic Plans for three political parties in Kenya;

2002 to 2005  
Programme Officer  
Women Rights  
Advocacy,  
Awareness and  
Monitoring

- As a team leader set up of a Domestic Observation Programme in the Solomon Islands in the Australian sub-continent under the Commonwealth Secretariat
- Designed and implemented of programmes on women rights and governance;
- Capacity building for Government departments, Members of Parliament and Civil Society Organizations on Gender mainstreaming;
- Programme management including planning, implementation, monitoring and evaluation;
- Represented FIDA Kenya in forums held nationally, regionally and internationally;
- Developed and designed advocacy materials on women's rights under international treaties;
- Coordinating activities for the campaign on Safeguarding Women's Gains in the draft constitution during the Constitution Review Process in 2003-2005.

#### Key Achievements

- Team leader campaign on safeguarding women gains in the draft constitution
- Team leader compilation of the FIDA Kenya 2004 Annual report on women rights monitoring in Kenya.

OTHER SHORT-TERM ASSIGNMENTS

	Brief Description
August 2019	<ul style="list-style-type: none"> <li>• Presenter at the LSK Annual Conference “embracing technology in elections; case study of Kenya”</li> </ul>
June 2019	<ul style="list-style-type: none"> <li>• Presenter at ID4 Africa conference Johannesburg “Can the Legal Framework in Tallying and Transmission of Result Substitute Trust? A case study of Kenya “</li> </ul>
April- 2019	<ul style="list-style-type: none"> <li>• Facilitated a BRIDGE TtF workshop for Independent Electoral Commission of Somali as UNDP Consultant</li> </ul>
March- 2019	<ul style="list-style-type: none"> <li>• Facilitated a BRIDGE on Media Module</li> </ul>
September 2018	<ul style="list-style-type: none"> <li>• Lead facilitator for a BRIDGE workshop on Post elections Activities</li> </ul>
May- August 2018,	<ul style="list-style-type: none"> <li>• UNDP Consultancy – Facilitating BRIDGE workshops for Independent Electoral Commission of Somali</li> </ul>
April- 2018	<ul style="list-style-type: none"> <li>• Facilitated a BRIDGE on Voter Education Module</li> </ul>
June-July 2011	<ul style="list-style-type: none"> <li>• Facilitated a BRIDGE workshop on Voter Registration in Pretoria, South Africa hosted by International IDEA</li> </ul>
March-April 2011	<ul style="list-style-type: none"> <li>• Part of the technical committee involved in the drafting of a policy for Election Management Bodies in the East Africa region and guidelines for observation</li> </ul>
November 2011	<ul style="list-style-type: none"> <li>• Undertook a rapid needs assessment to Southern Sudan on behalf of the government</li> </ul>
June-August 2009	<ul style="list-style-type: none"> <li>• Member of the technical committee for the National Conference on Electoral Reform and induction for the Interim Independent Electoral Commission (IIEC) and Interim Independent Boundary Review Commission (IIBRC).</li> </ul>
May 2009	<ul style="list-style-type: none"> <li>• Acting Director Institute for Education in Democracy</li> </ul>
July 2007	<ul style="list-style-type: none"> <li>• A member of the Kenya Domestic Observation Forum (KEDOF) Technical Board</li> </ul>

Papers & Publications

- 1) “Challenges in the Electoral Dispute Management Process in Kenya” Research paper by Immaculate M Kassait United States International University (Unpublished)
- 2) “Affirmative Action under New Constitution: Challenges and Opportunities” FIDA Kenya 2012 Annual report.
- 3) “Wakenya Tuko Chonjo Kenyans are Watching KEDOF: Administrative Framework for elections Observation Report.
- 4) “Do We Have Adequate Regulations for Campaigns and Electoral Dispute Resolution or is it That Our Institutions of Governance Have Simply Failed Us?” A Paper Presented to the Independent Review Commission During A Technical Workshop Held On 11th August 2008 At KICC.
- 5) Step By Step Backwards or Forward the revised 2003 FIDA Kenya Annual Report ‘The Constitution; A new Legal Landscape for Women’s Rights’ A Historical Background;
- 6) Women at Cross Road FIDA Kenya 2004 Annual report ‘a new Constitution for Kenyans: An empty promise?’
- 7) Perspectives on Gender Discourse Transitional Justice in Kenya 4/04 Heinrich Boll Foundation and Horn of Africa Region ‘The Kenya Transitional Justice Process; Witch-Hunt or True Democracy?’

Referees

1. Marjan Hussein Marjan,  
Ag. Commission Secretary /CEO  
Independent Electoral and Boundaries Commission (IEBC),  
Mobile Tel: +254 717 524 402  
Email: [hmarjan@iebc.or.ke](mailto:hmarjan@iebc.or.ke)

2. Tomsie Dlamini,  
Elections Specialist,  
UNDP Somali,  
Mobile Tel: +252 617885580  
Email: [tomsie.priscilla.dhlamini@undp.org/](mailto:tomsie.priscilla.dhlamini@undp.org/)

3. Ahmed Isaack Hassan  
Elections Expert and Former Chairperson IEBC,  
Mobile Tel: +254(0)706 111 114  
Email: [ahmedissack786@gmail.com](mailto:ahmedissack786@gmail.com)

4. Ann Nderitu,  
Ag. Registrar of Political Parties -Kenya  
Mobile Tel: +254 727 419 965  
Email: [nderitu.ann@gmail.com](mailto:nderitu.ann@gmail.com)



**ANNEXURE 2**

**ADVERTISEMENT INVITING SUBMISSIONS  
OF MEMORANDA FROM THE PUBLIC**



Roaming danger. Elephants raid farm



**Prison break.** Wardens at the Manyatta Maximum Security Prison passers the damage caused by stray elephants at the facility's farm on the Nairobi-Mombasa highway yesterday. The animals left extensive destruction at the institution located inside the Tsavo West National Park. (Jenson Kinyamwezi-Standard)

**Graft.** The public encounter corruption as they seek government services

# Counties top list of corrupt institutions

**Study indicts public officers for embezzlement, bribery, abuse of office, nepotism discrimination and looting.**

By Wilfred Ayaga  
wayaga@standardmedia.co.ke

A study has revealed that the public consider the National Police Service, county governments and Ministry of Health the most corrupt institutions.

The study by the National Crime Research Centre also cited the ministries of Interior, Education, Lands, National Registration Bureau, Judiciary, National Government Constituency Development Funds (NG-CDF), office of Member of County Assembly and the governor's office as other corrupt institutions.

Others were the National Assembly and Senate. According to the study, the public encountered corruption in these offices as they sought public services.

"The public and public officials were further asked whether there was corruption in specific arms of government with reference to the Executive, the county executive, the National Assembly, the Senate, the county assembly and the Judiciary. The findings show that majority of the public perceived that there was corruption in all the arms of government," states the report tabled in the National Assembly last week.

**Abuse of office**

On the National Assembly and Senate, the public believe that the members are involved in embezzlement of funds, bribery, abuse of office, nepotism and discrimination.

Top counties where residents experienced corruption 12 months prior to the release of the report were Elgeyo Marakwet, Nandi, Makueni, Embu and Machakos. The bottom counties were Siaya, Wajir, Tana River, Kisii, Tharaka Nithi, Turkana and Nyamira. According to the report, public

officers engage in corruption because of greed, low wages, lack of respect for public office, emulating corrupt leaders, poor governance systems and impunity.

The report quoted a key informant who said that, "poverty, greed and selfishness are important factors in corruption. Also the public have developed a habit that if they do not pay something, they won't be served."

The public said they gave bribes due to urgency of services, poverty, culture of impunity, lack of information and fear of victimisation.

The public noted that most corruption cases were reported by politicians, but this was "suspicious".

County assemblies were cited for embezzlement, bribery, flouting procurement procedures nepotism and passage of defective laws.

The study recommended that key oversight institutions such as the Ethics and Anti-Corruption Commission undertake regular vetting and lifestyle audits of public officers.

REPUBLIC OF KENYA



NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT – FOURTH SESSION

In the matter of approval by the National Assembly of person nominated for appointment to the position of Data Commissioner

**NOTIFICATION FOR VETTING BY THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION OF PERSON NOMINATED FOR APPOINTMENT TO THE POSITION OF DATA COMMISSIONER**

Pursuant to the provisions of Section 6(4) of the Data protection Act, 2019 as read together with Section 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), His Excellency the President has nominated Ms. Immaculate Kassait for appointment to the position of Data Commissioner.

Pursuant to provisions of Article 118 of the Constitution and Section 6(4) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), 2011, the general public is hereby notified that the Departmental Committee on Communication, Information and Innovation shall conduct the vetting of the said nominee on Wednesday, 28<sup>th</sup> October, 2020. The approval hearing will be held in the Main Chamber, Main Parliament Buildings at 10.00 am.

The nominee should bring the originals of her identity card, academic and professional certificates and other relevant testimonials. In addition, the nominee should bring letters/certificate of clearance/compliance from the following:-

- (i) Ethics and Anti-Corruption Commission;
- (ii) Kenya Revenue Authority;
- (iii) Higher Education Loans Board;
- (iv) Directorate of Criminal Investigations;
- (v) Office of the Registrar of Political Parties; and
- (vi) Any of the Credit Reference Bureaus.

MICHAEL R. SIALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA



NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT – FOURTH SESSION

In the matter of approval by the National Assembly of person nominated for appointment to the position of Data Commissioner

**SUBMISSION OF MEMORANDA**

Pursuant to the provisions of Section 6(4) of the Data protection Act, 2019 as read together with Sections 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), His Excellency the President has nominated Ms. Immaculate Kassait for appointment to the position of Data Commissioner.

Following the receipt of the nomination from His Excellency the President, the Departmental Committee on Communication, Information and Innovation is mandated to vet, consider her suitability for appointment to the office and submit its report to the House for approval.

Pursuant to the provisions of Section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Committee invites interested members of the public to submit any representation by written statement on oath (affidavit) with supporting evidence contesting the suitability of the said nominee for appointment to the position of Data Commissioner.

The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Monday, 26<sup>th</sup> October, 2020 at 5.00 pm.

MICHAEL R. SIALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY

## 'Handshake' Raila wants a united team ahead of campaigns for the Building Bridges Initiative ODM makes peace with Obado

Chungwa House seeks reconciliation between embattled Migori governor and MCAs to calm tensions

BY JUSTUS OCHIENG  
AND IAN BYRON

After several fights with Migori Governor Okoth Obado, the Orange Democratic Movement has chosen to make peace with the shrewd politician.

Outwitted in its bid to oust the governor, the party now seeks to calm tensions in South Nyanza by bringing together all the local leaders. Chungwa House has summoned its 41 ward representatives in Migori to a meeting in Nairobi this Thursday aimed at reconciling the warring factions in the assembly.

The meeting comes barely a week after Mr Obado ignored another last week because "the notice was too short".

### County scandals

ODM National Chairman John Mbadi told the *Nation* that they had expected to discuss "a lot of issues, including reconciliation as suggested by the party leader".

"We will be meeting with all the MCAs on Thursday for updates



on what we agreed upon," ODM Secretary-General Edwin Sifuna told the *Nation*, adding that MCAs will have the final word on the impeachment motion.

The *Nation* has, however, established that the ward reps could be asked to abandon the drive "to

enhance harmony in the county", which would leave the party with egg on its face.

The party and its leader, Raila Odinga, had been accused of flip-flopping on the multibillion-shilling Kerna scandal and the reconciliation could raise

Migori Governor Okoth Obado addresses journalists at his Rapogi home on September 9. Mr Obado blamed his problems on a few ODM members who are allegedly determined to put him down. TONY MONDI | NATION

### MOVE AS ONE

Odinga: Our aim is to boost services

ODM party leader Raila Odinga promised to pacify the political tensions in Migori County following an emotive bid to impeach Governor Okoth Obado. The governor is facing corruption and murder charges. Mr Odinga wants Mr Obado to work with Migori Senator Ochillo Ayacko ahead of the Building Bridges Initiative campaigns.

"Our main focus is the BBI that seeks to improve services to Kenyans. We must avoid political sideshows that risk thwarting our agenda especially in Migori," Mr Odinga said on October 8. "I will have to bring the county leadership together so that we move as one formidable force."

queries on ODM's stand on graft. Political analyst Dismas Mokuia argues that ODM's anti-corruption credentials "are now sliding south".

"Raila will carry the graft baggage because of the handshake and his appetite of using the anti-corruption crusade as a political tool," said Mr Mokuia, adding that the Orange boss "has a high appetite for inflicting both pleasure and pain on political allies and foes".

### Ida's intervention

"It seems that Raila has inflicted sufficient pain on Obado to make him toe the line. The party made him dance to ODM beats and this serves as a lesson to any other folks who want to drive out of Raila's lane. Obado now appreciates the fact that life outside the ODM canopy is as good as kissing lions in the wild," he added.

For months, the governor was on a razor edge as ODM plotted his ouster. However, the impeachment drive could now be halted with help said to have come from Mr Odinga's family.

Party sources earlier told the *Nation* that the intervention of Ida Odinga and Dr Oburu Oginga would likely save Mr Obado's job.

The two reportedly brokered a truce between the governor and Chungwa House.

jiochieng@ke.nationmedia.com  
and Byronian4@gmail.com

REPUBLIC OF KENYA



### NATIONAL ASSEMBLY TWELFTH PARLIAMENT - FOURTH SESSION

In the matter of approval by the National Assembly of person nominated for appointment to the position of Data Commissioner

#### SUBMISSION OF MEMORANDA

Pursuant to the provisions of Section 6(4) of the Data protection Act, 2019 as read together with Sections 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), His Excellency the President has nominated Ms. Immaculate Kassalt for appointment to the position of Data Commissioner.

Following the receipt of the nomination from His Excellency the President, the Departmental Committee on Communication, Information and Innovation is mandated to vet, consider her suitability for appointment to the office and submit its report to the House for approval.

Pursuant to the provisions of Section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Committee invites interested members of the public to submit any representation by written statement on oath (affidavit) with supporting evidence contesting the suitability of the said nominee for appointment to the position of Data Commissioner.

The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Monday, 26<sup>th</sup> October, 2020 at 5.00 pm.

MICHAEL R. SIALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA



### NATIONAL ASSEMBLY TWELFTH PARLIAMENT - FOURTH SESSION

In the matter of approval by the National Assembly of person nominated for appointment to the position of Data Commissioner

#### NOTIFICATION FOR VETTING BY THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION OF PERSON NOMINATED FOR APPOINTMENT TO THE POSITION OF DATA COMMISSIONER

Pursuant to the provisions of Section 6(4) of the Data protection Act, 2019 as read together with Section 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), His Excellency the President has nominated Ms. Immaculate Kassalt for appointment to the position of Data Commissioner.

Pursuant to provisions of Article 118 of the Constitution and Section 6(4) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), 2011, the general public is hereby notified that the Departmental Committee on Communication, Information and Innovation shall conduct the vetting of the said nominee on Wednesday, 28<sup>th</sup> October, 2020. The approval hearing will be held in the Main Chamber, Main Parliament Buildings at 10.00 am.

The nominee should bring the originals of her identity card, academic and professional certificates and other relevant testimonials. In addition, the nominee should bring letters/certificate of clearance/compliance from the following:-

- (i) Ethics and Anti-Corruption Commission;
- (ii) Kenya Revenue Authority;
- (iii) Higher Education Loans Board;
- (iv) Directorate of Criminal Investigations;
- (v) Office of the Registrar of Political Parties; and
- (vi) Any of the Credit Reference Bureaus.

MICHAEL R. SIALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY

**NEWS GENERAL**

GONE WITHOUT A TRACE

# He has committed a crime, abductors told man's uncle

Men in police jackets ransacked the house, took vital documents and Abubakar's phone before his abduction on August 28

BRIAN OTIENO  
@Yobramos4



Abdulkareem Abubakar was walking home from the mosque after Isha prayers on August 28 when a group of about eight men grabbed him from behind.

They were clad in jungle green police jackets, had helmets and covered their faces with black clothes that looked like face-masks, eyewitnesses said.

The men, believed to be police officers, dragged Abubakar, 25, into their house in Magongo and ordered all the people inside to lie down.

The commotion that occurred when Abubakar was dragged into the house startled everyone in the sitting room, including his uncle Juma Musa.

"I saw Abu was half-naked and was bleeding from the face," Musa

said. He was narrating the ordeal to reporters at the Haki Africa offices on Sunday.

Musa said the men ransacked the house before taking passport photos of Abubakar.

"They took Abu's phone and some documents before they left."

Abubakar was then bundled into a double cabin pickup that had a blue number plate. Such plates are for parastatals.

The men had two other saloon cars which had no number plates.

After a few minutes, one of the men came back into the house, seemingly to assure the family members that they were not thugs.

"Mzee, stand up. We have taken your son. He has committed a crime," the man told Musa.

Musa said they have neither seen Abubakar nor heard from him since then. He has been reporting to the Changamwe police station, where they reported the matter, once every

week to check on the progress of the case. "We have got nothing concrete from the police," Musa said.

Abubakar worked at a Crown Faints depot in Changamwe as a casual labourer.

His father died last year and his mother is in Kendu Bay, Homa Bay county, their rural home.

Musa said Abubakar's phone went off three days after he was abducted.

"We are desperate to know the whereabouts of our son. We do not know whether he is alive or not," Musa said.

They looked for him in all police stations, hospitals and mortuaries at the Coast. Nothing yielded.

Haki Africa rapid response officer Mathias Shipeta said Kenya is a signatory to several international conventions that protect human rights and must do everything possible to protect human rights.

Shipeta said information about the existence of intelligence cooper-



Abdulkareem Abubakar who was abducted on August 28 /BRIAN OTIENO

ation between the Kenyan security forces and some foreign security agencies has been brought to his attention.

"If there exists such a partnership, then it should be guided by law," Shipeta said.


Declassified UK, a British organisation, published articles about the secret cooperation between the US, the UK and Kenyan security apparatus believed to be responsible for several renditions, killings and disappearances of terror suspects in night-time raids on the same day Abubakar was abducted.

The organisation claimed a clandestine Kenyan paramilitary team is being armed and trained by the American Central Intelligence Agency and British MI6 to take down terror suspects since 2004.

According to the organization, Britain's intelligence arm, MI6, plays a key role in identifying suspects for a 'kill or capture' list and finding and fixing their location.

On Sunday, Shipeta said it is against both Kenyan and international law to abduct a suspect and hold them for hours, days, weeks, or months incommunicado.

**REPUBLIC OF KENYA**



**THE NATIONAL ASSEMBLY**  
**TWELFTH PARLIAMENT – FOURTH SESSION**

---

In the matter of approval by the National Assembly of person nominated for appointment to the position of Data Commissioner

**SUBMISSION OF MEMORANDA**

Pursuant to the provisions of Section 6(4) of the Data protection Act, 2019 as read together with Sections 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), His Excellency the President has nominated Ms. Immaculate Kassait for appointment to the position of Data Commissioner.


Following the receipt of the nomination from His Excellency the President, the Departmental Committee on Communication, Information and Innovation is mandated to vet, consider her suitability for appointment to the office and submit its report to the House for approval.

Pursuant to the provisions of Section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Committee invites interested members of the public to submit any representation by written statement on oath (affidavit) with supporting evidence contesting the suitability of the said nominee for appointment to the position of Data Commissioner.

The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Monday, 26th October, 2020 at 5.00 pm.

**MICHAEL R. SIALAI, EBS**  
**CLERK OF THE NATIONAL ASSEMBLY**

**REPUBLIC OF KENYA**



**THE NATIONAL ASSEMBLY**  
**TWELFTH PARLIAMENT – FOURTH SESSION**

---

In the matter of approval by the National Assembly of person nominated for appointment to the position of Data Commissioner

**NOTIFICATION FOR VETTING BY THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION OF PERSON NOMINATED FOR APPOINTMENT TO THE POSITION OF DATA COMMISSIONER**

Pursuant to the provisions of Section 6(4) of the Data protection Act, 2019 as read together with Section 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), His Excellency the President has nominated Ms. Immaculate Kassait for appointment to the position of Data Commissioner.

Pursuant to provisions of Article 118 of the Constitution and Section 6(4) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), 2011, the general public is hereby notified that the Departmental Committee on Communication, Information and Innovation shall conduct the vetting of the said nominee on Wednesday, 28th October, 2020. The approval hearing will be held in the Main Chamber, Main Parliament Buildings at 10.00 am.

The nominee should bring the originals of her identity card, academic and professional certificates and other relevant testimonials. In addition, the nominee should bring letters/certificate of clearance/compliance from the following:-

- (i) Ethics and Anti-Corruption Commission;
- (ii) Kenya Revenue Authority;
- (iii) Higher Education Loans Board;
- (iv) Directorate of Criminal Investigations;
- (v) Office of the Registrar of Political Parties; and
- (vi) Any of the Credit Reference Bureaus.

**MICHAEL R. SIALAI, EBS**  
**CLERK OF THE NATIONAL ASSEMBLY**

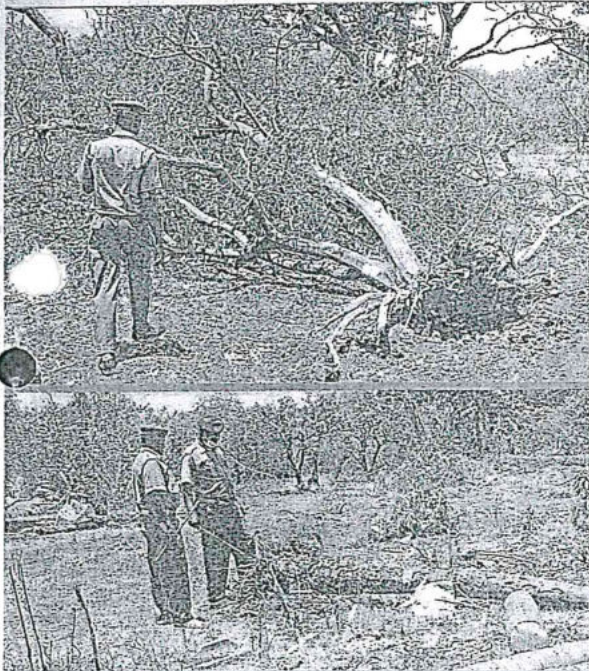


**ANNEXURE 3    ADVERTISEMENT NOTIFYING THE PUBLIC OF  
THE APPROVAL HEARING**





Roaming danger. Elephants raid farm



**Prison break.** Wardens at the Manyatta Maximum Security Prison assess the damage caused by stray elephants at the facility's farm on the Nairobi-Mombasa highway yesterday. The animals left extensive destruction at the institution located inside the Tsavo West National Park. (Renson Ninyamwezi-Standard)

**Graft.** The public encounter corruption as they seek government services

# Counties top list of corrupt institutions

Study indicts public officers for embezzlement, bribery, abuse of office, nepotism discrimination and looting.

By Wilfred Ayaga  
wayaga@standardmedia.co.ke

A study has revealed that the public consider the National Police Service, county governments and Ministry of Health the most corrupt institutions.

The study by the National Crime Research Centre also cited the ministries of Interior, Education, Lands, National Registration Bureau, Judiciary, National Government Constituency Development Funds (NG-CDF), office of Member of County Assembly and the governor's office as other corrupt institutions.

Others were the National Assembly and Senate. According to the study, the public encountered corruption in these offices as they sought public services.

"The public and public officials were further asked whether there was corruption in specific arms of government with reference to the Executive, the county executive, the National Assembly, the Senate, the county assembly and the Judiciary. The findings show that majority of the public perceived that there was corruption in all the arms of government," states the report tabled in the National Assembly last week.

**Abuse of office**

On the National Assembly and Senate, the public believe that the members are involved in embezzlement of funds, bribery, abuse of office, nepotism and discrimination.

Top counties where residents experienced corruption 12 months prior to the release of the report were Elgeyo Marakwet, Nandi, Makeni, Embu and Machakos. The bottom counties were Siaya, Wajir, Tana River, Kisii, Tharaka Nithi, Turkana and Nyamira.

According to the report, public

officers engage in corruption because of greed, low wages, lack of respect for public office, emulating corrupt leaders, poor governance systems and impunity.

The report quoted a key informant who said that, "poverty, greed and selfishness are important factors in corruption. Also the public have developed a habit that if they do not pay something, they won't be served."

The public said they gave bribes due to urgency of services, poverty, culture of impunity, lack of information and fear of victimisation.

The public noted that most corruption cases were reported by politicians, but this was "suspicious".

County assemblies were cited for embezzlement, bribery, flouting procurement procedures nepotism and passage of defective laws.

The study recommended that key oversight institutions such as the Ethics and Anti-Corruption Commission undertake regular vetting and lifestyle audits of public officers.

REPUBLIC OF KENYA



NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT – FOURTH SESSION

In the matter of approval by the National Assembly of person nominated for appointment to the position of Data Commissioner

**NOTIFICATION FOR VETTING BY THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION OF PERSON NOMINATED FOR APPOINTMENT TO THE POSITION OF DATA COMMISSIONER**

Pursuant to the provisions of Section 6(4) of the Data protection Act, 2019 as read together with Section 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), His Excellency the President has nominated Ms. Immaculate Kassait for appointment to the position of Data Commissioner.

Pursuant to provisions of Article 118 of the Constitution and Section 6(4) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), 2011, the general public is hereby notified that the Departmental Committee on Communication, Information and Innovation shall conduct the vetting of the said nominee on Wednesday, 28<sup>th</sup> October, 2020. The approval hearing will be held in the Main Chamber, Main Parliament Buildings at 10.00 am.

The nominee should bring the originals of her identity card, academic and professional certificates and other relevant testimonials. In addition, the nominee should bring letters/certificate of clearance/compliance from the following:-

- (i) Ethics and Anti-Corruption Commission;
- (ii) Kenya Revenue Authority;
- (iii) Higher Education Loans Board;
- (iv) Directorate of Criminal Investigations;
- (v) Office of the Registrar of Political Parties; and
- (vi) Any of the Credit Reference Bureaus.

MICHAEL R. SIALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA



NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT – FOURTH SESSION

In the matter of approval by the National Assembly of person nominated for appointment to the position of Data Commissioner

**SUBMISSION OF MEMORANDA**

Pursuant to the provisions of Section 6(4) of the Data protection Act, 2019 as read together with Sections 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), His Excellency the President has nominated Ms. Immaculate Kassait for appointment to the position of Data Commissioner.

Following the receipt of the nomination from His Excellency the President, the Departmental Committee on Communication, Information and Innovation is mandated to vet, consider her suitability for appointment to the office and submit its report to the House for approval.

Pursuant to the provisions of Section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Committee invites interested members of the public to submit any representation by written statement on oath (affidavit) with supporting evidence contesting the suitability of the said nominee for appointment to the position of Data Commissioner.

The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Monday, 26<sup>th</sup> October, 2020 at 5.00 pm.

MICHAEL R. SIALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY

## 'Handshake' Raila wants a united team ahead of campaigns for the Building Bridges Initiative

# ODM makes peace with Obado

Chungwa House seeks reconciliation between embattled Migori governor and MCAs to calm tensions

BY JUSTUS OCHIENG  
AND IAN BYRON

After several fights with Migori Governor Okoth Obado, the Orange Democratic Movement has chosen to make peace with the shrewd politician.

Outwitted in its bid to oust the governor, the party now seeks to calm tensions in South Nyanza by bringing together all the local leaders. Chungwa House has summoned its 41 ward representatives in Migori to a meeting in Nairobi this Thursday aimed at reconciling the warring factions in the assembly.

The meeting comes barely a week after Mr Obado ignored another last week because "the notice was too short".

### County scandals

ODM National Chairman John Mbadi told the *Nation* that they had expected to discuss "a lot of issues, including reconciliation as suggested by the party leader".

"We will be meeting with all the MCAs on Thursday for updates



on what we agreed upon," ODM Secretary-General Edwin Sifuna told the *Nation*, adding that MCAs will have the final word on the impeachment motion.

The *Nation* has, however, established that the ward reps could be asked to abandon the drive "to

enhance harmony in the county", which would leave the party with egg on its face.

The party and its leader, Raila Odinga, had been accused of flip-flopping on the multibillion-shilling Kemsca scandal and the reconciliation could raise

Migori Governor Okoth Obado addresses journalists at his Rapogi home on September 9. Mr Obado blamed his problems on a few ODM members who are allegedly determined to put him down. TONY OMONDI | NATION

### MOVE AS ONE

Odinga: Our aim is to boost services

ODM party leader Raila Odinga promised to pacify the political tensions in Migori County following an emotive bid to impeach Governor Okoth Obado. The governor is facing corruption and murder charges. Mr Odinga wants Mr Obado to work with Migori Senator Ochillo Ayacko ahead of the Building Bridges Initiative campaigns. "Our main focus is the BBI that seeks to improve services to Kenyans. We must avoid political side-shows that risk thwarting our agenda especially in Migori," Mr Odinga said on October 8. "I will have to bring the county leadership together so that we move as one formidable force."

queries on ODM's stand on graft. Political analyst Dismas Mokuia argues that ODM's anti-corruption credentials "are now sliding south."

"Raila will carry the graft baggage because of the handshake and his appetite of using the anti-corruption crusade as a political tool," said Mr Mokuia, adding that the Orange boss "has a high appetite for inflicting both pleasure and pain on political allies and foes".

### Ida's intervention

"It seems that Raila has inflicted sufficient pain on Obado to him toe the line. The pain made him dance to ODM drumbeats and this serves as a lesson to any other folks who want to drive out of Raila's lane. Obado now appreciates the fact that life outside the ODM canopy is as good as kissing lions in the wild," he added.

For months, the governor was on a razor edge as ODM plotted his ouster. However, the impeachment drive could now be halted with help said to have come from Mr Odinga's family.

Party sources earlier told the *Nation* that the intervention of Ida Odinga and Dr Oburu Oginga would likely save Mr Obado's job.

The two reportedly brokered a truce between the governor and Chungwa House.

jjochieng@ke.nationmedia.com  
and Byronian4@gmail.com

REPUBLIC OF KENYA



### NATIONAL ASSEMBLY TWELFTH PARLIAMENT - FOURTH SESSION

In the matter of approval by the National Assembly of person nominated for appointment to the position of Data Commissioner

#### SUBMISSION OF MEMORANDA

Pursuant to the provisions of Section 6(4) of the Data protection Act, 2019 as read together with Sections 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), His Excellency the President has nominated Ms. Immaculate Kassait for appointment to the position of Data Commissioner.

Following the receipt of the nomination from His Excellency the President, the Departmental Committee on Communication, Information and Innovation is mandated to vet, consider her suitability for appointment to the office and submit its report to the House for approval.

Pursuant to the provisions of Section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Committee invites interested members of the public to submit any representation by written statement on oath (affidavit) with supporting evidence contesting the suitability of the said nominee for appointment to the position of Data Commissioner.

The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Monday, 26<sup>th</sup> October, 2020 at 5.00 pm.

MICHAEL R. SIALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA



### NATIONAL ASSEMBLY TWELFTH PARLIAMENT - FOURTH SESSION

In the matter of approval by the National Assembly of person nominated for appointment to the position of Data Commissioner

#### NOTIFICATION FOR VETTING BY THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION OF PERSON NOMINATED FOR APPOINTMENT TO THE POSITION OF DATA COMMISSIONER

Pursuant to the provisions of Section 6(4) of the Data protection Act, 2019 as read together with Section 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), His Excellency the President has nominated Ms. Immaculate Kassait for appointment to the position of Data Commissioner.

Pursuant to provisions of Article 118 of the Constitution and Section 6(4) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), 2011, the general public is hereby notified that the Departmental Committee on Communication, Information and Innovation shall conduct the vetting of the said nominee on Wednesday, 28<sup>th</sup> October, 2020. The approval hearing will be held in the Main Chamber, Main Parliament Buildings at 10.00 am.

The nominee should bring the originals of her identity card, academic and professional certificates and other relevant testimonials. In addition, the nominee should bring letters/certificate of clearance/compliance from the following:-

- (i) Ethics and Anti-Corruption Commission;
- (ii) Kenya Revenue Authority;
- (iii) Higher Education Loans Board;
- (iv) Directorate of Criminal Investigations;
- (v) Office of the Registrar of Political Parties; and
- (vi) Any of the Credit Reference Bureaus.

MICHAEL R. SIALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY

**NEWS GENERAL**

GONE WITHOUT A TRACE

# He has committed a crime, abductors told man's uncle

Men in police jackets ransacked the house, took vital documents and Abubakar's phone before his abduction on August 28



**BRIAN OTIENO**  
@Yobramos4

Abdulkareem Abubakar was walking home from the mosque after Ishai prayers on August 28 when a group of about eight men grabbed him from behind.

They were clad in jungle green police jackets, had helmets and covered their faces with black clothes that looked like face-masks, eyewitnesses said.

The men, believed to be police officers, dragged Abubakar, 25, into their house in Magongo and ordered all the people inside to lie down.

The commotion that occurred when Abubakar was dragged into the house startled everyone in the sitting room, including his uncle Juma Musa.

"I saw Abu was half-naked and was bleeding from the face," Musa

said. He was narrating the ordeal to reporters at the Haki Africa offices on Sunday.

Musa said the men ransacked the house before taking passport photos of Abubakar.

"They took Abu's phone and some documents before they left."

Abubakar was then bundled into a double cabin pickup that had a blue number plate. Such plates are for parastatals.

The men had two other saloon cars which had no number plates.

After a few minutes, one of the men came back into the house, seemingly to assure the family members that they were not thugs.

"Mzee, stand up. We have taken your son. He has committed a crime," the man told Musa.

Musa said they have neither seen Abubakar nor heard from him since then. He has been reporting to the Changamwe police station, where they reported the matter, once every

week to check on the progress of the case. "We have got nothing concrete from the police," Musa said.

Abubakar worked at a Crown Paints depot in Changamwe as a casual labourer.

His father died last year and his mother is in Kendu Bay, Homa Bay county, their rural home.

Musa said Abubakar's phone went off three days after he was abducted.

"We are desperate to know the whereabouts of our son. We do not know whether he is alive or not," Musa said.

They looked for him in all police stations, hospitals and mortuaries at the Coast. Nothing yielded.

Haki Africa rapid response officer Mathias Shipeta said Kenya is a signatory to several international conventions that protect human rights and must do everything possible to protect human rights.

Shipeta said information about the existence of intelligence cooper-



**Abdulkareem Abubakar** who was abducted on August 28  
/BRIAN OTIENO

ation between the Kenyan security forces and some foreign security agencies has been brought to his attention.

"If there exists such a partnership, then it should be guided by law," Shipeta said.

Declassified UK, a British organisation, published articles about the secret cooperation between the US, the UK and Kenyan security apparatus believed to be responsible for several renditions, killings and disappearances of terror suspects in night-time raids on the same day Abubakar was abducted.

The organisation claimed a clandestine Kenyan paramilitary team is being armed and trained by the American Central Intelligence Agency and British MI6 to take down terror suspects since 2004.

According to the organization, Britain's intelligence arm, MI6, plays a key role in identifying suspects for a 'kill or capture' list and finding and fixing their location.

On Sunday, Shipeta said it is against both Kenyan and international law to abduct a suspect and hold them for hours, days, weeks, or months incommunicado.

**REPUBLIC OF KENYA**

**THE NATIONAL ASSEMBLY**  
**TWELFTH PARLIAMENT – FOURTH SESSION**

In the matter of approval by the National Assembly of person nominated for appointment to the position of Data Commissioner

**SUBMISSION OF MEMORANDA**

Pursuant to the provisions of Section 6(4) of the Data protection Act, 2019 as read together with Sections 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), His Excellency the President has nominated Ms. Immaculate Kassait for appointment to the position of Data Commissioner.

Following the receipt of the nomination from His Excellency the President, the Departmental Committee on Communication, Information and Innovation is mandated to vet, consider her suitability for appointment to the office and submit its report to the House for approval.

Pursuant to the provisions of Section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Committee invites interested members of the public to submit any representation by written statement on oath (affidavit) with supporting evidence contesting the suitability of the said nominee for appointment to the position of Data Commissioner.

The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke); to be received on or before Monday, 26th October, 2020 at 5.00 pm.

**MICHAEL R. SIALAI, EBS**  
**CLERK OF THE NATIONAL ASSEMBLY**

**REPUBLIC OF KENYA**

**THE NATIONAL ASSEMBLY**  
**TWELFTH PARLIAMENT – FOURTH SESSION**

In the matter of approval by the National Assembly of person nominated for appointment to the position of Data Commissioner

**NOTIFICATION FOR VETTING BY THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION OF PERSON NOMINATED FOR APPOINTMENT TO THE POSITION OF DATA COMMISSIONER**

Pursuant to the provisions of Section 6(4) of the Data protection Act, 2019 as read together with Section 5 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), His Excellency the President has nominated Ms. Immaculate Kassait for appointment to the position of Data Commissioner.

Pursuant to provisions of Article 118 of the Constitution and Section 6(4) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), 2011, the general public is hereby notified that the Departmental Committee on Communication, Information and Innovation shall conduct the vetting of the said nominee on Wednesday, 28th October, 2020. The approval hearing will be held in the Main Chamber, Main Parliament Buildings at 10.00 am.

The nominee should bring the originals of her identity card, academic and professional certificates and other relevant testimonials. In addition, the nominee should bring letters/certificate of clearance/compliance from the following:-

- (i) Ethics and Anti-Corruption Commission;
- (ii) Kenya Revenue Authority;
- (iii) Higher Education Loans Board;
- (iv) Directorate of Criminal Investigations;
- (v) Office of the Registrar of Political Parties; and
- (vi) Any of the Credit Reference Bureaus.

**MICHAEL R. SIALAI, EBS**  
**CLERK OF THE NATIONAL ASSEMBLY**



**ANNEXURE 4 INVITATION LETTER FROM THE CLERK OF THE  
NATIONAL ASSEMBLY TO THE NOMINEE FOR  
THE APPROVAL HEARING**



REPUBLIC OF KENYA



Telegraphic Address  
"Bunge", Nairobi  
Telephone: 2221291/2848000  
Fax: 2243694  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

CLERK'S CHAMBERS  
National Assembly  
Parliament Buildings  
P.O. Box 41842-00100  
NAIROBI, Kenya

*When replying please quote*

NATIONAL ASSEMBLY

16<sup>th</sup> October, 2020

Ref:NA/DCS/CII/2020(23)

Ms. Immaculate Kassait  
P.O. Box 7867-00100  
**NAIROBI**  
Tel. No. 0723826178

Dear *Ms Kassait*

RE: INVITATION FOR VETTING INVITATION BY THE DEPARTMENTAL COMMITTEE  
ON COMMUNICATION, INFORMATION AND INNOVATION

---

Following your nomination by His Excellency the President for appointment to the position of Auditor-General, the Departmental Committee on Communication, Information and Innovation of the National Assembly hereby invites you for vetting pursuant to provisions of section 6(3) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) on Wednesday, 28<sup>th</sup> October, 2020. The approval hearing will be held in the Main Chamber, Main Parliament Buildings at 10.00 am.

Kindly fill the attached questionnaire as required by the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) and return it on or before Monday, 26<sup>th</sup> October, 2020 at 5.00 pm.

You are requested to appear for vetting with your original national identity card, academic and professional certificates and other relevant testimonials. In addition, you should appear with letters/certificates of clearance/compliance from the following:-

1. Ethics and Anti-Corruption Commission;
2. Kenya Revenue Authority;
3. Higher Education Loans Board;
4. Directorate of Criminal Investigations;
5. Registrar of Political Parties; and
6. Any of the Credit Reference Bureaus.

Our liaison officer for this purpose is Ms. Ella Kendi (Tel. No. 0716-698-499) or email [ellakendi@gmail.com](mailto:ellakendi@gmail.com).

Yours

A handwritten signature in dark ink, appearing to be 'J. Ndombi'.

JEREMIAH W. NDOMBI  
For: CLERK OF THE NATIONAL ASSEMBLY





**ANNEXURE 5    LETTERS FROM THE CLERK OF THE NATIONAL  
ASSEMBLY TO THE VARIOUS GOVERNMENT  
AGENCIES**



REPUBLIC OF KENYA



Telegraphic Address  
"Bunge", Nairobi  
Telephone: 2221291/2848000  
Fax: 2243694  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

*When replying please quote*

CLERK'S CHAMBERS  
National Assembly  
Parliament Buildings  
P.O. Box 41842-00100  
NAIROBI, Kenya

NATIONAL ASSEMBLY

Ref:NA/DCS/CII/2020(18)

16<sup>th</sup> October, 2020

Mrs. Anne Njeri Nderitu  
Registrar of Political Parties  
Office of the Registrar of Political Parties  
P.O. Box 1131 – 00606  
Lions Place, 1<sup>st</sup> Floor  
Karuna Close, Waiyaki Way, Wetlands  
NAIROBI

Dear *Mrs Nderitu*

RE: VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER

Article 124(4) of the Constitution provides that, "*when a House of Parliament considers any appointment for which its approval is required under this Constitution or an Act of Parliament, the appointment shall be considered by a Committee of the relevant House*".

The Departmental Committee on Communication, Information and Innovation of the National Assembly shall conduct the vetting of Ms. Immaculate Kassait (ID No. 20049697 and KRA PIN No. A0030417661) for appointment as the Data Commissioner on Wednesday, 28<sup>th</sup> October, 2020.

Pursuant to Section 7(b) of the Public Appointments (Parliamentary Approvals) Act, the Committee is mandated to consider whether the nominee meets all constitutional and statutory requirements relating to the office in question in terms of compliance with the principles of leadership and integrity as set out in Chapter Six of the Constitution.

In view of the provisions of Article 77(2) of the Constitution which prohibits State Officer from holding office in a political party, this is therefore to request you to provide any information on whether the nominee holds an office in a political party. This information will assist the Committee to effectively discharge its mandate. Kindly forward the information to the undersigned by Monday, 26<sup>th</sup> October, 2020.

Our liaison officer for this purpose is Ms. Ella Kendi (Tel. No. 0716-698-499) or email. [ellakendi@gmail.com](mailto:ellakendi@gmail.com).

Yours

A handwritten signature in black ink, appearing to be 'J. Ndombi'.

JEREMIAH W. NDOMBI  
For: CLERK OF THE NATIONAL ASSEMBLY



REPUBLIC OF KENYA



NATIONAL ASSEMBLY

CLERK'S CHAMBERS  
National Assembly  
Parliament Buildings  
P.O. Box 41842-00100  
NAIROBI, Kenya

Telegraphic Address  
"Bunge", Nairobi  
Telephone: 2221291/2848000  
Fax: 2243694  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

*When replying please quote*

16<sup>th</sup> October, 2020

Ref: NA/DCS/CII/2020(21)

Mr. Twalib A. Mbarak  
Chief Executive Officer  
Ethics and Anti-Corruption Commission  
Integrity Centre,  
Milimani/Valley Road Junction  
P.O. Box 61130 – 00200  
NAIROBI

Dear Mr. Mbarak

**RE: VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER**

Article 124(4) of the Constitution provides that, *"when a House of Parliament considers any appointment for which its approval is required under this Constitution or an Act of Parliament, the appointment shall be considered by a Committee of the relevant House"*.

The Departmental Committee on Communication, Information and Innovation of the National Assembly shall conduct the vetting of Ms. Immaculate Kassait (ID No. 20049697 and KRA PIN No. A0030417661) for appointment as the Data Commissioner on Wednesday, 28<sup>th</sup> October, 2020.

Pursuant to Section 7(b) of the Public Appointments (Parliamentary Approvals) Act (No. 33 of 2011), the Committee is mandated to consider whether the nominee meets all constitutional and statutory requirements relating to the office in question in terms of compliance with the principles of leadership and integrity as set out in Chapter Six of the Constitution.

This is therefore, to request you to provide any adverse information touching on the integrity of the nominee that may be in possession of the Commission. Such information will assist the Committee undertake its mandate more effectively. Kindly forward the information to the undersigned by Monday, 26<sup>th</sup> October, 2020.

Our liaison officer for this purpose is Ms. Ella Kendi (Tel. No. 0716-698-499) or email [ellakendi@gmail.com](mailto:ellakendi@gmail.com).

Yours

A handwritten signature in dark ink, appearing to be 'J. Ndombi'.

JEREMIAH W. NDOMBI  
For: CLERK OF THE NATIONAL ASSEMBLY



REPUBLIC OF KENYA



NATIONAL ASSEMBLY

Telegraphic Address  
"Bunge", Nairobi  
Telephone: 2221291/2848000  
Fax: 2243694  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

*When replying please quote*

CLERK'S CHAMBERS  
National Assembly  
Parliament Buildings  
P.O. Box 41842-00100  
NAIROBI, Kenya

Ref:NA/DCS/CII/2020(20)

16<sup>th</sup> October, 2020

Mr. James Mburu  
Commissioner General  
Kenya Revenue Authority  
Times Towers, 30<sup>th</sup> Floor  
Haile Selassie Avenue  
NAIROBI

Dear Mr. Mburu

RE: VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER

Article 124(4) of the Constitution provides that, "when a House of Parliament considers any appointment for which its approval is required under this Constitution or an Act of Parliament, the appointment shall be considered by a Committee of the relevant House".

The Departmental Committee on Communication, Information and Innovation of the National Assembly shall conduct the vetting of Ms. Immaculate Kassait (ID No. 20049697 and KRA PIN No. A0030417661) for appointment as the Data Commissioner on Wednesday, 28<sup>th</sup> October, 2020.

Pursuant to Section 7(b) of the Public Appointments (Parliamentary Approvals) Act (No. 33 of 2011), the Committee is mandated to consider whether the nominee meets all constitutional and statutory requirements relating to the office in question in terms of compliance with the principles of leadership and integrity as set out in Chapter Six of the Constitution.

This is therefore, to request you to provide a report on tax compliance by the nominee. This information will assist the Committee undertake its mandate more effectively. Kindly forward the information to the undersigned by Monday, 26<sup>th</sup> October, 2020.

Our liaison officer for this purpose is Ms. Ella Kendi (Tel. No. 0716-698-499) or email [ellakendi@gmail.com](mailto:ellakendi@gmail.com).

Yours

A handwritten signature in black ink, appearing to be 'J. Ndombi'.

JEREMIAH W. NDOMBI  
For: CLERK OF THE NATIONAL ASSEMBLY





REPUBLIC OF KENYA



NATIONAL ASSEMBLY

Telegraphic Address  
"Bunge", Nairobi  
Telephone: 2221291/2848000  
Fax: 2243694  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

*When replying please quote*

CLERK'S CHAMBERS  
National Assembly  
Parliament Buildings  
P.O. Box 41842-00100  
NAIROBI, Kenya

Ref:NA/DCS/CII/2020(19)

16<sup>th</sup> October, 2020

Mr. Charles M. Ringera  
Chief Executive Officer  
Higher Education Loans Board  
Anniversary Towers, 18th Floor  
University way  
**NAIROBI**

Dear *Mr. Ringera*

**RE: VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER**

Article 124(4) of the Constitution provides that, "*when a House of Parliament considers any appointment for which its approval is required under this Constitution or an Act of Parliament, the appointment shall be considered by a Committee of the relevant House*".

The Departmental Committee on Communication, Information and Innovation of the National Assembly shall conduct the vetting of Ms. Immaculate Kassait (ID No. 20049697 and KRA PIN No. A0030417661) for appointment as the Data Commissioner on Wednesday, 28<sup>th</sup> October, 2020.

Pursuant to Section 7(b) of the Public Appointments (Parliamentary Approvals) Act (No. 33 of 2011), the Committee is mandated to consider whether the nominee meets all constitutional and statutory requirements relating to the office in question in terms of compliance with the principles of leadership and integrity as set out in Chapter Six of the Constitution.

This is therefore, to request you to provide a report on repayment of any loans that may have been advanced by the Board to the said nominee. Such information will assist the Committee undertake its mandate more effectively. Kindly forward the information to the undersigned by Monday, 26<sup>th</sup> October, 2020.

Our liaison officer for this purpose is Ms. Ella Kendi (Tel. No. 0716-698-499) or email [ellakendi@gmail.com](mailto:ellakendi@gmail.com).

Yours

A handwritten signature in black ink, appearing to be 'J. Ndombi'.

JEREMIAH W. NDOMBI  
For: CLERK OF THE NATIONAL ASSEMBLY



REPUBLIC OF KENYA



Telegraphic Address  
"Bunge", Nairobi  
Telephone: 2221291/2848000  
Fax: 2243694  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

*When replying please quote*

CLERK'S CHAMBERS  
National Assembly  
Parliament Buildings  
P.O. Box 41842-00100  
NAIROBI, Kenya

NATIONAL ASSEMBLY

Ref:NA/DCS/CII/2020(22)

16<sup>th</sup> October, 2020

Mr. George Kinoti  
Director Criminal Investigation Department  
Directorate of Criminal Investigations  
P.O. Box 30036 – 001100  
Mazigira Complex -Kiambu Road  
Opp. Forestry Department Headquarters  
**NAIROBI**

Dear Mr Kinoti

**RE: VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER**

Article 124(4) of the Constitution provides that, "when a House of Parliament considers any appointment for which its approval is required under this Constitution or an Act of Parliament, the appointment shall be considered by a Committee of the relevant House".

The Departmental Committee on Communication, Information and Innovation of the National Assembly shall conduct the vetting of Ms. Immaculate Kassait (ID No. 20049697 and KRA PIN No. A0030417661) for appointment as the Data Commissioner on Wednesday, 28<sup>th</sup> October, 2020.

Pursuant to Section 7(b) of the Public Appointments (Parliamentary Approvals) Act (No. 33 of 2011), the Committee is mandated to consider whether the nominee meets all constitutional and statutory requirements relating to the office in question.

Pursuant to section 6(7) of the Public Appointments (Parliamentary Approvals) Act (No. 33 of 2011), the Committee is required to consider, among other issues, personal integrity and background of the nominee in terms of compliance with the principles of leadership and integrity as set out in Chapter Six of the Constitution.

This is therefore, to request you to provide information on whether the nominee is adversely mentioned in any investigation carried out by the Directorate in the course of discharging its mandate. Kindly forward the information to the undersigned by Monday, 26<sup>th</sup> October, 2020.

Our liaison officer for this purpose is Ms. Ella Kendi (Tel. No. 0716-698-499) or email [ellakendi@gmail.com](mailto:ellakendi@gmail.com).

Yours

A handwritten signature in dark ink, appearing to be 'J. Ndombi'.

JEREMIAH W. NDOMBI

For: CLERK OF THE NATIONAL ASSEMBLY

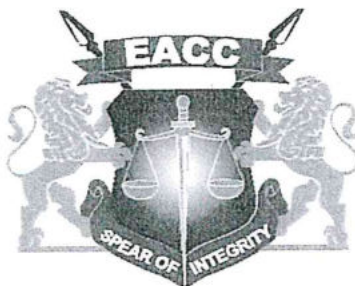


**ANNEXURE 6**

**LETTER FROM THE ETHICS AND ANTI-CORRUPTION COMMISSION (EACC)**



66



URGENT

## ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Jakaya Kikwete/Valley Road Junction) P.O. Box 61130 – 00200, NAIROBI, Kenya  
TEL.: 254 (020) 4997000, MOBILE: 0709 781000; 0730 997000  
FAX: 254 (020) 2240954 EMAIL: [eacc@integrity.go.ke](mailto:eacc@integrity.go.ke) WEBSITE: [www.eacc.go.ke](http://www.eacc.go.ke)

When replying please quote:

Our Ref: EACC.7/10/5 VOL. XVI (85)

The Clerk of the National Assembly

National Assembly  
Parliament Buildings  
P O Box 41842-00100

**NAIROBI**

(Attn: Jeremiah W. Ndombi)

*Ella Kendi*

*pls deal  
w  
28/10/20*

*27/10/20*



**RE: VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER**

Your letter referenced NA/DCS/CII/2020/(21) dated 16<sup>th</sup> October, 2020 on the above subject matter refers.

We confirm that the Commission has not undertaken any investigations where **Ms. Immaculate Kassait** of **ID No. 20049697** has been found culpable.

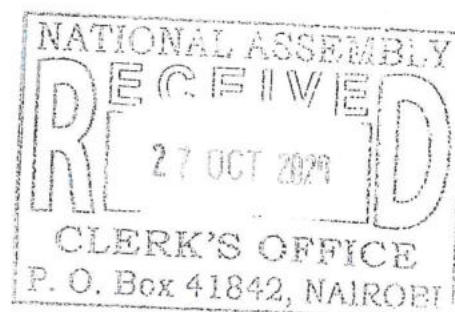
As you are aware, the Commission resumed receiving of self-declaration forms as required by law pursuant to Section 12A of Leadership and Integrity Act, on the **28<sup>th</sup> September, 2020**.

We advise that you bring to the attention of the nominee that she is required to submit to the Commission her self-declaration form.

The information provided herein is based on records available as at **26<sup>th</sup> October, 2020**.

Please note that the absence of records in the Commission's database is not a guarantee of absolute integrity of the nominee.

*for* **TWALIB MBARAK, CBS**  
**SECRETARY/CHIEF EXECUTIVE OFFICER**  
LCK/ek







**ANNEXURE 7**

**LETTER FROM THE KENYA REVENUE  
AUTHORITY (KRA)**





# KENYA REVENUE AUTHORITY

ISO 9001:2015 CERTIFIED

## Office of the Commissioner General

KRA/5/1002/5(5035)

22<sup>nd</sup> October 2020

Mr. Michael Sialai, EBS  
Clerk of the National Assembly  
Parliament Buildings  
P. O. Box 41842-00100  
**NAIROBI**

*Ella Kendi*  
*pls deal*  
*up 2/21*  
*26/10/20*  
*26/10/20*  
*DD/DCMS*

Attn: Jeremiah W. Ndombi

Dear *Michael,*

### VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER

Reference is made to your letter of Ref No: NA/DCS/CII/2020(20) dated 16<sup>th</sup> October 2020 requesting for tax compliance report for the nominee listed below.

The tax compliance status is as shown:

	Name	PIN No.	Tax Compliance Status	Remarks
1.	Immaculate Kassait	A003041766I	Compliant	Taxpayer has filed all returns and has a valid compliance certificate KRONON1183758620

Your sincerely,

**Githii Mburu**  
**COMMISSIONER GENERAL**

**NATIONAL ASSEMBLY RECEIVED**  
25 OCT 2020  
**DEPUTY DIRECTOR COMMITTEE SERVICES**

**NATIONAL ASSEMBLY RECEIVED**  
26 OCT 2020  
**CLERK'S OFFICE**  
P. O. Box 41842, NAIROBI



**ANNEXURE 8A**

**LETTER FROM THE DIRECTORATE OF  
CRIMINAL INVESTIGATIONS (DCI)**



# NATIONAL POLICE SERVICE

Telegrams: "CRIMINAL" Nairobi  
Email: director @cid.go.ke  
Tel: 020343312, 0202603724.



MAZINGIRA HOUSE  
KIAMBU ROAD  
P.O. Box 30036  
NAIROBI.

## DIRECTORATE OF CRIMINAL INVESTIGATIONS

DCI/IB/SEC/4/4/1/VOL.LXIX/193

23<sup>RD</sup> OCTOBER, 2020

The Clerk  
National Assembly  
Parliament Buildings  
P.O. Box 41842-00100  
NAIROBI

*Ella Kendi  
pls deal  
27/10/20*

*DD/Islands  
26/10/20*

**RE: VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA  
COMMISSIONER**

---

Your letter Ref: NA/DCS/CII/2020(22) dated 16<sup>th</sup> October, 2020 refers.

After a comprehensive background check and vetting we confirm that your nominee for the position of Data Commissioner Ms. Immaculate Kassait of ID No. 20049697 does not appear in any of our investigations records.

**JOHN N. KARIUKI MBS, HSC  
FOR: DIRECTOR OF CRIMINAL INVESTIGATIONS**

Encl.

NATIONAL ASSEMBLY  
RECEIVED  
27 OCT 2020  
DEPUTY DIRECTOR  
COMMITTEE SERVICES

NATIONAL ASSEMBLY  
RECEIVED  
26 OCT 2020  
CLERK'S OFFICE  
P. O. Box 41842, NAIROBI





**ANNEXURE 8B**

**CERTIFICATE FROM THE DIRECTORATE OF  
CRIMINAL INVESTIGATIONS**



# NATIONAL POLICE SERVICE

Telegrams: "IDENT CRIMINAL", Nairobi  
Telephone: 020-8512089/98  
Fax: 020-2606149  
E-mail: [identsnbi@gmail.com](mailto:identsnbi@gmail.com)  
When replying please quote ref No. and date



CRIMINAL RECORDS OFFICE,  
P.O. Box 30460 - 00100 GPO,  
NAIROBI.

## DIRECTORATE OF CRIMINAL INVESTIGATIONS

CID/CRO/SEC/6/7/A/VOL.IX/28

23<sup>RD</sup> OCTOBER, 2020

Clerk of the National Assembly  
Clerk's Chambers  
National Assembly, Parliament Building  
P O Box 41842-00100  
NAIROBI

*Ela Kandi  
pls deal  
up with  
26/10/2020  
23/110  
Director*

**RE: VETTING OF THE NOMINEE APPOINTMENT AS THE DATA COMMISSIONER**

We are in receipt of your correspondence Ref. NA/DCS/CII/2020/22 and dated 16<sup>th</sup> October, 2020 on the above subject matter.

The below mentioned person was issued with a Police Clearance Certificate by this office as indicated.

No.	Name	ID NO.	CERT NO	DATE GENERATED
1.	Ms. Immaculate Kassait	20049697	PCC-KOTP9P5	25/06/2020

Kind regards.

*[Signature]*  
**DOMINIC NDETO**  
**FOR: DIRECTOR OF CRIMINAL INVESTIGATIONS**



OUR VISION: To be the best forensic science laboratory with emphasis on continual linkage of the Crime, the Crime -Scene and the Criminal.  
**FACES CAN LIE, FINGERPRINTS NEVER.**



**ANNEXURE 9 LETTER FROM OFFICE OF THE REGISTRAR OF  
POLITICAL PARTIES (ORPP)**



(12)

DD cm 1100 r  
21/10/20



Republic of Kenya

Telephone: +254(0)204022000  
Email: [registrar@orpp.or.ke](mailto:registrar@orpp.or.ke)  
Website: [www.orpp.or.ke](http://www.orpp.or.ke)  
When replying please quote

Lion Place, 1<sup>st</sup> Floor  
Off Waiyaki Way  
P.O Box 1131-00606  
Sarit Centre, Nairobi.

REF: RPP/ORG/34 Vol. IV (40)

DATE: 21<sup>st</sup> October, 2020

Clerk of the National Assembly,  
Clerks Chambers, National Assembly,  
Parliament Buildings,  
P.O. Box 41842-00100,  
**NAIROBI.**

Ela Kendi  
pls TNA  
LP ✓ M  
21/10/20

Dear Sir,

**RE: VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER**

Reference is made to letter Ref. NA/DCS/CII/2020(18) dated 16<sup>th</sup> October, 2020 on the above subject matter.

According to the records held by this office as at 21<sup>st</sup> October, 2020, Immaculate Kassait, ID No. 20049697 is not an official of any registered political party.

Yours faithfully,

**John Macharia**  
For: Registrar of Political Parties

NATIONAL ASSEMBLY  
**RECEIVED**  
21 OCT 2020  
DEPUTY DIRECTOR  
COMMITTEE SERVICES

NATIONAL ASSEMBLY  
**RECEIVED**  
21 OCT 2020  
DEPUTY CLERK  
J.W.N  
P. O. Box 41842 -00100, NAIROBI

NATIONAL ASSEMBLY  
**RECEIVED**  
21 OCT 2020  
CLERK'S OFFICE  
P. O. Box 41842, NAIROBI







**ANNEXURE 10**

**LETTER FROM THE HIGHER EDUCATION LOANS BOARD  
(HELB)**





# HIGHER EDUCATION LOANS BOARD

Tel: 0711052000  
E-mail: contactcentre@helb.co.ke  
Website: www.helb.co.ke

Anniversary Towers  
University Way  
P.O Box 69489-00400  
Nairobi, Kenya

HELB/RR/112009/V/79

23<sup>rd</sup> October 2020

Michael R. Sialai, EBS  
Clerk of the National Assembly  
Parliament Buildings  
P.O Box 41842-00100  
**NAIROBI**

*Ella Kendi*  
*pls deal*  
*up with*  
*26/10/20*

**NATIONAL ASSEMBLY RECEIVED**  
25 OCT 2020  
**DEPUTY DIRECTOR COMMITTEE SERVICES**

*26/10/20*

Dear  *ik,*

## VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER


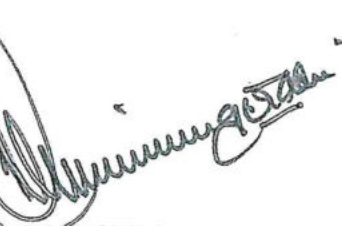
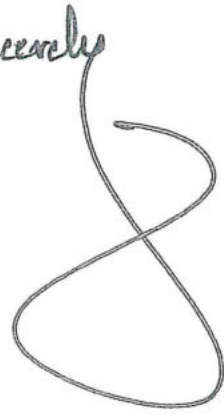
We acknowledge with appreciation receipt of your letter referenced *Ref. No. NA/DCS/C11/2020(19)* dated 16<sup>th</sup> October 2020, requesting the Higher Education Loans Board to provide a report on repayment of HELB loans that may have been advanced to Ms. Immaculate Kassait for purposes of vetting for appointment to the position as the Data Commissioner by the Departmental Committee of Defence and Foreign Relations.

The Higher Education Loans Board wishes to inform you that **Ms. Immaculate Kassait (ID No. 20049697, KRA Pin No. (A003041766I))** was **NOT** a beneficiary of the GOK/HELB Loans Scheme.

We kindly urge you to continue encouraging applicants to seek their compliance certificate from the HELB as part of testimonials and conformity to Chapter six of the Constitution of Kenya.

We wish to thank you most sincerely for allowing us to provide you this information as this kind of collaboration goes a long way in assisting HELB finance needy Kenyans pursuing higher education now and in the future.

Yours

**CHARLES RINGERA**  
**CHIEF EXECUTIVE OFFICER**

**NATIONAL ASSEMBLY RECEIVED**  
26 OCT 2020  
**CLERK'S OFFICE**  
P. O. Box 41842, NAIROBI



ISO 9001:2015 Certified.





**ANNEXURE 11**

**REPORT OF THE PUBLIC SERVICE  
COMMISSION SELECTION PANEL**





**PUBLIC SERVICE COMMISSION**

Ref. No. PSC/11/1(22)

23<sup>rd</sup> October 2020

*DS/D/conts 27/10/20*

Clerk of the National Assembly,  
Parliament Buildings,  
**NAIROBI.**

*Elka Kendi  
pls deal  
up with 27/10/20*

**REQUEST FOR INFORMATION ON VETTING OF THE NOMINEE FOR APPOINTMENT AS THE DATA COMMISSIONER**

We refer to letter Ref.No.NA.DCS/CII/2020(26) of 21<sup>st</sup> October 2020 on the above subject.

Kindly find the attached documents as requested:-

- (i) advert inviting the persons who qualify for the nomination and appointment for the position of Data Commissioner;
- (ii) longlist and shortlist (Advert of all applicants and shortlisted candidates);
- (iii) detailed results of the interview process;
- (iv) details of the three (3) nominees; and
- (v) copies of academic certificates.

Submitted for necessary action.

*Don*

**SIMON K. ROTICH, EBS  
SECRETARY/CEO**

Encl.

**NATIONAL ASSEMBLY  
RECEIVED  
27 OCT 2020  
DEPUTY DIRECTOR  
COMMITTEE SERVICES**

**NATIONAL ASSEMBLY  
RECEIVED  
26 OCT 2020  
CLERK'S OFFICE  
P. O. Box 41842, NAIROBI**







## PUBLIC SERVICE COMMISSION

Our Vision

*"A citizen-centric public service".*

Our Mission

*"To reform and transform the public service for efficient and effective service delivery".*

### DECLARATION OF VACANCY OFFICE OF DATA PROTECTION COMMISSIONER

The Office of the Data Protection Commissioner is an office established by section 5 (i) of the Data Protection Act, 2019. It is designated as a State Office in accordance with Article 260 (q) of the Constitution.

Pursuant to the provisions of Section 6(2) of the Data Protection Act, the Public Service Commission seeks to nominate persons to be considered for appointment to the post of Data Commissioner.

The Commission hereby invites applications from suitably qualified Kenyans who may wish to be considered for nomination.

#### **DATA COMMISSIONER – ONE (1) POST**

**For appointment to this grade, a candidate must:**

- a. hold a degree in any of the following fields from a university recognized in Kenya:-
  - (i) Data Science;
  - (ii) Law;
  - (iii) Information Technology or
  - (iv) any other related field;
- b. hold a Masters Degree;
- c. have knowledge and relevant experience of not less than ten (10) years; and
- d. meet the requirements of Chapter six (6) of the Constitution

#### **Duties and Responsibilities**

The Functions of the Office of the Data Commissioner are provided in Section 8(1) of the Data Protection Act and shall include:

- (i) overseeing implementation of and being responsible for enforcement of the Data Protection Act;
- (ii) establishing and maintaining a register of data controllers and data processors;

- (iii) exercising oversight on data processing operations and verify whether the processing of data is done in accordance with this Act;
- (iv) promoting self-regulation among data controllers and data processors;
- (v) conducting assessment for the purpose of ascertaining whether information is processed according to the provisions of the Act or any other relevant law;
- (vi) receiving and investigating any complaint by any person on infringements of the rights under the Act;
- (vii) taking such measures as may be necessary to bring the provisions of the Act to the knowledge of the general public;
- (viii) carrying out inspections of public and private entities with a view to evaluating the processing of personal data;
- (ix) promoting international cooperation in matters relating to data protection and ensure country's compliance on data protection obligations under international conventions and agreements;
- (x) undertaking research on developments in data processing of personal data and ensuring that there is no significant risk or adverse effect of any developments on the privacy of individuals; and
- (xi) performing such other functions as may be prescribed by any other law or as necessary for the promotion of object of the Act.

#### **TERMS OF SERVICE**

The Data Commissioner shall be appointed for a single term of six (6) years and shall not be eligible for a re-appointment.

#### **REMUNERATION**

The Data Commissioner shall be paid a monthly gross remuneration package of Kshs.621,500.00 per month fixed for the term of office.

Medical and other benefits are as provided in the Gazette Notice No. 6516 of 7<sup>th</sup> July, 2017.

#### **INTERESTED APPLICANTS ARE REQUIRED TO NOTE:**

1. The names of shortlisted candidates shall be published on the Commission's website;
2. Shortlisted candidates will be required to present originals of the following documents during the interviews;
  - (a) National Identity Card;
  - (b) Academic and Professional Certificates and transcripts;
  - (c) Any other supporting documents and testimonials; and
  - (d) Clearances from the following bodies:
    - (i) Kenya Revenue Authority;
    - (ii) Ethics and Anti-Corruption Commission;
    - (iii) Higher Education Loans Board;

- (iv) Any of the Registered Credit Reference Bureaus;
- (v) Directorate of Criminal Investigations (Police Clearance Certificate); and
- (e) Recommendations from relevant professional bodies and associations (where applicable).

### **MODE OF APPLICATION**

1. Candidates may submit manual (hard copy) or electronic (online) applications.
2. All applications should be submitted together with detailed curriculum vitae, a copy of ID/Passport, copies of academic certificates, testimonials and any other relevant supporting documents.
3. Manual applications should be submitted in a sealed envelope clearly marked:

“Application for the position of Data Commissioner” and delivered to:

**THE SECRETARY/CEO**  
Public Service Commission  
4<sup>th</sup> Floor, Commission House  
Off Harambee Avenue  
P.O Box 30095-00100  
**NAIROBI.**

4. Online applications may be submitted via email to [datacommissioner2020@publicservice.go.ke](mailto:datacommissioner2020@publicservice.go.ke)

All applications should reach the Public Service Commission on or before 8<sup>th</sup> September, 2020 latest by 5.00 p.m. (East African Time)

*NB. The earlier advert of 25<sup>th</sup> March, 2020 stands cancelled.*

**SECRETARY/CEO**  
**PUBLIC SERVICE COMMISSION**





## PUBLIC SERVICE COMMISSION

Our Vision

*"A citizen-centric public service".*

Our Mission

*"To reform and transform the public service for efficient and effective service delivery".*

### APPLICANTS AND SHORTLISTED CANDIDATES FOR THE POSITION OF DATA COMMISSIONER

The Public Service Commission, in compliance to the provisions of Section 6(2) of the Data Protection Act, re-advertised the position of Data Commissioner in the print media and the Commission website on 18<sup>th</sup> August, 2020. By the close of the advertisement period on 8<sup>th</sup> September, 2020, the Commission had received one hundred and twenty-six (126) applications as follows:-

#### (a) List of Applicants

1	Irene Nambuya Musebe, PhD	Female
2	Veronica Kirigo Mwai	Female
3	Martin Macharia Kihara	Male
4	Thomas Oganga Odhiambo	Male
5	Peter K. Biwott	Male
6	Kinoti Gituma	Male
7	Anthony Kibet Cheruiyot	Male
8	Antony Nyaga Mwangi	Male
9	Beatrice Akoth Owino	Female
10	Tabitha Njeri Ngugi	Female
11	Dr. Kennedy O. Okong'o, PhD	Male
12	David Githaka Muriuki	Male
13	Boris Kavisi Kwithanga	Male
14	Lucas Achuku Ngoge	Male
15	Lynette Mukami Nthiga	Female
16	Sebastian Maingi Gachau	Male
17	Teddy Allan Onyango	Male
18	Dominic Makumba Obwogi	Male
19	Patrick Musyoka Mamuu	Male

20	Richard Clement Ang'asa	Male
21	Shardrack Kitolo Kioko (PWD)	Male
22	Martine Shikuku Opiyo	Male
23	Vincent Otieno Okoth	Male
24	Charles Aketch Otieno	Male
25	Caroline Wanjiru Gatimu	Female
26	Walter Ochieng Odhiambo	Male
27	James Mwendwa Kitetu	Male
28	Joshua Mosigisi Charana	Male
29	Robert Kipkirui Koskei	Male
30	Valentine Shanyisa Maina	Female
31	Ashford Mutusi Musyoka	Male
32	Dr. Anthony Lwanda	Male
33	Ruth Mwangangi	Female
34	Moses Mbugua Wainaina	Male
35	Mutichilo Mike	Male
36	Dr. Hilary Kipchirchiir Kandie, PhD	Male
37	Dr. Jacob O. Orina	Male
38	Carolynn Kemunto Ayienda	Female

39	Julius Ondiyo	Male
40	Kenneth Rare Kamau	Male
41	Murshid Abdalla Mohamed	Male
42	Samwel Karanja Muchina	Male
43	Geoffrey Mariga Wambugu	Male
44	George Ombese Ndege	Male
45	Bonface Isiaho Asiligwa	Male
46	Prof. Franklin Wabwoba, PhD	Male
47	John Simiyu Masika, PhD	Male
48	Dr. Vincent Motochi	Male
49	Daniel Abel Ofula	Male
50	James Kimani Chege	Male
51	Brian Gichanga Omwenga	Male
52	Dancan Dorwin Bichage	Male
53	Mbaabu Norah Nkirote	Female
54	Dr. Mary Muthoni Kimari	Female
55	Dr. Machel Thogo K. Waikenda	Male
56	Florah Jepkosgei Ronoh	Female
57	Nancy Wanjiku Kariuki	Female
58	Paul Opy Moturi	Male
59	Immaculate Kassait, MBS	Female
60	Allan Gitau Mburu	Male
61	Webstar Wakhura Wafula	Male
62	Lynn Wanjiku Macharia	Female
63	Victor Mwago Gatahi	Male
64	Anthony Akelo Okulo	Male
65	Pauline Wamuyu Macharia	Female
66	Adil Abdallah Maawy	Male
67	Dr. John K. Tarus	Male
68	Dismas Ondara Ong'ondi	Male
69	Makosa Ngess Mbarare	Male
70	John Walubengo Nyongesa, OGW	Male
71	Maurice Odhiambo Onyango	Male
72	Antony Mugambi Laibuta	Male
73	Samuel Wachira Kamau	Male
74	Raphael Agong Wambi	Male
75	Robert M. Mochache	Male
76	Michael Gatui Mbutia	Male
77	Lourince Linda Ochogo	Female

78	Franklin Kiplagat Koech	Male
79	Hakfan Mkiwa	Male
80	Sophie Awino O. Omolo	Female
81	Prof. Naomie Jeruto Kerich	Female
82	Kamau Mwangi, PhD	Male
83	Dr. Charles Ooko Akelloh, PhD	Male
84	Esther Nyambura Kamenwa	Female
85	Judy Kwamboka Nyabuto	Female
86	Ochengo Vincent Barongo	Male
87	Charles Irungu Wanyoike	Male
88	Dr. Mwalili Tobias Mbithi	Male
89	Hesbon Odanga Malweyi	Male
90	John Maganga Josephat	Male
91	Rose Mambo	Female
92	Paul Mbithi Mutunga	Male
93	Justine Mogendi Kinanga	Male
94	Joseph Nicholas Odhiambo Omumbo	Male
95	Slyvance Anderson Sange	Male
96	Simon Omondi Oloo	Male
97	Reuben Kipkorir Koech	Male
98	Monica Mellan Achode	Female
99	Miriam Ndumi Mwonge	Female
100	Bernard Muhia Njenga	Male
101	Martin Muturi Mirero	Female
102	Dr. Ben Ndungu Kamau	Male
103	Mutuma Ichaba	Male
104	Eugene Waluvengo, HSC	Male
105	Michael Mutwiri Njagi	Male
106	Irene Mumbi Mundia	Female
107	Margaret Makhungu- Mukoba	Female
108	Jimmy Omae Omoke	Male
109	Gabriel Kimotho Njenga	Male
110	Collins Ojiambo Were	Male
111	Peter Ogutu Ongoro	Male
112	Eng. Nixon Lenana Lenaiyara	Male
113	John Githinji Njoka	Male
114	Odira Elisha Abade, PhD	Male
115	Samuel Githumbi Kiniaru	Male
116	July Chebet Ngeny	Female

117	Dr. Tom Shavisa, PhD	Male
118	Caleb Ouma Kodo	Male
119	Joseph Mwangi Kimani	Male
120	George Onyango Oketh	Male
121	Martin Ochieng' Ayoo	Male
122	Dennis Osiya Emoit	Male

123	John Maina Wamae	Male
124	Flora M. Maghanga-Mtuweta	Female
125	Walton Kiche Otunga	Male
126	Elizabeth Agonya Mudogo	Male

### (b) Shortlisted Candidates

Following the conclusion of the shortlisting exercise, the Commission publishes the names and the interview schedule of the shortlisted candidates and calls for public participation requesting for comments on any of the candidates.

#### MONDAY 21<sup>ST</sup> SEPTEMBER, 2020

S/No.	Name	Gender	County	Interview Time
1	Thomas Oganga Odhiambo	Male	Homa Bay	9.00 a.m.
2	Dr. Kennedy Okong'o, PhD	Male	Migori	10.00 a.m.
3	Immaculate Kassait, MBS	Female	Kiambu	11.00 a.m.
4	Murshid Abdalla Mohamed	Male	Mombasa	12.00 noon
5	Brian Gichana Omwenga	Male	Kisii	2.00 p.m.
6	Miriam Ndumi Mwonge	Female	Makueni	3.00 p.m.

#### TUESDAY 22<sup>ND</sup> SEPTEMBER, 2020

S/No.	Name	Gender	County	Interview Time
1	Anthony Akelo Okulo	Male	Kisumu	9.00 a.m.
2	Rose Mambo	Female	Nairobi	10.00 a.m.
3	John Walubengo Nyongesa, OGW	Male	Bungoma	11.00 a.m.
4	Margaret Makhungu Mukoba	Female	Nairobi	12.00 noon
5	Dr. Mwalili Tobias Mbithi	Male	Machakos	2.00 p.m.
6	Michael Gatui Mbuthia	Male	Nyeri	3.00 p.m.

The shortlisted candidates will be interviewed at the Public Service Commission, Harambee Avenue Nairobi on the date and time indicated. The candidates should be at the venue at least **fifteen (15)** minutes before the starting time.

Shortlisted candidates should bring with them **originals** of the following documents:

- (i) National Identity Card;

- (ii) Academic and Professional Certificates and Transcripts;
- (iii) Any other supporting documents and testimonials; and
- (iv) Clearances from the following bodies:
  - (a) Kenya Revenue Authority;
  - (b) Higher Education Loans Board;
  - (c) Any of the Registered Credit Reference Bureaus;
  - (d) Directorate of Criminal Investigations (Police Clearance Certificate);
- (v) Self-Declaration Form duly stamped by the Ethics and Anti-Corruption Commission; and
- (vi) Recommendation from relevant professional bodies (where applicable).

#### **PUBLIC PARTICIPATION**

Members of the public are invited to avail any credible information of interest relating to any of the shortlisted candidates (through sworn affidavits) to the Secretary/CEO, Public Service Commission, 4<sup>th</sup> floor Commission House, off Harambe Avenue, Nairobi or online through [datacommissioner2020@publicservice.go.ke](mailto:datacommissioner2020@publicservice.go.ke) so as to be received on or before 21<sup>st</sup> September, 2020.

**SECRETARY/CEO**  
**PUBLIC SERVICE COMMISSION**



## RECRUITMENT FOR THE POSITION DATA PROTECTION COMMISSIONER

### (a) Declaration of Vacancy

The Principal Secretary, Ministry of ICT, Innovation and Youth Affairs vide letter Ref. No. MICT/CONF/12/34 of 28<sup>th</sup> November 2019 declared the vacancy in the position of Data Protection Commissioner to the Public Service Commission for advertisement.

### (b) Advertisement

Pursuant to the provisions of Section 6 (2) of the Data Protection Act, the Commission invited applications from suitably qualified Kenyans interested in being considered for nomination for the position of Data Commissioner in the print media and the Commission's website on 25<sup>th</sup> March, 2020. By the closure of the advertisement period on 14<sup>th</sup> April 2020, the Commission received two hundred and six (206) applications as follows:

1	Murshid Abdalla Mohamed	Male
2	Anthony L. Mbocho Mwakaba	Male
3	Annald Nyasinga Ongwenyi	Male
4	Lucas Achuku Ngoge	Male
5	Evan Makori Ombongi	Male
6	Rajab Ikunza Mbaruku	Male
7	Zachary Mwangi Chege	Male
8	Martin Macharia Kihara	Male
9	Shem Okioma Masese	Male
10	Vincent Mudogo Chalale	Male
11	Evan Otieno Meyo	Male
12	Alex Marete Muriira	Male
13	Moses Khainja Mnawe	Male
14	Alfred Kesenwa Muhindi	Male
15	James Onyango Odongo	Male
16	Dr. Lamek Kiprutto Ronoh, PhD	Male
17	Anthony Akelo Okulo	Male
18	Shikuku Shituma	Male
19	Dr. Fernando Wangila, PhD	Male

20	Thomas Oganga Odhiambo	Male
21	Joseph T. Murithi Kirera	Male
22	Pamela Mwikali Tutui	Female
23	Dismas Ondara Ong'ondi	Male
24	Ali Noor Haji	Male
25	Isaac Kiprotich Tonui	Male
26	Adrian D. Kamotho Njenga	Male
27	Tirus Muya Maina	Male
28	Ronoh Wences	Male
29	Dr. Machel Thogo K. Waikenda	Male
30	Jacob Mutwiri Kalenywa	Male
31	Samuel Kimamo	Male
32	Dr. Justus Ooga Omweri, PhD	Male
33	Hillary Kiprotich Koskei	Male
34	Sadik Karisa Ngoa	Male
35	Waswa Mukavana Beryl	Female
36	Barnaba Mutai	Male
37	Edwin Muthomi Muchiri	Male
38	Shadrack Kitolo Kioko (PWD)	Male

39	Victor Odhiambo Ochieng	Male
40	Stephen Amimo Mugacho	Male
41	Florah Jepkosgei Ronoh	Female
42	Richard Clement Angasa	Female
43	Meshack Otunge Okongo	Male
44	Elly Nandasaba Mulaha	Female
45	Samuel Ng'ang'a Kagenyi	Male
46	Brian Matagaro Ombongi	Male
47	Mbese Malombe	Male
48	Festus Kirui	Male
49	Edwin Ouma Onyango	Male
50	Geoffrey Korir	Male
51	Annastasia Ochuku Magoma	Female
52	Dr. Kennedy O. Okong'o, PhD	Male
53	Kang'ethe Francis Kiranga	Male
54	Bill Clinton Onyango	Male
55	Mercy L. Cherotich	Female
56	Christine Njeri Ndibaru	Female
57	Andrew Mutinda Maleve	Male
58	Gideon Barongo Otworu	Male
59	Ambrose Luffe Bayo	Male
60	Mary Wambui Kung'u	Female
61	Sunday Abraham Ngaira	Male
62	Donrose Ombae Mogire	Male
63	George Gitonga	Male
64	Elisha Kipkoech Songok	Male
65	Caroline Sariri Manyange	Female
66	Tawfiq Bashir Samo	Male
67	Michael Wanjala Matayo	Male
68	Joseph Yoya Madhare	Male
69	Timothy Nyabuto Nyamwega	Male
70	Peggy Nyakio Muchangi	Female
71	Elias Okwara	Male
72	Mike Cheruiyot Kimutai	Male
73	Jane Wambui Kihungi	Female
74	Fadhili Rimba Mwatsuma	Male
75	Kennedy Ondari Okindo	Male
76	Paul Ondongo Omondi	Male
77	Dr. Charles Ooko Akelloh, PhD	Male

78	Alexia Wadime Mshambala	Female
79	Erick Wangila	Male
80	Anastacia Aluoch Omijah	Female
81	Bernard F. Mwangi Chogi	Male
82	Seth Ouma Okeyo	Male
83	Bonface Gitau Kamau	Male
84	Christopher Jaldesa Galgallo	Male
85	Paul Letoya Saitoti	Male
86	Kevin Namakhelo Wabwire	Male
87	Amos Mwarimbo Mjomba	Male
88	Job Omollo Oweya	Male
89	Meshack Kitungu Kawinzi	Male
90	Kipkirui Gilbert Milgo	Male
91	Bernard Omondi Milewa	Male
92	Caroline Wanjiru Gatimu	Female
93	Olive Chepkorir Metet	Female
94	Lilian Adhiambo Agunga	Female
95	Antony Mugambi Laibuta	Male
96	Nelly Mumbi Gatitu	Female
97	Chelangat Gladys	Female
98	Edward Kiarie Mbatia	Male
99	Ann Mwangi Wanjiku	Female
100	Kenneth Kimachia	Male
101	Collions Warutumo	Male
102	Prof. David Mugo Gichoya	Male
103	Onduko Morris Murimi	Male
104	James Muriithi Gitonga	Male
105	Elsen Achieng	Female
106	Benard Ngandu Nduruku	Male
107	Teddy Gregory Lenga	Male
108	Dr. Joel Kimeli Cherus, PhD	Male
109	Augustine Mbii Kavindu	Male
110	Edwin G. Gichangi Kariuki	Male
111	Symon Kiptoo Sang	Male
112	Edwin Wanyama Ngero	Male
113	Prof. Kimani Chege Gabriel	Male
114	Calleb Juma Kodo	Male
115	Grace Awuor Ogolla	Female
116	Valentine Egwa Mghalu	Female

117	Jonah Kipchirchir Kenei	Male
118	Jacqueline Mueni Kioko	Female
119	Dr. Lamek Kiprutto Ronoh, PhD	Male
120	Victor Odinga Oburu	Male
121	Daniel Muimi Muthengi	Male
122	Erick Olela Olela	Male
123	Angela Atieno O. Magacha	Female
124	Vincent Majani Alwavuha	Male
125	Dr. Mwalili Tobias Mbithi	Male
126	Francis Njoroge Kiongo	Male
127	Antony Karani Mutwiri	Male
128	Frankline Odhiambo Makokha	Male
129	Mutua Kakinyi, OGW	Male
130	Bonaventure Muli Ngala	Male
131	Simon Omondi Oloo, PhD	Male
132	Fatma Ndung'u Muiruri	Female
133	Irene Wanjiru Kaguru	Female
134	Dr. George Odera Outa	Male
135	Queen Naeku Kimorgo	Female
136	Lewis Njagi Murenga	Male
137	Edward Wakoli Wafula	Male
138	Abdalla Omari	Male
139	Samuel Lihanda Omwaka	Male
140	Dr. Geoffrey M. Wambugu, PhD	Male
141	Dr. Elsebah Maseh	Female
142	Martin Muroria	Male
143	Collins Ojiambo Were	Male
144	Dr. Samuel Kankuko Ronguno	Male
145	Sammy Ogaro Gesembe	Male
146	Ruth Moraa Otundo	Female
147	Esekon Napokol Mark	Male
148	Ken Karanja Kimani	Male
149	William Kariuki Mirugi	Male
150	George O. Makosa N. Mbarare	Male
151	Denis Ndirangu Mwangi	Male
152	Brian Gichana Omwenga	Male
153	John Kipyegon Maritim	Male
154	Aprielle Moraa Oichoe	Female
155	Dr. Ben Ndungu Kamau. PhD	Male

156	Aggrey Ywaya Oyoo Oriwo	Male
157	Calvince Aunda	Male
158	Humphrey Waita Njogu	Male
159	John Walubengo Nyongesa, OGW	Male
160	Evans Martin Rioba	Male
161	Rael Kwamboka Momanyi	Female
162	Dr. Judith Emboyi Bwonya	Female
163	Charles Otieno Konyango	Male
164	Job Musyoka Kavoya	Male
165	Ponvas Kipchirchir Kiprop	Male
166	John Githinji Njoka	Male
167	Joel Karieny Karubiu	Male
168	Sharon Musimbi Chahale	Female
169	Patrick Munene Kariuki	Male
170	Addy Njogu Waichigo	Male
171	Enock Keya Kavingwa	Male
172	Samuel Ngumo Kingori	Male
173	Patrick M. K. Mbuchi	Male
174	Immaculate Kassait, MBS.	Female
175	Annette Nasiaki Okello	Female
176	Joyce Wangui Kiarie	Female
177	Evelyn Mukuhi Maina	Female
178	Michael Riunge Njoroge, OGW	Male
179	Mercy Wangui Kiiru Wanjau	Female
180	Oscar Odhiambo Okwero	Male
181	Paul Kiprohon Ronoh	Male
182	Beatrice Wanjiku Gichohi	Female
183	Longet Kiprono Terer	Male
184	Frida Kemunto Inchoga	Female
185	Fredrick Collins Omondi	Male
186	Henry Omusundi Maina	Male
187	Eugene Odhiambo Waluvengo	Male
188	Philip Luvuga Irode	Male
189	Esther Wanjiru Muchiri	Female
190	David A. Onyango Njoga	Male
191	John Maganga Josephat	Male
192	Naomie Jeruto Kerich	Female
193	Yiapan Edgar Karsis	Male
194	Odira Elisha Abade	Male

195	Julius Kiplagat Rotich	Male
196	Martin Mutuiru Mirero	Male
197	Charles Otieno Aketch	Male
198	Abdulrazaaq Adan	Male
199	Charles Kipkoech Kapkiai	Male
200	Pius Mayende Mangoli	Male

201	Dr. Zablon Bosire Pingo	Male
202	Jairus Kipyego Cheruiyot	Male
203	Martin Matimu Kinyua	Male
204	Francis K. Chemorion	Male
205	James Karanja Kamau	Male
206	Joseph Mutuma Ichaba	Male

**(c) Shortlisting**

These applications were processed for shortlisting which was conducted on 5<sup>th</sup> June, 2020 where ten (10) candidates were shortlisted and scheduled for interviews on 7<sup>th</sup> July, 2020 as per the interview schedule below:

S/No.	Name	Gender	County	Interview Time
1	John Walubengo Nyongesa	Male	Bungoma	9.00 a.m.
2	Thomas Oganga Odhiambo	Male	Homa Bay	9.45 p.m.
3	Immaculate Kassait, MBS	Female	Baringo	10.30 a.m.
4	Prof. David Gichoya	Male	Kirinyaga	11.30 a.m.
5	Brian Gichana Omwenga	Male	Kisii	12.15 p.m.
6	Anthony Akelo Okulo	Male	Kisumu	2.00 p.m.
7	Dr. Kennedy Okong'o (PhD)	Male	Migori	2.45 p.m.
8	Murshid Abdalla Mohamed	Male	Mombasa	3.30 p.m.
9	Mercy Kiiru Wanjau	Female	Nyandarua	4.15 p.m.
10	Dr. Mwalili Tobias Mbithi	Male	Machakos	5.00 p. m

The interviews, however, did not take place as they were cancelled to await conclusion of a petition filed in the High Court vide *Judicial Review No.22 of 2020, Adrian Kamotho Njenga versus Public Service Commission*.

Following the consent between the parties dated 15<sup>th</sup> July 2020 which was adopted as an order of the Court on 28<sup>th</sup> July 2020, the Hon. Attorney General advised the Commission that the recruitment of the Data Protection Commissioner commences afresh in consultation with his office. The Attorney General's advice was conveyed to the Commission vide letter Ref. No.AG/LIC/PSC/68/20 of 12<sup>th</sup> August 2020.

(d) Re-advertisement

In line with the advice of the Hon. Attorney General and pursuant to the provisions of the Data Protection Act, the Commission re-advertised the position in the print media and the Commission's website on 18<sup>th</sup> August, 2020. The advertisement ran for twenty-one (21) days and at the closure of the advertisement period on 8<sup>th</sup> September 2020, a total of one hundred and twenty-six (126) applications were received for the following persons:

1	Irene Nambuya Musebe, PhD	Female
2	Veronica Kirigo Mwai	Female
3	Martin Macharia Kihara	Male
4	Thomas Oganga Odhiambo	Male
5	Peter K. Biwott	Male
6	Kinoti Gituma	Male
7	Anthony Kibet Cheruiyot	Male
8	Antony Nyaga Mwangi	Male
9	Beatrice Akoth Owino	Female
10	Tabitha Njeri Ngugi	Female
11	Dr. Kennedy O. Okong'o, PhD	Male
12	David Githaka Muriuki	Male
13	Boris Kavisi Kwithanga	Male
14	Lucas Achuku Ngoge	Male
15	Lynette Mukami Nthiga	Female
16	Sebastian Maingi Gachau	Male
17	Teddy Allan Onyango	Male
18	Dominic Makumba Obwogi	Male
19	Patrick Musyoka Mamuu	Male
20	Richard Clement Ang'asa	Male
21	Shardrack Kitolo Kioko (PWD)	Male
22	Martine Shikuku Opiyo	Male
23	Vincent Otieno Okoth	Male
24	Charles Aketch Otieno	Male
25	Caroline Wanjiru Gatimu	Female
26	Walter Ochieng Odhiambo	Male
27	James Mwendwa Kitetu	Male
28	Joshua Mosigisi Charana	Male

29	Robert Kipkirui Koskei	Male
30	Valentine Shanyisa Maina	Female
31	Ashford Mutusi Musyoka	Male
32	Dr. Anthony Lwanda	Male
33	Ruth Mwangangi	Female
34	Moses Mbugua Wainaina	Male
35	Mutichilo Mike	Male
36	Dr. Hilary Kipchirchir Kandie, PhD	Male
37	Dr. Jacob O. Orina	Male
38	Carolynn Kemunto Ayienda	Female
39	Julius Ondiyo	Male
40	Kenneth Rare Kamau	Male
41	Murshid Abdalla Mohamed	Male
42	Samwel Karanja Muchina	Male
43	Geoffrey Mariga Wambugu	Male
44	George Ombese Ndege	Male
45	Bonface Isiaho Asiligwa	Male
46	Prof. Franklin Wabwoba, PhD	Male
47	John Simiyu Masika, PhD	Male
48	Dr. Vincent Motochi	Male
49	Daniel Abel Ofula	Male
50	James Kimani Chege	Male
51	Brian Gichanga Omwenga	Male
52	Dancan Dorwin Bichage	Male
53	Mbaabu Norah Nkirote	Female
54	Dr. Mary Muthoni Kimari	Female
55	Dr. Machel Thogo K. Waikenda	Male

56	Florah Jepkosgei Ronoh	Female
57	Nancy Wanjiku Kariuki	Female
58	Paul Opy Moturi	Male
59	Immaculate Kassait, MBS	Female
60	Allan Gitau Mburu	Male
61	Webstar Wakhura Wafula	Male
62	Lynn Wanjiku Macharia	Female
63	Victor Mwago Gatahi	Male
64	Anthony Akelo Okulo	Male
65	Pauline Wamuyu Macharia	Female
66	Adil Abdallah Maawy	Male
67	Dr. John K. Tarus	Male
68	Dismas Ondara Ong'ondi	Male
69	Makosa Ngees Mbarare	Male
70	John Walubengo Nyongesa, OGW	Male
71	Maurice Odhiambo Onyango	Male
72	Antony Mugambi Laibuta	Male
73	Samuel Wachira Kamau	Male
74	Raphael Agong Wambi	Male
75	Robert M. Mochache	Male
76	Michael Gatut Mbuthia	Male
77	Lourince Linda Ochogo	Female
78	Franklin Kiplagat Koech	Male
79	Hakfan Mkiwa	Male
80	Sophie Awino O. Omolo	Female
81	Prof. Naomie Jeruto Kerich	Female
82	Kamau Mwangi, PhD	Male
83	Dr. Charles Ooko Akelloh, PhD	Male
84	Esther Nyambura Kamenwa	Female
85	Judy Kwamboka Nyabuto	Female
86	Ochengo Vincent Barongo	Male
87	Charles Irungu Wanyoike	Male
88	Dr. Mwalili Tobias Mbithi	Male
89	Hesbon Odanga Malweyi	Male
90	John Maganga Josephat	Male
91	Rose Mambo	Female

92	Paul Mbithi Mutunga	Male
93	Justine Mogendi Kinanga	Male
94	Joseph Nicholas Odhiambo Omumbo	Male
95	Slyvance Anderson Sange	Male
96	Simon Omondi Oloo	Male
97	Reuben Kipkorir Koech	Male
98	Monica Mellan Achode	Female
99	Miriam Ndumi Mwonge	Female
100	Bernard Muhia Njenga	Male
101	Martin Muturi Mirero	Female
102	Dr. Ben Ndungu Kamau	Male
103	Mutuma Ichaba	Male
104	Eugene Waluvengo, HSC	Male
105	Michael Mutwiri Njagi	Male
106	Irene Mumbi Mundia	Female
107	Margaret Makhungu-Mukoba	Female
108	Jimmy Omae Omoke	Male
109	Gabriel Kimotho Njenga	Male
110	Collins Ojiambo Were	Male
111	Peter Ogutu Ongoro	Male
112	Eng. Nixon Lenana Lenaiyara	Male
113	John Githinji Njoka	Male
114	Odira Elisha Abade, PhD	Male
115	Samuel Githumbi Kiniaru	Male
116	July Chebet Ngeny	Female
117	Dr. Tom Shavisa, PhD	Male
118	Caleb Ouma Kodo	Male
119	Joseph Mwangi Kimani	Male
120	George Onyango Oketh	Male
121	Martin Ochieng' Ayoo	Male
122	Dennis Osiya Emoit	Male
123	John Maina Wamae	Male
124	Flora M. Maghanga-Mtuweta	Female
125	Walton Kiche Otunga	Male
126	Elizabeth Agonya Mudogo	Male

### **(e) Shortlisting**

On 10<sup>th</sup> September 2020, the Commission shortlisted twelve (12) candidates who met the requirements of the advertisement. The Office of the Attorney General was represented in the shortlisting exercise.

#### **The Criteria for shortlisting applied was:-**

- (i) As per the provisions of section 7 (1) of the Act and the requirements for appointment in the advert which required a candidate to:
  - (a) hold a degree in any of the following fields from a university recognized in Kenya:
    - (i) Data Science;
    - (ii) Law;
    - (iii) Information Technology or
    - (iv) any other related field;
  - (b) hold a Masters Degree;
  - (c) have knowledge and relevant experience of not less than ten (10) years; and
  - (d) meet the requirements of Chapter six (6) of the Constitution
- (ii) Regional balance/representation/inclusivity
- (iii) Gender consideration

An advertisement publicizing the shortlisted candidates was published in the print media and the Commission's website on 15<sup>th</sup> September, 2020.

#### **The advertisement contained:**

- (i) a link to the Commission's website providing access to the list of all the applicants;
- (ii) a list of the shortlisted candidates indicating date and time of the interviews;
- (iii) notification requesting the candidates to seek clearances from relevant bodies; and
- (iv) a call for public participation by way of submission of credible information on the shortlisted candidates.

### **(f) Interviews**

The Commission conducted the interviews on 21<sup>st</sup> and 22<sup>nd</sup> September 2020. Representatives from the Ministry of ICT, Innovation and Youth Affairs and Office of the Hon. Attorney General participated in the interviews as observers.

## Interview schedule

Monday 21<sup>st</sup> September, 2020

S/No.	Name	Gender	County	Interview Time
1	Thomas Oganga Odhiambo	Male	Homa Bay	9.00 a.m.
2	Dr. Kennedy Okong'o, PhD	Male	Migori	10.00 a.m.
3	Immaculate Kassait, MBS	Female	Kiambu	11.00 a.m.
4	Murshid Abdalla Mohamed	Male	Mombasa	12.00 noon
5	Brian Gichana Omwenga	Male	Kisii	2.00 p.m.
6	Miriam Ndumi Mwonge	Female	Makueni	3.00 p.m.

Tuesday 22<sup>nd</sup> September, 2020

S/No.	Name	Gender	County	Interview Time
1	Anthony Akelo Okulo	Male	Kisumu	9.00 a.m.
2	Rose Mambo	Female	Nairobi	10.00 a.m.
3	John Walubengo Nyongesa, OGW	Male	Bungoma	11.00 a.m.
4	Margaret Makhungu Mukoba	Female	Nairobi	12.00 noon
5	Dr. Mwalili Tobias Mbithi	Male	Machakos	2.00 p.m.
6	Michael Gatui Mbuthia	Male	Nyeri	3.00 p.m.

### (g) Background Checks and Clearances

The Commission requested the following bodies for clearance of the candidates; Kenya Revenue Authority, High Education Loans Board; Ethics and Anti-Corruption Commission and the National Intelligence Service.

### (h) Public Participation

Mr. Kevin Omogeni, Chairman ICJ Kenya, vide email dated 21<sup>st</sup> September 2020, wrote to the Commission on the suitability of two candidates: Immaculate Kassait and Brian Gichana Omwenga.

The Interview panel considered the information submitted in the two affidavits and decided that the information submitted did not meet the threshold required to disqualify the two candidates.



**(i) Interview Scores and Scores Summary**

The performance of the candidates is summarized as follows:-

Name	I/D No.	G	County	Average Score
Immaculate Kassait, MBS	20049697	F	Baringo	80.1
Thomas Oganga Odhiambo	10225921	M	Homa Bay	75.1
Murshid Abdalla	8460816	M	Mombasa	69.6
John Walubengo Nyongesa, OGW	9997261	M	Bungoma	69.4
Brian Gichana Omwenga	22310415	M	Kisii	68.1
Michael Gatu Mbuthia	20062214	M	Nyeri	65.2
Dr. Mwalili Tobias Mbithi	11890262	M	Machakos	61.5
Dr. Kennedy Okong'o	22555167	M	Migori	61.4
Rose Wangui Mambo	9789735	F	Murang'a	60.2
Margaret Makhungu -Mukoba	9136673	F	Kakamega	57.6
Miriam Ndumi Mwonge	22793012	F	Makueni	56.8
Anthony Akelo Okulo	5780042	M	Kisumu	Disqualified Lacked KRA, CRB and Police clearances

**(j) Recommendation**

Section 6 (3) (e) and (f) of the Data Protection Act, requires the Commission to:

- (i) nominate three (3) qualified applicants in the order of merit for the position of Data Commissioner; and
- (ii) submit the names of the person nominated to H.E. the President.

Having concluded the interviews of the shortlisted candidates, the Commission nominates the following candidates in order of merit to be considered for appointment as Data Commissioner:

- (i) Immaculate Kassait
- (ii) Thomas Oganga Odhiambo
- (iii) Murshid Abdalla





## PUBLIC SERVICE COMMISSION

### PERSONS NOMINATED FOR THE POSITION OF DATA COMMISSIONER

S/No.	Name, ID/No. Date of Birth	Gender	County	Academic & Professional Qualifications	Work Experience	Telephone/ e-mail contact
1	Immaculate Kassait, MBS 20049697 1977	F	Baringo	EMBA - USIU; 2016 LLB Law - Makerere University; 2002. PGDE - Law - Kenya School of Law; 2007 Advocate High Court. Member - Law Society of Kenya. Member - FIDA	Director, Voter Registration - IEBC; 2019 - To Date Director - Voter Registration and Electoral Operations - IEBC; 2010 - 2018 Program Manager/Team Leader Electoral Process - Institute of Education in Democracy; 2005 - 2009 Program Officer - Women Rights Advocacy Awareness and Monitoring; 2002 - 2005	P.O. Box 7867 - 00100 Nairobi <a href="mailto:kassait@gmail.com">kassait@gmail.com</a> <a href="mailto:muringo_njenge@yahoo.com">muringo_njenge@yahoo.com</a>



S/No.	Name, ID/No. Date of Birth	Gender	County	Academic & Professional Qualifications	Work Experience	Telephone/ e-mail contact
2	Thomas Oganga Odhiambo 10225921 1968	M	Homa Bay	<p>M.Sc (Strategic Business and Information Systems) - University of Hertfordshire; 2012</p> <p>MBA(Strategic Management) - Moi University; 2009</p> <p>B.Sc (Mathematics and Physics ) - Moi University; 1992</p> <p>PGD - Strategic Business IT - Informatics Global Campus Singapore; 2009</p> <p>PGD – Computer Science – UON 1996</p> <p>Member - ISACA. Member - Institute of Electric and Electronics Engineering. Member - Internet Society.</p>	<p>Head, PMO - ICT Authority; 2015 - To Date</p> <p>Ag. Deputy Director - Directorate of e-Government; 2010 - 2015</p> <p>Snr. Asst. Director - Office of the Prime Minister; 2000 - 2010.</p> <p>Principal ICT Officer - Ministry of State for Immigration &amp; Registration of Persons; 2005-2008</p> <p>Senior ICT Officer - Dept. of Immigration; 1992 - 2005</p> <p>Part-Time Lecturer - Strathmore College; 1996 - 1997</p>	<p>P.O. Box 5675 – 00100 Nairobi</p> <p><a href="mailto:odhiambot@gmail.com">odhiambot@gmail.com</a></p>



S/No.	Name, ID/No. Date of Birth	Gender	County	Academic & Professional Qualifications	Work Experience	Telephone/ e-mail contact
3	Murshid Abdalla Mohamed 8460816 1964	M	Mombasa	LLM Commercial Law & Constitutional Law- Maharaja Sayajirao University of Baroda-1995  LLB(Law)-Maharaja Sayajirao University of Baroda-1993;  BA(Political Science & International Relations)- Maharaja Sayajirao University of Baroda-1990  PGD(Law)-Kenya School of Law-1997;  Diploma(Protection & Indemnity)-South Tennyside College, UK- 2000	Advocate of the High Court of Kenya-2018- To Date  Commissioner-National Police Service Commission-2012-2018  Commissioner-Interim Independent Boundaries Review Commission-2009-2010  Commissioner-Poverty Eradication Commission-2008- 2009  Advocate of the High Court of Kenya-2003- 2009  Managing Director- Dolphin P & I E.A Ltd- 2001-2009  Part-Time Lecturer- Bandari College-1997- 2004	P.O. Box 81347 – 80100 Mombasa  <a href="mailto:mohamed.murshid@gmail.com">mohamed.murshid@gmail.com</a>





MAKERERE



UNIVERSITY

This Is To Certify That

IMMACULATE MURINGO NJENGE


was awarded the degree of

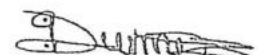
BACHELOR OF LAWS

(Second Class with Honours, *LOWER* Division)


and was admitted to the degree  
at a Makerere University Congregation

held on *17<sup>th</sup> January, 2003*

  
Vice-Chancellor

  
Registrar

MAS 00802

  
I hereby certify that this is a True Copy  
of the Original  
DOUGLAS K. BARGRETT-NEPOM  
COMMISSIONER FOR OATH  
P.O. BOX 1021 - 00200 NAIROBI



**State**  
**Technical Education Board - Kenya**

The Trustees of the University, upon recommendation of the University Faculty and by virtue of the Authority in them vested, have conferred on

**Immaculate Muringo Kasait**

who has satisfactorily pursued the studies and passed the examinations required therefor, the degree of

**Global Executive Master of Business Administration**

with all the rights, privileges and honors thereunto appertaining

Given at Nairobi, Kenya

this twentieth day of August, two thousand and sixteen.

*P. T. Ullera*  
Vice-Chancellor

*Mwasa*  
Chancellor

I hereby declare this is a True Copy  
of the Original  
*P. T. Ullera*  
JOSIAS K. FARCONETTI, SCA,  
COMMISSIONER FOR OATHS  
Tel: 020 27421 - 27420 NAIROBI





University of Hertfordshire

*Thomas Oganga Odhiambo*

has been awarded the degree of

**Master of Science**

having followed an approved programme in  
**Strategic Business and Information Systems**

21 November 2012

*Professor Quintin McKellar CBE*  
*Vice-Chancellor*

14098867



00036431

---





University of Hertfordshire

Transcript

This transcript contains information required by the European Commission to be included in the European Diploma Supplement

---

Student	Odhiambo, Thomas Oganga
Date of Birth	22/11/1968
Student No	14098867
Hesa No	1110600988675
Qualification	MSc
Award Classification	Pass
Level of Qualification	Postgraduate
Date of Award	21/11/2012
Award Name	Strategic Business and Information Systems
Awarding Institution	0060 University of Hertfordshire
Delivery	UH Hatfield Campus
Language of Instruction	English
Language of Assessment	English

A handwritten signature in black ink, appearing to be 'N. J. S. P.'.

Chair of Board of Examiners/  
Nominated Officer

A handwritten signature in black ink, appearing to be 'Q. McKellar'.

Professor Quentin McKellar CBE  
Vice-Chancellor





24 4695



# MOI UNIVERSITY

Upon the recommendation of Senate  
and on authority of the Council  
hereby confers upon

*Thomas Oganga Odhiambo*  
the degree of

**Master of Business Administration  
(Executive)**

with all the rights and privileges  
thereunto appertaining in witness whereof  
we have hereunto affixed our signatures  
and the seal of the University

on the 10<sup>th</sup> day of December 2009

  
VICE-CHANCELLOR



# Commission for Higher Education

Redhill Rd., off Limuru Rd., Gigiri, P. O. Box 54999 00200, Nairobi, Kenya  
Tel: 254 (020) 7205000, 2021150, 2021154, 2021156, Fax: 254 (020) 2021172, 7205602/3

Assuring Quality  
Higher Education

## Recognition and Equation of Qualifications

CHE/10/9/1/Vol.149

Thomas Oganga Odhiambo  
P.O Box 5675-00100  
NAIROBI



27/02/2013

**RE: RECOGNITION OF QUALIFICATIONS:**  
**THOMAS OGANGA ODHIAMBO**

Thank you for your application dated 26<sup>th</sup> February 2013, requesting for the recognition of the degree of Master of Science in Strategic Business and Information awarded by University of Hertfordshire in the United Kingdom.

We confirm that University of Hertfordshire is a recognized institution in the UK. The degree of Master of Science in Strategic Business and Information of awarded by the said institution is recognized in the UK and by convention in Kenya.

Do note nonetheless, that in addition, you may be called upon to meet other requirements set by Kenyan professional organizations.

A handwritten signature in black ink, appearing to read "Bea".

**DR. BEATRICE A. ODERA-KWACH**  
**FOR: COMMISSION SECRETARY/CHIEF EXECUTIVE OFFICER**

BAOK/em

***N/B: The Commission is not accountable for the authenticity of the certificate or the identity of the certificate holder presented for recognition or equation.***

SERIAL NO. 1501

E-mail: [documentation@che.or.ke](mailto:documentation@che.or.ke), Website: [www.che.or.ke](http://www.che.or.ke)  
ISO 9001:2008 CERTIFIED







# Postgraduate Diploma in Strategic Business

*This is to certify that*

**THOMAS OGANGA ODHIAMBO**

has successfully completed the above academic programme quality assured

by NCC Education and delivered by

Informatics Global Campus Pte Ltd, Singapore

5 February 2009

A handwritten signature in black ink, appearing to read 'Steve Hill'.

Dr Steve Hill  
Director, Quality



A handwritten signature in black ink, appearing to read 'Peter Ford'.

Professor Peter Ford  
Chair of the Academic Board





# UNIVERSITY OF NAIROBI



This is to certify that

*Thomas Spanga Ochiambo*

having satisfied the requirements  
for the award of the

POSTGRADUATE DIPLOMA  
IN COMPUTER SCIENCE

*Credit*

was presented  
at a Congregation held at  
this University on the

Ninth Day of December in the Year  
1996

A handwritten signature in cursive script, likely belonging to the Vice-Chancellor.

VICE - CHANCELLOR

A handwritten signature in cursive script, likely belonging to the Deputy Vice-Chancellor (Academic Affairs).

DEPUTY VICE - CHANCELLOR (ACADEMIC AFFAIRS)







# MOI UNIVERSITY

Upon the recommendation of Senate  
and on authority of the Council  
hereby confers upon

*U. Thomas Oganga*

the degree of

Bachelor of Science

*Second Class honours (Lower Division)*

with all the rights and privileges  
thereunto appertaining in witness whereof  
we have hereunto affixed our signatures  
and the seal of the University

on the *11<sup>th</sup>* day of *September* 19.92

*[Signature]*  
SECRETARY TO SENATE

*[Signature]*  
VICE-CHANCELLOR

*[Signature]*  
SECRETARY TO COUNCIL



The  
Maharaja Sayajirao  
University of Baroda

Whereas Shri *Murshid Abdallah  
Mohammed* of the Faculty of Law has  
pursued a course of study prescribed by  
the University and passed the requisite  
Examination in the

*Second Class*

Now therefore this is to certify that he  
has this day been duly admitted by the  
Senate to the Degree of

*Master of Laws*

Given under my hand this Twenty third  
day of December one thousand nine  
hundred and ninety five



5456

Chancellor



The  
Maharaja Sayajirao  
University of Baroda

Whereas Shri *Murshid Abdalla  
Mohammed* of the Faculty of Law has  
pursued a course of study prescribed by  
the University and passed the requisite  
Examination in the

Second Class

Now therefore this is to certify that he  
has this day been duly admitted by the  
Senate to the Degree of

Bachelor of Laws  
( Special )

Given under my hand this Twenty first  
day of January one thousand nine  
hundred and ninety four

  
Chancellor



The  
Maharaja Sayajirao  
University of Baroda

Whereas Shri Munshid Abdulla Mohamed  
of the Faculty of Arts has pursued a  
course of study prescribed by the University  
in Political Science (Major)  
and English (Minor)  
and passed the requisite Examination in  
the First Class with Distinction

Now Therefore this is to certify that  
he has this day been duly admitted by  
the Senate to the Degree of

Bachelor of Arts

Given under my hand this tenth  
day of March one thousand nine  
hundred and ninety two

  
Rao  
Chancellor





**ANNEXURE 12**

**MEMORANDA**



*Ella Kendi*  
*pls deal*  
*up w/ ya*  
*26/10/20*

*DD/AmS*  
*plse deal.*  
*CNA*

**REPUBLIC OF KENYA**  
**IN THE MATTER OF STATUTORY OATHS AND DECLARATIONS ACT CAP 26/10/20**  
**15 LAWS OF KENYA**  
**AFFIDAVIT**

I, **ANNE W. IRERI**, a resident of Nairobi within the Republic of Kenya and of **P.o Box 46324-00100** Nairobi do hereby make oath and state as follows:

1. **THAT** I am a female adult of sound mind, an Advocate of the High Court of Kenya and the Executive Director of FIDA-Kenya.
2. **THAT** FIDA-Kenya is a membership non-governmental organization registered in 1985 with the mission of promoting women's individual and collective rights.
3. **THAT** FIDA-Kenya has for 35 years made significant contribution towards the development and enactment of several gender and responsive laws and policies to advance human rights in Kenya.
4. **THAT** I am aware Ms. Immaculate Kassait has been nominated as the first ever Data Commissioner in Kenya.
5. **THAT** Ms. Immaculate Kassait is in good standing with FIDA-Kenya and has actively been involved in various activities of the organization since she joined the membership in 2003.
6. **THAT** Ms. Immaculate Kassait is diligent, a committed lawyer and a dedicated defender of human rights.
7. **THAT** Ms. Immaculate Kassait has demonstrated a high sense of responsibility, discipline, integrity and strong commitment to women's rights issues.
8. **THAT** I have no hesitation to recommend Ms. Immaculate Kassait for public service.
9. **THAT** I depose this affidavit in support of the recommendation letter dated 24<sup>th</sup> June 2020 from facts within my knowledge, information and belief sources and basis whereof have been discussed.

SWORN by the said

**ANNE W. IRERI** at Nairobi

This...<sup>22<sup>nd</sup></sup>...day of...October...2020

BEFORE ME

*Rambeteui*

DEPONENT

**NATIONAL ASSEMBLY RECEIVED**  
**26 OCT 2020**  
**DEPUTY DIRECTOR COMMITTEE SERVICES**

**HENRY MURAUKA**  
ADVOCATE, MILITARY, PUBLIC & COMM. LEE PCH OATHS  
P.O. Box 17888 - 00100  
NAIROBI

*[Signature]*

**NATIONAL ASSEMBLY RECEIVED**  
**26 OCT 2020**  
**CLERK'S OFFICE**  
P. O. Box 41842, NAIROBI



**COMMISSIONER FOR OATHS**

**DRAWN & FILED BY:**

Vivian M. Wambua- Advocate  
C/o Federation of women lawyers – kenya  
Lavington, Amboseli road off Gitanga road  
P.o. Box 46324-00100

**NAIROBI.**

**TO BE SERVED UPON**

The Secretary,  
Public service commission  
Commission House  
P.O Box 30095-00100

**NAIROBI.**



*DD/Okant 27/10/20*

**REPUBLIC OF KENYA**  
**IN THE MATTER OF THE OATHS AND STATUTORY DECLARATION ACT CHAPTER**  
**15 OF THE LAWS OF KENYA**  
**IN THE MATTER OF SUBMISSION OF MEMORANDUM TO NATIONAL ASSEMBLY**  
**FOR THE VETTING OF MS. IMMACULATE KASSAIT, MBS FOR THE POSITION OF**  
**DATA COMMISSIONER**

*Ella Kandi  
P/S deal  
up w/ 27/10/20*

**AFFIDAVIT.**

I **AHMED ISSACK HASSAN** of National Identity Number **9565946** and Post Office Box Number 20617-00100 NAIROBI and email address **ahmedissack786@gmail.com** residing in Nairobi in the Republic of Kenya do hereby solemnly make oath and state as follows:

1. **THAT** I am an adult of sound mind and disposition.
2. **THAT** I am an advocate of the High Court of Kenya and a Certified Public Secretary (CPS) with over 25 years of progressive practical experience in legal practice, public service, and election administration. Currently, I am the Chairperson, Board of Directors of the Kenya Industrial Property Institute (KIPI).
3. **THAT** I have known Ms. Immaculate Kassait since 2009 when I served as the chairman of the Interim Independent Electoral Commission (IIEC). Following a competitive process overseen by a human resource firm, Ms. Kassait was interviewed by the Commission for the job of Director Voter Registration and Electoral Operations (DVREO).
4. **THAT** I chaired the full Commission plenary that interviewed her and settled on her for the job. **THAT** she was recruited to serve in this very important portfolio despite her youthful age. She was the youngest Director in the secretariat we recruited.
5. **THAT** she continued to serve in this position even after IIEC transited to Independent Electoral and Boundaries Commission (IEBC)
6. **THAT** she went on to perform her role in that capacity exceptionally well. Some of her key achievements were;
  - Team leader in the conduct of the initial by-elections done by IIEC,
  - Team leader of the first voter registration process and the conduct of the National Referendum on the new Constitution for Kenya,
  - Team leader for the completion of the Boundary Delimitation process and Demarcation of the 1450 County Assembly Wards in 2012;

**NATIONAL ASSEMBLY  
RECEIVED  
27 OCT 2020  
DEPUTY DIRECTOR  
COMMITTEE SERVICES**

**RECEIVED  
26 OCT 2020  
CLERK'S OFFICE**





- Team leader for the compilation of the first Biometric Register of Voters in Kenya with 14.3 million voters in the 2013 General Elections, and overseeing the conduct of the first-ever six (6) elections in one day.
  - Coordinated and led the training of over 350,000 electoral officials.
7. **THAT** Ms. Kassait is also an accrediting Building Resources in Democracy, Governance, and Elections (BRIDGE) facilitator and was instrumental in overseeing the conduct of training of electoral officials.
  8. **THAT** Ms. Kassait demonstrated leadership, resilience, agility, teamwork, and was always result-oriented throughout her work. She enjoyed the admiration of her seniors, peers, and juniors.
  9. **THAT** I recommended her for a leadership training course at the University of Harvard for Women in Leadership in 2012; a course that was very useful to her career growth and her leadership.
  10. **THAT** she demonstrated the capacity to overcome challenges and offer solutions; for instance, despite the unavoidable delays in the compilation of the Register of Voters during the 2013 general elections and missing names, Ms. Kassait and her team proposed a solution of dealing with voters without biometrics to enable Kenyans missing from the register an opportunity to vote. This solution was adopted by the Commission and stakeholders thus allowing voters an opportunity to vote in the 2013 General Election. She was also instrumental in explaining this process and the position of the Commission to the Supreme Court Judges during the Presidential Election petition of 2013.
  11. **THAT** I affirm that Ms. Kassait has upheld the principles and values stipulated under Chapter 6 of the Constitution on Leadership and Integrity during the time I was chairman of the Electoral Commission from May 2009 to January 2017.
  12. **THAT** the work of election administration is very demanding and requires total dedication something that Ms. Kassait was able to demonstrate. I recall one time she was recalled from maternity leave to assist in completing the boundaries delimitation task and undertake a visit on the assessment of diaspora voting in the United States of America (USA). Despite being a lactating mother, she undertook the task with dedication.
  13. **THAT** Ms. Kassait, like many other IEBC officials whom I had recruited, requested me to be her referee and I have accepted to be her referee like I did for other IEBC officials, some of whom have undergone vetting by parliament.



14. **THAT** based on my experience with Ms. Kassait I have no hesitation in recommending her for the Position of Data Commissioner for which I believe she is supremely qualified.
15. **THAT** I swear this affidavit conscientiously believing the same to be true in accordance with the Oaths and Statutory Declaration Act.
16. **THAT** all that is deponed herein above is true to the best of my knowledge and belief

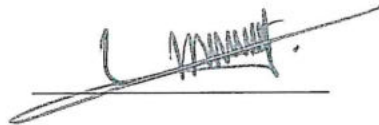
SWORN by  
**AHHMED ISSACK HASSAN**

At Nairobi this 26<sup>TH</sup> day of OCTOBER 2020

BEFORE ME:

PROTAS SAENDE GATHEGE  
ADVOCATE, COMMISSIONER FOR OATHS  
& NOTARY PUBLIC  
Lsk.....2030.....103666..... P.105/4473/01  
P. O. Box 2368 - 00100, NAIROBI

**COMMISSIONER FOR OATHS**



**Drawn By:**

GARANE & SOMANE ADVOCATES  
PITMAN HOUSE 1<sup>ST</sup> FLOOR  
JAKAYA KIKWETE ROAD  
P.O. BOX 20617-00100  
**NAIROBI**  
[info@garaneadvocates.com](mailto:info@garaneadvocates.com)



DD Conf  
8  
22/10

**Chairman:**  
Kelvin Mogeni

**Vice-Chair:**  
Patrick Ngunjiri

**Secretary:**  
Brenda Kamau

**Treasurer:**  
Christopher Gitari

**Council Members:**  
Charles Mwangela  
Priscilla Nyokabi  
Donald Muyundo  
Josephine Omwenga

**Executive Director:**  
Abdul Noormohamed

ICJ Kenya House  
Off Silanga Road, Karen  
P.O. Box 59743-00200  
Nairobi, Kenya

+254 720 491 549  
+254 733 491 549  
+254 020 387 5981  
+254 020 675 0996

@ICJKenya  
@kenyansection.icj  
info@icj-kenya.org  
www.icj-kenya.org

21 OCTOBER 2020

The Clerk of the National Assembly  
P.O. Box 41842-00100  
The National Assembly  
Parliament Buildings  
Nairobi, Kenya  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)



Dear Mr. Sialai,

**RE: SUBMISSION OF WRITTEN STATEMENT ON THE NOMINEE FOR THE POSITION OF DATA COMMISSIONER – IMMACULATE KASSAIT**

Further to the notice dated 19 October 2020 inviting the public to submit statements on the above nominee, please find annexed an affidavit and supporting documentation that I lodge as the Chairman on behalf of the Kenya Section International Commission of Jurists (ICJ Kenya).

The affidavit challenges the suitability of Ms. Immaculate Kassait for the position of Commissioner for consideration by the Departmental Committee on Communication, Information, and Innovation as it prepares its report to the National Assembly.

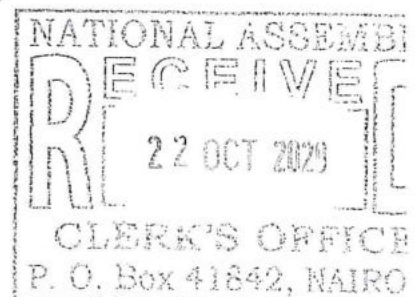
ICJ Kenya is the oldest human rights organization in Kenya, founded in 1959, with a membership of over 500 jurists. It is dedicated to the legal protection of human rights and the rule of law in Kenya and the African region as defined by Article 4 of the International Commission of Jurists (ICJ) Statute. The mission of ICJ Kenya is to promote human rights, justice, and democracy in Kenya and around Africa through the application of legal expertise and international best practices.

We look forward to hearing from you.

Yours Sincerely,



Kelvin Mogeni  
Chairman- ICJ Kenya





REPUBLIC OF KENYA

IN THE MATTER OF THE OATHS AND STATUTORY DECLARATIONS ACT, CAP 15

IN THE MATTER OF APPROVAL BY THE NATIONAL ASSEMBLY OF PERSON

NOMINATED TO THE POSITION OF DATA COMMISSIONER

AFFIDAVIT CHALLENGING THE SUITABILITY OF IMMACULATE KASSAIT FOR  
NOMINATION AS DATA COMMISSIONER UNDER THE DATA PROTECTION ACT, 2019

I, **KELVIN MOGENI**, of P.O. Box 59743-00200 Nairobi in the Republic of Kenya do hereby make oath and state as follows:

1. **THAT** I am an advocate of the High Court of Kenya and the chairperson of the Kenya Section of the International Commission of Jurists (hereinafter ICJ Kenya).
2. **THAT** ICJ Kenya, founded in 1959, is the oldest human rights organization in Kenya with a membership of over 500 jurists. It is dedicated to the legal protection of human rights and the rule of law in Kenya and the African region as defined by Article 4 of the International Commission of Jurists (ICJ) Statute.
3. **THAT** the mission of ICJ Kenya is to promote human rights, justice and democracy in Kenya and around Africa through the application of legal expertise and international best practices.
4. **THAT** the objects of the Data Protection Act 2019, is to regulate the processing of personal data and to protect the privacy of individuals.
5. **THAT** the office of the Data Commissioner is an office that requires the exercise of mandate over the protection of personal data relating to Kenyans and therefore the holder must be a person of impeccable repute and whose integrity is beyond reproach.
6. **THAT** the holder of the office of the Data Commissioner as established under section 5 of the Data Protection Act, must be a person of unquestionable integrity and a track record that inspires public trust, public confidence and admiration.





7. **THAT** under the Data Protection Act 2019, for one to qualify for appointment as the Data Commissioner, they must meet the requirements of Chapter six of the Constitution and that of a State Officer as proscribed by Article 260 of the Constitution of Kenya.
8. **THAT** the Clerk of The National Assembly notified the public that His Excellency the President has nominated Ms. Immaculate Kassait for appointment to the position of Data Commissioner, and invited sworn affidavits by members of the public for consideration by the Departmental Committee on Communication, Information and Innovation on the suitability of the nominee for appointment.
9. **THAT** ICJ Kenya has sufficient reason to believe that Immaculate Kassait is not fit to hold public office for failure to meet the standards stipulated under Chapter Six of the Constitution owing to the candidate's track record and performance as an employee of at the Independent Electoral and Boundaries Commission (IEBC).
10. **THAT** the candidate held the position of Director, Voter Registration Programme at IEBC in the 2013 Elections and subsequently as the Director of Voter Registration and Electoral Operations in the 2017 Elections (*A copy of the judgment in Raila Amolo Odinga & another v Independent Electoral and Boundaries Commission & 2 others [2017] eKLR is annexed and marked as Annexure 1 see paragraph 76 . A copy of the judgment in Raila Odinga & 5 Others v Independent Electoral and Boundaries commission & 3 others [2013] eKLR is annexed and marked as Annexure 2, see paragraph 73*).
11. **THAT** the candidate, from the foregoing, cannot be said to be either capable of demonstrating that she can exercise authority professionally or possess ability to act independently as expected of a public officer and state officer in a manner that brings honour to the nation and dignity to the office, and by implication, promote public confidence in the integrity of the office of the Data Commissioner.




12. **THAT** I have reasons to believe that the candidate, while holding the previous position at IEBC, which entailed the handling of voter data, did not execute her role in a manner that guaranteed or promoted the integrity of the voter data the candidate.
13. **THAT** following an independent audit of the voters register, which the candidate was responsible for, by KPMG in 2017, it was revealed that the register of voters contained various inconsistencies, errors, missing information and inclusion of deceased voters' data. Notably the report findings on data base controls and infrastructure security was not revealed to the public raising questions on what the audit may have found. *(A copy of Chapter 5 and 6 of the report of the findings of the KPMG audit is annexed and marked herein as Annexure 3a and 3b).*
14. **THAT** the KPMG audit revealed that voter data was stored and transported on flash drives collected from the registration centres on a weekly basis which were then taken to regional offices before being uploaded to secure servers. The heavy reliance on manual transfer of such sensitive data and information, fully aware of the emotive nature of elections in Kenya, exposed the data to the risks of loss or manipulation. This happened under the watch of the candidate. *(A copy of Chapter 5 and 6 of the report of the findings of the KPMG audit is annexed and marked herein as Annexure 3a and 3b).*
15. **THAT** it also emerged that the infamous "Green Book" which was the manual register of voters, widely criticized for its vulnerability to manipulation in past elections, was used in 2013 and 2017 despite the fact that voters were registered using biometric technology, a fact that the IEBC refused to acknowledge, casting doubts on transparency over the voter register. In 2013, the Electronic Voter Identification (EVID) kits that were intended to prevent multiple voting and voter fraud failed and the IEBC reverted to hard copy (manual) register. *(A copy of the report of the findings of the Africa Centre for Open Governance (AFRICOG) and Kenyans for Peace with Truth and Justice (KPTJ) is annexed and marked herein as Annexure 4).*



16. **THAT** these irregularities emerged while the candidate was the Director of Voter Registration and Electoral Operations. It therefore, cast doubts on her ability to be entrusted with confidential and sensitive public data of the magnitude that the Data Commissioner will inevitably be entrusted with in the performance of their functions.
17. **THAT** the candidate has, in her previous role in public office, not acted in a manner that promotes public confidence in her capabilities to hold the office of the Data Commissioner with the integrity required of such an office.
18. **THAT** it is in the interest of the public, public policy, values of leadership and integrity as espoused under Chapter 6 of the Constitution that the candidate is not suitable to be appointed to the office of the Data Commissioner as required by the Data Protection Act, 2019.
19. **THAT** I swear this affidavit based on facts within my knowledge (unless I have disclosed other sources) believing it to be in accordance with the Oaths and Statutory Declarations Act, Cap 20.

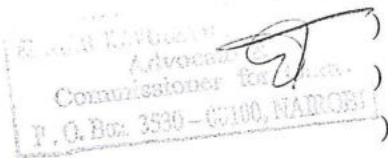
SWORN at NAIROBI this ..... 21<sup>ST</sup> ..... Day of ..... OCTOBER ..... 2020

By the said .. KELYIH MCGENI .. )

  
(Deponent)

BEFORE ME )

COMMISSIONER FOR OATHS )



**DRAWN & FILED BY: -**

\*\*\*\*\*

The Kenyan Section of the International Commission of Jurists (ICJ  
Kenya)  
ICJ Kenya House, Off Silanga Road, Karen  
P. O. Box 59743-00200  
Nairobi-Kenya  
info@icj-kenya.org



REPUBLIC OF KENYA

IN THE MATTER OF THE OATHS AND STATUTORY DECLARATIONS ACT, CAP 15

IN THE MATTER OF APPROVAL BY THE NATIONAL ASSEMBLY OF PERSON

NOMINATED TO THE POSITION OF DATA COMMISSIONER

AFFIDAVIT CHALLENGING THE SUITABILITY OF IMMACULATE KASSAIT FOR  
NOMINATION AS DATA COMMISSIONER UNDER THE DATA PROTECTION ACT, 2019

LIST OF ANNEXURES

	ANNEXURE	ANNEXURE REFERENCE	PAGE NUMBER
1.	Judgment in Raila Amolo Odinga & another v Independent Electoral and Boundaries Commission & 2 others [2017] eKLR	Annexure 1	6 - 437
2.	Judgment in Raila Odinga & 5 Others v Independent Electoral and Boundaries commission & 3 others [2013] eKLR	Annexure 2	438 - 494
3.	Report of the findings of the KPMG	Annexure 3	495 - 569
a.	Chapter 5 of report of the findings of the KPMG	Annexure 3a	495 - 535
b.	Chapter 6 of report of the findings of the KPMG	Annexure 3b	536 - 569
4.	Report of the findings of the Africa Centre for Open Governance (AFRICOG) and Kenyans for Peace with Truth and Justice (KPTJ)	Annexure 4	570 - 593

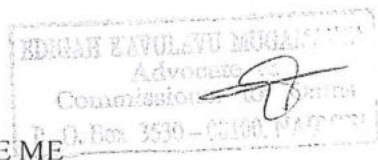
SWORN at NAIROBI this 21<sup>st</sup> Day of OCTOBER 2020

By the said KELVIN MUGENI )

[Signature]  
)  
(Deponent)

BEFORE ME )

COMMISSIONER FOR OATHS )



DRAWN & FILED BY: -

The Kenyan Section of the International Commission of Jurists (ICJ  
Kenya)  
ICJ Kenya House, Off Silanga Road, Karen  
P. O. Box 59743-00200  
Nairobi-Kenya  
info@icj-kenya.org





**ANNEXURE 13**

**NOMINEE'S RESPONSE TO THE ICJ  
MEMORANDUM**



70

October 27, 2020

Immaculate Kassait MBS,  
P.O. Box 7867-00100,  
NAIROBI  
Phone; 0723-826178  
Email; [ikassait@gmail.com](mailto:ikassait@gmail.com)

The Clerk of National Assembly  
P.O Box 41842-00100  
The National Assembly  
Parliament Buildings  
Nairobi, Kenya  
Email: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

*DD/Alants*  
*Wabwaba*  
*Ella Kendi*  
*pls deal*  
*28/10/20* *28/10/20*

ATTN: MR JEREMIAH W. NDOMBI,

RE: REQUEST FOR RESPONSE ON MEMORANDUM

Reference is made to the above subject matter.

I am in receipt of your letter Reference No. NA/DCS/CII/2020 (27) dated 23<sup>rd</sup> October 2020 requesting for my response.

Please find attached herewith an affidavit with a detailed response to the same.

IMMACULATE KASSAIT MBS

ID No. 20049697

NATIONAL ASSEMBLY  
RECEIVED  
23 OCT 2020  
DEPUTY DIRECTOR  
COMMITTEE SERVICES

NATIONAL ASSEMBLY  
RECEIVED  
27 OCT 2020  
CLERK'S OFFICE  
P. O. Box 41842, NAIROBI



REPUBLIC OF KENYA

IN THE MATTER OF THE OATHS AND STATUTORY DECLARATION ACT, CHAPTER 15 OF  
THE LAWS OF KENYA

IN THE MATTER OF APPROVAL BY THE NATIONAL ASSEMBLY OF PERSONS  
NOMINATED TO THE POSITION OF DATA COMMISSIONER

AFFIDAVIT RESPONDING TO ALLEGATION BY INTERNATIONAL COMMISSION OF  
JURISTS CHALLENGING MY SUITABILITY FOR NOMINATION AS DATA COMMISSIONER  
UNDER THE DATA PROTECTION ACT, 2019

I, IMMACULATE KASSAIT, National Identity Number 20049697 of Post Office Box 7867-00100  
NAIROBI, email address ikassait@gmail.com/muringo\_njenge@yahoo.com residing in Nairobi  
in the Republic of Kenya do hereby solemnly make oath and state as follows:

1. THAT I am a female adult of sound mind and disposition.
2. THAT I have read and understood the contents of the Submission of Written Statement on the nominee for the Position of Data Commissioner- Immaculate Kassait dated 21st October 2020 by the International Commission of Jurists, together with Kelvin Mogeni's Affidavit elucidating on the same, and I hereby wish to respond as follows:
3. THAT I am an Advocate of the High Court of Kenya with more than sixteen (16) years of experience in both Public and NGO sector organizations. I also hold a post Graduate Diploma in Law, a Bachelor of Laws Degree and an Executive Masters in Business Administration from United States International University – Africa (USIU), a Certificate in Strategic Leadership and Corporate Governance. I am also an accrediting Building Resources in Democracy, Governance and Elections (BRIDGE) facilitator among others.



4. THAT I am currently the Director Voter Education, Partnership and Communication at the Independent Electoral and Boundaries Commission (IEBC). As the director, I managed to revive the Annual Voter Education week in a record 5 months after my redesignation in 2019. I also oversaw the publication of the first ever Frequently Asked Questions (FAQs), a resource book accepted by the Commission stakeholders.
  
5. THAT previously, between the period 2010-2018, I was the Director Voter Registration and Electoral Operations (DVREO). In this capacity, I formulated and implemented the Commission Strategy, operation plans and policies on elections and voter registration and was able to accomplish the following during the aforesaid period;
  - a. Team leader in the conduct of the initial by-elections done by IIEC.
  - b. Team leader of the first voter registration process and the conduct of the National Referendum on the new Constitution for Kenya.
  - c. Team leader for the completion of the Boundary Delimitation process and Demarcation of the 1450 County Assembly Wards in 2012.
  - d. Team leader for the compilation of the first Biometric Register of Voters in Kenya with 14.3 million voters in the 2013 General Elections, and overseeing the conduct of the first ever six (6) elections in one day.
  - e. Coordinated and led the trainings of over 350,000 electoral officials.
  - f. Oversaw the establishment and maintenance of a national register with 19.6 million (2017) Kenyan voters and conducted six elections in one-day, ensured compliance of legal framework in operations, provided leadership and guidance to staff under the directorate including 47 Regional offices spread across the country. I also managed a budget of 35 Billion in years 2016/17/18. I have an appreciation of complex database operations.





6. THAT I have utilized my professional and legal expertise to advise on the execution of complex electoral processes in Kenya, with my efforts to improve electoral processes in Kenya earning me a State recognition as Moran of the Burning Spear (MBS), Presidential Award in 2017.
7. THAT I have also been a presenter on Elections Technology during local and international conferences.
8. THAT prior to joining IIEC/IEBC I worked as a Programme Manager/Team Leader of the Electoral Programme at the Institute for Education in Democracy (IED). During that period, I pioneered setting up of observation missions in Solomon Islands 2006 on behalf of the Commonwealth Secretariat.
9. THAT I have also worked for FIDA Kenya where I was the coordinator for the campaign on safeguarding women gains in the draft constitution; an initiative that was instrumental in the contribution of women rights in the Constitution of Kenya, 2010.
10. THAT I have held different leadership positions which include, being a Secretary to a welfare group, Vice Chair for St. Patrick Parish Youth Group, Organising Secretary for Makerere University Kenya Student Association; and a school prefect.
11. THAT I have read the affidavit of Mr. Kelvin Mogeni and the accompanying annexures. That the object is based on a misunderstanding of both the process of Registration of Voters (RoV) creation and the role of Data Commissioner. While the former makes one a data controller, the latter makes one a data regulator. Secondly, the object is based on erroneous foundation as regards the manner in which the 2013 RoV was created and the role of KPMG in the audit of RoV in the run up to 2017 General Elections. I proceed to explain as here under.
12. THAT Mr. Mogeni's averments at paragraph 10 of his affidavit on the position I held in IEBC in 2013 and 2017 are misplaced, since in as much as the same adduces a factual account of what



transpired, his annexures produced to support this assertion i.e. copy of judgement in Raila Amolo Odinga & Another [2017] eKLR marked as Annexure 1 at paragraph 76 raises nothing substantive to do with both my involvement and/or culpability then.

13. THAT the issue of the green book as put across by Mr. Mogeni at paragraph 15 of his affidavit was settled by Supreme court as a primary register of voters, and the court directed that it should be provided for in law. This issue is well articulated in Mr. Mogeni's annexure 2, paragraph 255 of Raila Odinga & 5 others vs IEBC [2013]. Indeed, the Voter Records Book is now Law as articulated under regulation 13A (3) of the Elections (Registration of Voters) Regulations 2012. **(An excerpt of the same Regulation is hereby attached and marked as Annexure IK- 1)** Mr. Mogeni has also misled this committee by stating that the green book was used during the 2017 general elections, yet the Commission adopted the Kenya Integrated Electoral Management System (KIEMS) to identify voters.

14. THAT in response to Mr. Mogeni's assertions at paragraphs 13 and 14 of his affidavit on the independent audit of the register of voters by KPMG in 2017, I wish to state as follows:

- a) The audit was an elaborate process prescribed in election amendment of ACT, 2011 with aim of verifying the accuracy of the register of voters; recommending mechanisms of enhancing the accuracy of the register of voters and updating the register of voters.
- b) The audit of the Register of voters was supposed to be completed by November 30, 2016, but was delayed due to litigation. KPMG was contracted to carry out the audit and the final report released on June 9, 2017, therefore, the averment by Mr. Mogeni that the report findings on data base controls and infrastructure security was not revealed to the public does not hold water; **(A copy of the Media Release is hereby attached and marked as Annexure IK-2).**



- c) Given the timelines set for purposes of the General Election, the delays in contracting KPMG led the Commission into a situation whereby the audit process ran concurrently with the verification process which was conducted between May 11– June 9, 2017. In essence, the findings of the audit and verification process would be addressed at the same time when updating the register of voters.
- d) In accordance with the Elections Act as amended, the Commission submitted the report to the National Assembly and the Senate.
- e) One of the major findings by KPMG was that the Register of voters was about 92% accuracy above international standards of 75%. KPMG reported that they analyzed 100% of the 19,646,673 records in the Provisional Register of Voters against the National IDs and Passports provided by the National Registration Bureau (NRB). In addition, KPMG also carried out an assessment of the accuracy and completeness of the Biometric details.
- f) A total of 19,401,354 records matched to ID numbers while a total of 53,077 matched to passport numbers. These inaccuracies were mostly attributed to clerical errors at the point of data entry.
- g) In order to improve the quality of the register, the Commission opened the register for a 30-days biometric verification by members of the Public as per the law.
- h) Under my supervision, the Registration Officers corrected errors identified. However, not all voters turned up for biometric voter verification.
- i) The Commission reviewed the status and took policy decisions with regards to the inaccuracies identified, with the aim of facilitating eligible voters to participate in the



election, in line with KPMG recommendation that voters will be identified through KIEMS Biometric system.

- j) The results of the audit suggested that many of these errors could have been caused by clerical errors which the Commission addressed through the quality assurance and data reconciliation.
- k) Where the details in the Register were confirmed to be invalid, these entries were expunged from the Register of voters.
- l) The Commission further implemented certain actions such as retaining one record in case of duplicates. The method of voter identification was through biometrics thus eliminating incidences of double voting.
- m) KPMG also tested on a sample basis the biometric data in the register of voters and found the quality was very high.
- n) For the case of Deceased Persons in the Register of Voters, KPMG obtained a list of deceased persons the Civil Registration Services containing 435,175 deceased persons of all ages. Of these, only 196,988 records had complete details which could be used as a reference to the register of voters.
- o) KPMG reported that 92,277 deceased persons had ID's and names matching within the register of voters. On further review, KPMG revised the number to 86,401 after finding that some persons flagged as dead were actually alive.
- p) Under my guidance the Commission expunged 86,401 records from the Register of Voters.







15. THAT I further wish to state that Mr. Mogeni chose to cherry pick from the KPMG Report and failed to fully analyse the overall findings of the report. In any event, the register of voters was used to conduct the 2017 General Elections and was not a subject of contestation during the presidential petition of 2017.

16. THAT in addition to the averments above, an independent audit, titled "In their Own Voices" Citizens Independent Audit on quality of the 2017 Register of voters by Elections Observation Group (ELOG), the register enjoyed 95% confidence level or a margin of error of +/- 2%. **(A copy of the same Report is herewith annexed and marked Annexure IK-3)**

17. THAT the affidavit sworn on 21st October 2020 by the ICJ chairman Mr. Kelvin Mogeni challenging my candidature is not only malicious, but also made in bad taste and meant to cast aspersion in my character as a person, for the following reasons:

- i. Throughout my career in in particular as DVREO, I conducted my responsibility with utmost integrity and professionalism. My appraisals by my immediate supervisors and admirations by seniors, peers and juniors can attest to this fact.
- ii. The Data Commissioner's position is indeed one that requires utmost integrity and professionalism. I have in my work as DVREO been responsible for putting in place mechanisms to secure voters' personal data. Indeed, under my leadership we developed a "Register Release Protocol" **(which is hereby attached and marked as Annexure IK -4).**
- iii. Throughout my work as Director and up to date, there has never been a breach of data on personal information in the custody of Commission, and to this regard, I put the ICJ Chairman to strict proof.



- iv. The Commission is one of the leading organisations in holding personal data of up to 19.7M records of personal data; which information is secured right from the data collection stage, all the way to its' processing and storage.
- v. At no point in my role as the DVREO did I receive any formal or written complaint on the aforementioned register anomalies by either Mr. Mogeni or ICJ.
- vi. It is shocking that two years after I left the position of DVREO, the ICJ and Mr. Mogeni have an issue with my integrity.


18. THAT in the upshot, the ICJ Chairman's averment that my appointment to the position of Data Commissioner as required under the Data Protection Act, 2019 is not suitable in the interest of the public, public policy and the values of leadership and integrity as espoused under Chapter 6 of the Constitution of Kenya, 2010 is untenable.

19. THAT I swear this affidavit conscientiously believing the same to be in accordance with the Oaths and Statutory Declaration Act.

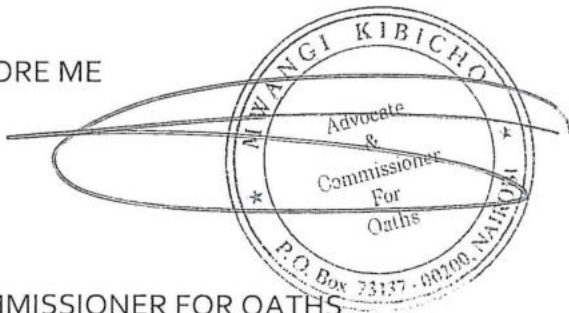
20. THAT all what is deponed herein above is true to the best of my knowledge and belief.

SWORN at NAIROBI this 27<sup>th</sup> day of October 2020

By the said IMMACULATE KASSAIT

  
(DEPONENT)

BEFORE ME



COMMISSIONER FOR OATHS





ELECTIONS (REGISTRATION OF VOTERS) REGULATIONS, 2012  
[L.N. 126/2012, L.N. 73/2017.]  
PART I - PRELIMINARY

**Citation**  
These Regulations may be cited as the Elections (Registration of Voters) Regulations, 2012.

**Interpretation**  
In these Regulations, unless the context otherwise requires—  
"acknowledgement slip" means a document issued by the returning officer acknowledging application for registration;  
"alphanumeric details" means all the other details of a voter except the biometric data;  
"biometric" has the meaning assigned to it in section 2 of the Act (No. 24 of 2011);  
"Commission" has the meaning assigned to it in the Act;  
"foreign representative of Kenya" means a public officer serving in a Kenyan foreign mission abroad;  
"identification document" has the meaning assigned to it in section 2 of the Act (No. 24 of 2011);  
"prisoner" has the meaning assigned to it in section 2 of the Prisons Act (Cap. 90);  
"register" deleted by L.N. 73/2017, r. 2(a);  
"Register of Voters" has the meaning assigned to it in section 2 of the Act (No. 24 of 2011);  
"registration centre" means a centre designated and gazetted by the Commission under regulation 3; and  
"Voter Records Book" means the first book of data entry during the registration of a voter.

[L.N. 73/2017, r. 2.]

PART II - ADMINISTRATION

**Registration centres**

- (1) The Commission may, from time to time, designate and Gazette registration centers which shall include—
  - (a) places within the Republic as provided for in subregulation (2);
  - (b) premises of, or facilities provided by Kenyan missions abroad;
  - (c) any facility belonging to a public body or private persons in any foreign country;
  - (d) other facilities that the Commission may deem fit as registration centres for purposes of registering voters.
- (2) The Commission may use, free of charge, for the purposes of voter registration—
  - (a) a room or rooms in any public school as defined in the Education Act, (Cap. 211);
  - (b) facilities belonging to, and maintained by, any public body;
  - (c) facilities in any foreign country as the Commission may, by arrangement with the relevant authorities in that country, determine for the purpose of registering Kenyan citizens residing in that country;

This is the exhibit marked **IK-1** referred to in the annexed affidavit of **Immaculate Kassaie** sworn declared before me this **27<sup>th</sup>** day of **Oct**, 2020 at **Nairobi**.  
Notary Public  
*[Signature]*  
Commissioner for Oaths



## PART IV – REGISTRATION OF VOTERS

**13. Application for new registration**

- (1) A person who desires to be registered as a voter shall make an application in Form A set out in the Schedule.
- (2) An application under sub regulation (1) shall be made to the registration officer for the constituency in which the person wishes to be registered.
- (3) The registration officer shall collect biometric data of persons applying for registration.

[L.N. 73/2017, r. 8.]

**13A. Registration procedure**

- (1) A person who applies to be registered as a voter shall present his or her identification document to the registration officer stationed at a Registration Centre of his or her choice.
- (2) The registration officer shall, where the applicant is qualified to be registered as a voter, issue the applicant with Form A as set out in the Schedule.
- (3) The applicant shall return the duly completed Form A to the registration officer and the registration officer shall confirm the details in the form and enter them in the biometric voter registration system and the Voters Record Book.
- (4) The applicant shall be issued with an acknowledgement slip upon registration.

[L.N. 73/2017, r. 9.]

**13B. Numerous registrations**

- (1) A person shall not, at any time, be registered as a voter in more than one constituency.
- (2) A person shall not be registered as a voter more than once in the Register of Voters.
- (3) A person who simultaneously makes two or more applications to be registered as a voter shall not be qualified as a registered voter.

[L.N. 73/2017, r. 9.]

**13C. Transfer of registration**

A voter is not qualified to transfer his or her registration unless at the date of his or her application to be transferred he or she was ordinarily resident in that constituency six months immediately preceding the date of his or her application for transfer.

[L.N. 73/2017, r. 9.]

**14. Application for change in registration**

- (1) A person who is already registered as a voter, but who wishes to have a change described in subregulation (2) made, shall make an application in accordance with this regulation.
- (2) The changes referred to in subregulation (1) are—
- a change in the particulars of the person's registration; or
  - a change of the electoral area or polling station at which the person is registered to vote.
- (3) An application for a change described in subregulation (2)(a) shall be made in Form B, to the registration officer for the constituency in which the person is registered.
- (4) An application for a change described in subregulation (2)(b) shall be made in Form C, to the registration officer for the constituency in which the applicant wishes to be registered.
- (5) Deleted by L.N. 73/2017, r. 10(c).

[L.N. 73/2017, r. 10.]

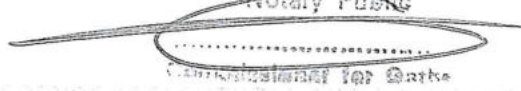




This is the exhibit marked IX-2 referred to in  
the annexed

affidavit of Immaculate Kassarit SWORN

declared  
before me this 27<sup>th</sup> day of Oct 20 at Nairobi  
Notary Public



Commissioner for Oaths

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION



## Media Release

### Report on Audit of the Register of Voters

June 9, 2017

#### Introduction

The Independent Electoral and Boundaries Commission (IEBC) is pleased to announce that the audit of the Register of Voters has been completed by KPMG and report submitted to the Commission. The Commission has already commenced implementation of the recommendations included in the report. In accordance with the Elections Act as amended in 2016, the Commission has also submitted the report to the National Assembly and the Senate. In the spirit of transparency and commitment to building public confidence the Register and electoral processes, IEBC now provides this briefing to inform Kenyans of the summary findings and actions that the Commission is taking to address the issues identified from the audit. This is particularly necessary given the historical context that resulted in the clamour for electoral reforms, including the audit.

According to the law, the objectives of the audit are:

- i) Verify the accuracy of the register
- ii) Recommending mechanisms for enhancing accuracy of the register and updating the register

The areas covered by KPMG in the scope of the audit include:

- i) Review the legal framework relating to voter registration
- ii) Review the voter registration process, voter transfer process and voter updates processes
- iii) Review the Biometric Voter Registration System and database that hosts the register of voters
- iv) Review the process of identifying and removing deceased voters from the Register of Voters
- v) Assess the accuracy of the Register of Voters in terms of completeness of the details of voters' data, matching of voters details (Biometrics) to the voter
- vi) Assess inclusiveness of the Register of Voters in relation to eligible voting population based on gender, age and geographic distribution
- vii) Review and recommend improvements on existing mechanism for continuous update of the Register of Voters
- viii) Analyze the security of the registration of voters' data and infrastructure it sits on
- ix) Make recommendations for enhancing the accuracy and inclusiveness of the Register of Voters

The audit of the Register of Voters by KPMG is the first independent audit of the Register and included comparison of the data in the Register of Voters against third party data maintained by other State Agencies as summarized below:

Reference Data and Register of Voters	No. of records provided	Date of Certification to KPMG
National Passports Data duly certified by the Director of Immigration as provided in section 5 of the Kenya Citizenship and Immigration Act, or provided in section 16 of the Kenya Citizenship and Foreign Nationals Management Service Act.	1,291,576	13 April 2017
Provisional Biographic Register of Voters duly certified by the Commission Secretary / CEO.	19,646,673	24 April 2017
Provisional Biometric Register of Voters duly certified by the Commission Secretary / CEO.	19,647,835	14 May 2017
Data on National IDs from the Principal Registrar of Persons under the National Registration Bureau (NRB) in accordance with section 5 of Registration of Persons Act. This certification was provided by the Directorate of Immigration and Registration of Persons, and signed by the Director of National Registration.	25,323,059	15 May 2017
Data on Deaths from the Principal Registrar of Births and Deaths appointed under section 3 of the Births and Deaths Registration Act, duly certified by the Director, Civil Registration Services.	435,175	19 May 2017

An analysis of the national coverage of the Register of Voters is attached at Annex 1.

The results of the audit can be summarized into seven broad categories:

1. Stakeholder engagement and feedback
2. Legal and institutional issues
3. Inaccuracies in the Register of Voters
4. Irregularities in the Register of Voters
5. Deceased persons in the Register of Voters
6. Inclusiveness in the Register of Voters
7. Database security and infrastructure controls
8. Action plan for implementing recommendations

We provide a brief summary of each of these categories below.

#### — Stakeholder engagement and feedback

As part of the audit, KPMG engaged with a number of stakeholders including:

- Political Parties
- Inter-Religious Council of Kenya (IRCK)
- Representatives of various Civil Society groups
- Representatives of the Private Sector

- Government representatives particularly responsible for maintaining and providing the reference data required for the audit
- Both electronic and print media for countrywide dissemination
- Representatives of International Missions in Kenya.

Each of these stakeholder groups was provided with a comprehensive presentation of the approach and methodology, the expected outcomes and the limits of the scope of the audit. The groups engaged in vibrant discussion and identified a number of issues and recommendations which have been provided to the Commission for consideration.

Key among the recommendations and feedback from the stakeholder engagement is the need to communicate the results of the audit to the public and for the Commission to be accountable to the public for all changes made to the Register arising from the audit. In particular, stakeholders recommended that there be an independent post-implementation review, quality assurance and reconciliation of all changes made to the Register from the time it was presented for audit, to the time the Register is certified in accordance with the law. The Commission is considering this proposal and is committed to continue to engage with the public and stakeholders in an open and transparent manner on all matters relating to the Register of Voters.

#### — Legal and institutional issues

The audit has identified a number of legal and institutional issues that may be impacting the accuracy and credibility of the Register of Voters. The audit notes that IEBC enjoys independence and an elevated constitutional role as the institution that superintends over the delegation of sovereign power of the people under Article 1(3) of the Constitution. The audit has recommended that IEBC gives priority to implementing a medium term transformation programme to ensure that it has the systems, capacity and character that will enable it to assert its independence, demonstrate excellence and high performance to avoid the kind of errors detected by the audit, and distinguish itself as an institution worthy of trust by the Kenyans.

There are also a number of issues outside the control of IEBC that will be addressed by legal measures as well as institutional coordination and collaboration to improve accuracy of the Register. Key amongst these is the improvement in coverage and quality of data in death registration, liaison between IEBC and NRB and Directorate of Immigration, as well as formal processes to give effect to the criteria for disqualification from registration as a voter in accordance with Article 83 of the Constitution. In addition, IEBC needs to provide clarification to those voters who may have registered using passports which have since expired.

#### — Inaccuracies in the Register of Voters

KPMG have reported that they analysed 100% of the 19,646,673 records in the Register of Voters against the Data on IDs and Passports. In addition, KPMG also carried out an assessment of the accuracy and completeness of the Biometric details and identified at least 5,427 records that do not have biometric fingerprint images in the Register of Voters.

A total of 19,401,354 records matched to ID numbers while a total of 53,077 matched to passport numbers. However, even though the ID and Passport details were confirmed to be valid, a number of other inaccuracies were identified in other details as outlined in the table below:

Table: inaccuracies in the Register of Voters

Type of inaccuracy	No of inaccuracies in ROV		
	Against IDs	Against Passports	Total
Gender and Date of Birth do not match	12,640	33	12,673
Date of birth does not match	781,694	4,177	785,871
Inconsistencies in gender	259,572	252	259,824
Inconsistencies in names and other permutation of particulars	1,833,153	8,568	1,841,721
TOTAL	2,887,059	13,030	2,900,089

KPMG have provided complete lists of the voters affected by these inconsistencies and the Commission has already commenced the correction of the details.

The Commission also encourages all Voters who have not yet verified their details to ensure they do so before the end of the verification period.

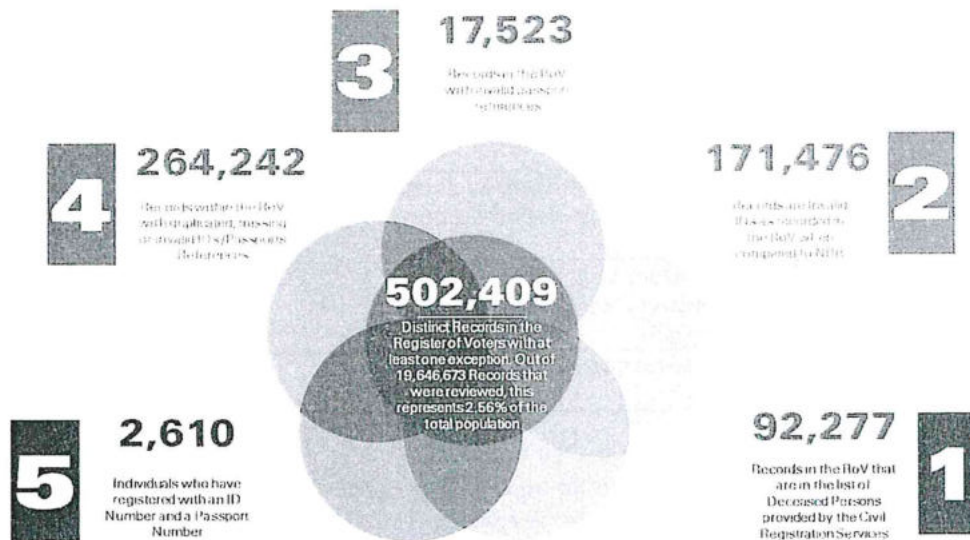
#### — Irregularities in the Register of Voters

KPMG have also reported a number of irregularities in the Register of Voters that the Commission will need to validate against the source documents to confirm whether they relate to bonafide voters. These irregularities include:

- 171,476 voters whose details of IDs could not be found in the data provided by the National Registration Bureau
- 17,523 voters whose details could not be found in the data on passports provided by the Directorate of Immigration. Of these, 98 were confirmed to be Diplomatic Passports whose data had not been provided.
- 264,242 records in the Register of Voters with (a) duplicate IDs or passports. (b) Out of range details in the Register of Voters (e.g. ID no, Date of Birth, or Names appear as numbers)
- 2,610 Voters who have registered with both an ID and Passport

The results of the audit suggest that many of these could have been caused by clerical errors in the input of data. IEBC is taking appropriate action to validate the details against the source documents used to capture the details. Where the details in the Register are confirmed to be invalid, these will be expunged from the Register.

An overview of the irregularities is illustrated in the diagram below:



KPMG also tested on a sample basis the biometric data in the register of voters and found the quality to be good with minimal exceptions.

#### — Deceased persons in the Register of Voters

According to the audit by KPMG, a total of 11,104 deceased voters had been expunged from the Register since 2012, and of these, only 30 had been expunged since 2013. KPMG obtained the number of expected and registered deaths from the Civil Registration Department (CRS), and based on those details, requested the CRS to provide the full list of deceased persons based on registered deaths. At the time of submitting the audit report, KPMG had established that the number of expected deaths for all ages for the period 2012 to 2016 is expected to be 2,390,054 but only 970,895 had been registered. In the period November 2012 to December 2016, of the expected deaths, CRS data indicates that 1,534,009 were aged 18 years and above, and of these, only 621,832 were registered. At the time of preparing the audit report, CRS had provided to KPMG a list containing 435,175 deceased persons of all ages. Of these only 196,988 records had complete details which could be used as a reference to the register of voters. On that basis, KPMG have identified 92,277 deceased persons whose ID's and the names matched within the register of voters and for whom IEBC will immediately expunge from the Register. We attach an annexure 2 illustrating the coverage and geographical distribution of the registration of deaths.

Taking into account the number of registered deaths for persons aged 18 years and above, whose detailed death records were not provided by the Civil Registrar, and the expected deaths for persons aged 18 years and above who have not been registered; and applying an enrolment rate of 77.58%, KPMG deduced that there is a potential for an additional 1,037,260 deceased persons in the Register of Voters as analysed in the table below:

Description	Number	Enrolment Rate	Potential no. in ROV
Registered Deaths per CRS for persons aged 18 years and above whose detailed death records have not been provided	424,844	77.58%	329,594
Expected Deaths per CRS for persons aged 18 and above who have not been registered by CRS for the period Nov 2012 – Dec 2016	912,177	77.58%	707,666
Potential additional deceased voters in the Register of Voters			1,037,260

KPMG have recommended that the IEBC work with CRS to obtain the full details of deceased persons based on the total registered deaths from November 2012 to December 2016. CRS have indicated that they have another 350,000 details of deceased persons which will be immediately availed to the IEBC. These should be used to expunge details of deceased persons before the Register is certified.

KPMG have also noted that data relating to deceased persons is both incomplete due to low coverage of death registration, and inaccurate as in some cases the full details of deceased persons are not provided, or appear to be inaccurate. In addition, there are cases where the ID number indicated as belonging to the deceased person may actually belong to the person who reported the death. It is therefore essential that even after confirming a match of the ID number, that other details like name be verified to avoid disenfranchising some voters.

KPMG have also proposed institutional measures between the IEBC and CRS to improve the coverage and quality of data on deceased persons. On account of the data shortcomings relating to deceased persons, KPMG have recommended the use of biometrics as the primary basis for identifying voters on polling day.

#### — Inclusiveness in the Register of Voters

The terms of reference for the audit included a high level review of inclusiveness in the Register of Voters based on age, gender, geographical coverage and coverage of persons with disabilities. KPMG has provided this analysis, including distribution of voters by County, Gender, Youth (18-34 years) and coverage of persons living with disabilities. See attached annexes 3 and 4 for Gender and Youth respectively.

#### — Database security and infrastructure controls

As part of the audit, KPMG have also made recommendations on enhancing controls over the database and infrastructure to ensure security of the Register. As is standard for such findings, these will be addressed by the Commission in liaison with its IT vendors and independent support.

— Action plan for implementing recommendations from the audit

KPMG have provided a categorized action plan that is summarized below:

Audit Work stream	Pre verification	Pre certification	Pre elections day	Elections day	Medium term	TOTAL
Stakeholder engagement	3	2	1	1	4	11
Legal framework	-	3	2	3	17	25
Voter registration, transfer and updating processes	5	13	4	2	31	55
Analysis of the RoV	2	25	12	12	8	59
Database and infrastructure security	17	6	4		17	44
Inclusiveness of the RoV	-	3	11	-	74	88
<b>TOTAL</b>	<b>27</b>	<b>52</b>	<b>34</b>	<b>18</b>	<b>151</b>	<b>282</b>

The Commission is now investing all its efforts in addressing the issues identified from the audit, and implementing the Elections Programme.

The Commission is grateful to KPMG for the services provided in the Audit of the Register of Voters. The Commission now invites all stakeholders to continue to provide every support in the preparations for the Elections in August 2017 and in particular, urges all those who have not verified their details to do so in the remaining period.

— Summary of Action Points for purposes of the General Election

Action	Steps Taken	Steps to be Taken
Stakeholder engagement		Submit the Audit Report to Parliament and make it available to the public.
Voter registration, transfer and updating processes	Process commenced during verification	Reconcile Audit findings with verification findings and address the gaps in the next 5 days.
Database and infrastructure security	New infrastructure acquired and database security software contract signed.	Installation of new infrastructure.
Polling Day verification		New procedures and training on identification where minor anomalies may occur.

Ezra Chiloba  
Commission Secretary/ CEO

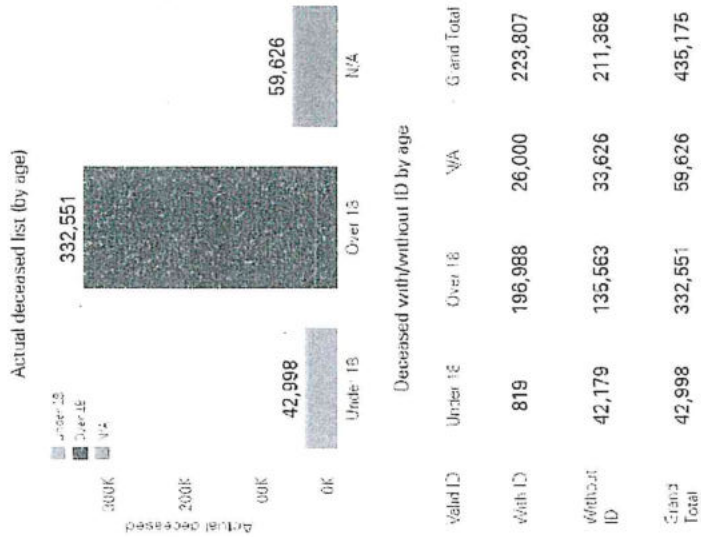
Wafula Chebukati  
Chairman





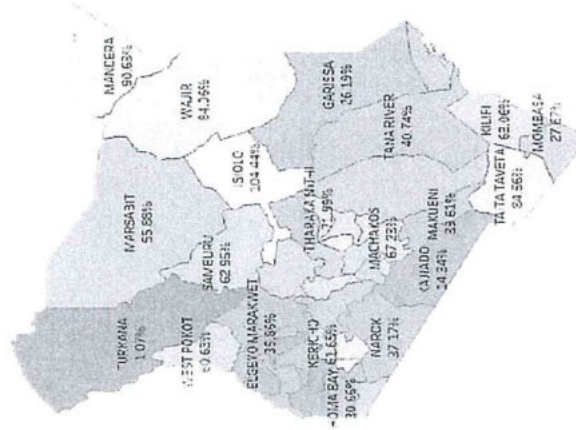


**CRS Vital Statistics on registered and expected deaths vs actual deaths list (Nov 2012-Dec 2016)**



Total expected deaths (18 years and above) **1,534,009**  
 Total registered deaths (18 years and above) **621,832**  
 Actual deceased list (All) **435,175**

Actual Deceased as a ratio of Total Registered Deaths **104.44%**



**CRS expected, registered vs actual deceased list (Jan 2012-Dec 2016)**

County	Total expected deaths	Registered deaths	Actual deceased list
Garis Tota	2,350,354	570,895	493,175
BARDERA	37,272	6,771	1,959
BOMBA	43,346	15,125	12,038
BURUNDI	94,294	30,195	4,725
BUSIA	40,992	22,503	5,912
ELGEYO MARSABIT	23,050	5,915	2,121
EMBU	22,400	16,415	11,007
GARISIA	18,500	6,345	1,662
HOMBA	77,388	21,545	6,807
ISIO	5,342	2,475	2,586
LAJAO	32,371	8,692	1,246
MARSABIT	114,173	51,368	18,059
MERU	49,099	17,023	10,896
NAIROBI	77,732	51,497	27,800
NANDI	86,372	26,019	16,408
NYANDARI	39,295	15,133	12,075
NYERI	68,237	39,510	10,654
OMURTA	81,515	41,699	4,878
PERNIA	57,423	22,825	11,623
RAIA	42,159	11,545	5,524
RAMBU	30,049	8,502	5,047
RANGU	7,371	2,253	1,020
SAKARA	72,419	34,902	22,495
SAKURU	57,672	20,289	6,036
SAVONNARI	49,305	5,363	2,145
SEKE	12,944	5,153	2,881
SIYU	58,335	31,624	12,716
SODI	73,520	19,125	10,626
SODI	54,788	29,473	6,137
MURANGA	58,511	24,750	14,280
MURURI	148,129	111,711	75,173
MURURI	110,491	45,843	22,529
MURURI	53,159	12,475	4,202
MURURI	38,234	7,824	2,908
MURURI	34,592	9,933	5,168
MURURI	35,279	15,255	10,400
MURURI	50,333	24,065	12,791
MURURI	12,274	1,724	1,094
MURURI	98,573	35,453	5,655
MURURI	27,175	9,055	7,658
MURURI	17,107	3,402	1,386
MURURI	16,191	9,233	6,650
MURURI	50,748	19,959	4,730
MURURI	60,590	8,508	91
MURURI	60,213	27,803	4,515
MURURI	53,479	22,900	2,032
MURURI	25,190	2,645	2,226
MURURI	36,355	4,874	2,834

Source: Civil registry and Kenya vital statistics report (2012-2016)

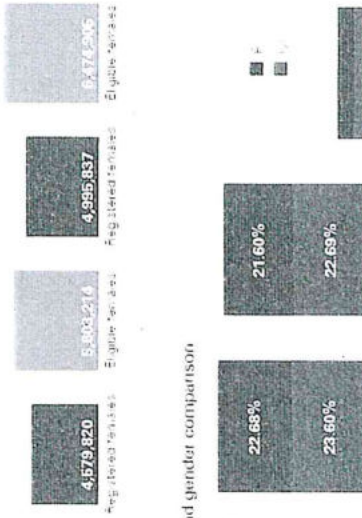
Annexure 3 – Distribution of registered voters by gender



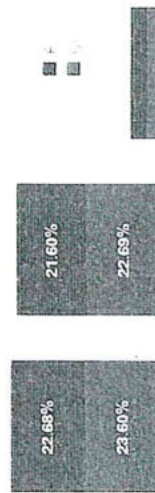
## Distribution of Registered Voters by Gender

Gender	2017 RoV	KNBS	NRB
♂	49.33%	50.43%	49.72%
♀	50.67%	49.57%	50.28%
	0.97	1.02	0.99

Females registered vs eligible females (NRB)



Age and gender comparison



## 2017 Gender index

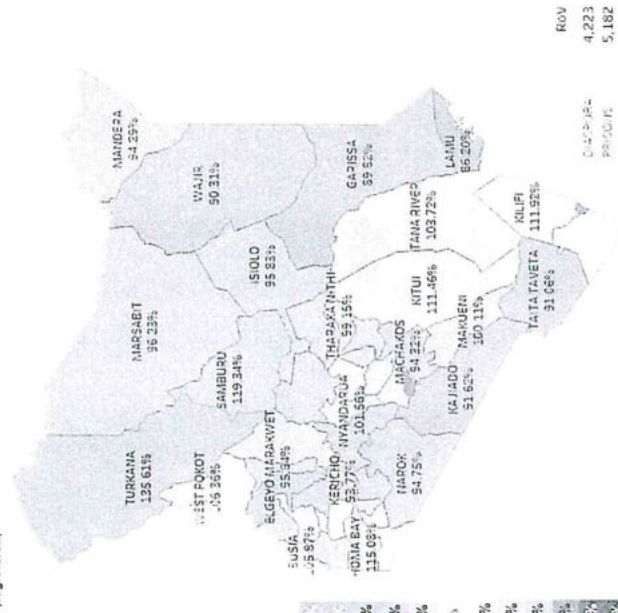
Region	Registered voters 2017 (NRB)	Eligible voters 2017 (KNBS)	Issued ID's (NRB)	Principal register 2013 (NRB)
Bahrigo	230,728	50.10%	230,728	50.10%
Balele	324,663	49.06%	324,663	49.06%
Balele	569,989	49.26%	569,989	49.26%
Balele	352,433	51.43%	352,433	51.43%
Balele	181,063	48.94%	181,063	48.94%
Balele	312,676	49.57%	312,676	49.57%
Balele	163,203	47.32%	163,203	47.32%
Balele	477,219	53.00%	477,219	53.00%
Balele	75,677	48.94%	75,677	48.94%
Balele	410,660	47.81%	410,660	47.81%
Balele	745,362	50.86%	745,362	50.86%
Balele	377,440	48.39%	377,440	48.39%
Balele	1,185,243	50.34%	1,185,243	50.34%
Balele	487,887	52.81%	487,887	52.81%
Balele	363,139	49.65%	363,139	49.65%
Balele	546,664	50.38%	546,664	50.38%
Balele	539,006	50.78%	539,006	50.78%
Balele	474,840	52.71%	474,840	52.71%
Balele	282,037	51.85%	282,037	51.85%
Balele	247,341	48.73%	247,341	48.73%
Balele	69,698	46.29%	69,698	46.29%
Balele	623,369	48.54%	623,369	48.54%
Balele	423,647	50.03%	423,647	50.03%
Balele	175,234	48.53%	175,234	48.53%
Balele	141,792	49.04%	141,792	49.04%
Balele	702,331	49.30%	702,331	49.30%
Balele	388,147	51.89%	388,147	51.89%
Balele	582,605	43.88%	582,605	43.88%
Balele	593,769	50.24%	593,769	50.24%
Balele	2,288,479	44.72%	2,288,479	44.72%
Balele	963,949	48.70%	963,949	48.70%
Balele	347,186	48.40%	347,186	48.40%
Balele	342,005	48.65%	342,005	48.65%
Balele	280,622	49.83%	280,622	49.83%
Balele	337,774	50.39%	337,774	50.39%
Balele	461,434	50.51%	461,434	50.51%
Balele	82,844	54.41%	82,844	54.41%
Balele	457,663	53.97%	457,663	53.97%
Balele	157,638	47.66%	157,638	47.66%
Balele	118,563	50.91%	118,563	50.91%
Balele	214,507	49.79%	214,507	49.79%
Balele	340,843	47.77%	340,843	47.77%
Balele	190,666	57.66%	190,666	57.66%
Balele	450,845	47.93%	450,845	47.93%
Balele	271,785	52.73%	271,785	52.73%
Balele	163,101	47.45%	163,101	47.45%
Balele	179,862	51.54%	179,862	51.54%

Registered voters 2017 (NRB) 19,646,673  
 Eligible voters 2017 (KNBS) 25,212,055  
 Issued ID's (NRB) 25,323,059  
 Principal register 2013 (NRB) 14,352,545

### 2017 Gender index



NOTE: Gender Index is the ratio of females (registered) to the number of males (registered)



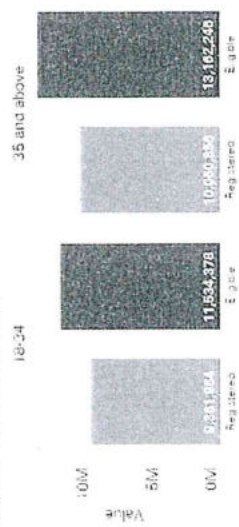
Annexure 4 – Registered youth distribution by county



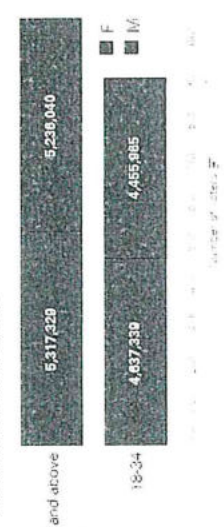
# Registered Youth Distribution by County

Age	2017 RoV	KNBS	NRB
18-34	46.28%	55.16%	48.20%
35 and above	53.72%	44.84%	51.80%

Registered youth vs eligible



Gender distribution by age



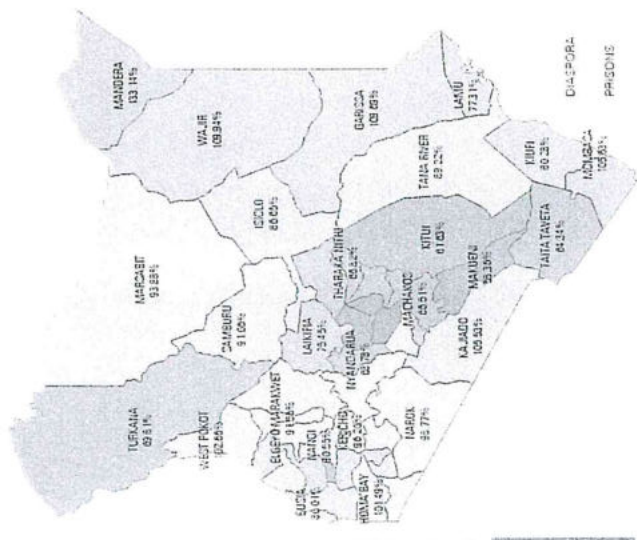
## Overall youth index

County	RoV	Registered 18-34 as a % of RoV	Registered 35 and above as a % of RoV
BARNINGO	230,728	47.68%	52.32%
BOMOT	324,583	47.71%	52.29%
BUNIGOLA	559,989	46.95%	53.05%
BUSIA	352,433	46.24%	53.76%
ELGEYO/MAR	181,063	47.80%	52.20%
ELGEYO	322,576	39.44%	60.56%
GARCAA	163,203	52.31%	47.69%
KISUMU BAY	477,219	50.37%	49.63%
KISUMU	75,677	46.43%	53.57%
KAJIADO	410,660	51.35%	48.65%
KAKAMEGA	745,382	43.47%	56.53%
KERICHO	377,440	49.03%	50.97%
KATILBO	1,185,243	47.46%	52.54%
KUFI	487,887	44.53%	55.47%
MARIKAYA	359,139	36.90%	63.10%
ASIS	546,564	45.78%	54.22%
MUSUMU	539,006	52.39%	47.61%
MURURI	474,840	38.13%	61.87%
MURANGA	282,037	43.47%	56.53%
MURANGA	247,341	43.01%	56.99%
LALU	69,698	43.60%	56.40%
MACALLOS	623,369	39.94%	60.06%
MAVENDE	423,647	36.85%	63.15%
MALINDERA	175,234	57.11%	42.89%
MALINDERA	141,792	48.42%	51.58%
MERU	702,351	41.79%	58.21%
MIGORI	388,147	50.66%	49.34%
MOMBASA	582,605	51.25%	48.75%
MURANGA	593,769	36.08%	63.92%
MURURI	2,250,479	54.51%	45.49%
MURURI	953,949	48.44%	51.56%
MURURI	347,186	47.52%	52.48%
MURURI	342,005	49.69%	50.31%
MURURI	280,622	43.66%	56.34%
MURURI	327,774	40.75%	59.25%
MURURI	461,434	36.96%	63.04%
MURURI	82,844	47.66%	52.34%
MURURI	457,663	46.06%	53.94%
MURURI	157,659	39.15%	60.85%
MURURI	118,563	47.15%	52.85%
MURURI	214,507	40.05%	59.95%
MURURI	340,843	45.10%	54.90%
MURURI	190,565	41.13%	58.87%
MURURI	450,845	49.63%	50.37%
MURURI	233,785	37.98%	62.02%
MURURI	163,101	52.37%	47.63%
MURURI	179,862	50.66%	49.34%

Registered voters 2017 (NEBC) 19,646,673  
 Eligible voters 2017 (KNBS) 25,212,055  
 Issued ID's (NRB) 25,323,059  
 Principal register 2013 (NEBC) 14,352,545

Overall youth index 56.45%

NOTE: The formula is The ratio of Registered Voters\_18-34 to the number of Registered Voters\_35 and Above





Annexure 11h-3

reference to the exhibit marked IK-3 referred to by  
the annexed  
affidavit of Innocent Kasse sworn  
before me this 27<sup>th</sup> day of Oct, 2020 at Nairobi  
declared  
Notary Public  
Commissioner for Oath

## IN THEIR OWN VOICES

CITIZENS' INDEPENDENT AUDIT ON THE  
QUALITY OF THE 2017 REGISTER OF VOTERS





**OUR VISION:**

Credible, Peaceful, Free and Fair Electoral Processes in  
Kenya and the African Region

**MISSION:**

To Promote Democracy by Providing a Platform for  
Monitoring and Observing the Electoral Processes.

**OUR CORE VALUES**

Integrity: We shall be Transparent, Objective and  
Accountable to Ourselves and the Public.

Impartiality: We shall Discharge Our Mandate in a Non-  
Partisan manner.

Inclusivity: We shall at All Times Endeavour to Uphold the  
Diversity of All.





## TABLE OF CONTENTS

List of Tables .....	v	
List of Figures .....	vi	
List of Abbreviation and Acronyms.....	vii	
Acknowledgements .....	viii	
Foreword .....	ix	
Executive Summary .....	xi	
CHAPTER ONE		
INTRODUCTION		
1.1 Background to the Assessment of the 2017 Register of Voters .....	1	
1.2 Purpose for the Assessment of the 2017 Register of Voters .....	4	
1.3 Objectives of the assessment of the Register of Voters .....	5	
1.4 Significance of the Assessment of the 2017 Registers Voters .....	5	
1.5 Scope and Delimitation of the Assessment.....	6	
1.6 Organization of the Report.....	6	
CHAPTER TWO		
HIGHLIGHTS OF KEY FINDINGS AND RECOMMENDATIONS OF REGISTER OF VOTERS ASSESSMENTS IN KENYA SINCE 2010 .....		7
2.1 IED Report of the Quality of RoV used during the 2010 Constitutional Referendum. ....	7	
2.2 IED Report on the quality of the 2013 Principle RoV .....	11	
2.3 KPMG Report on the quality of the 2017 RoV .....	15	
CHAPTER THREE		
ASSESSMENT DESIGN AND METHODOLOGY		
3.1 Voters List Assessment (VLA) Design.....	25	
3.2 VLA Methodology .....	25	
3.3 VLA Target Population .....	27	
3.4 VLA Sample and Sampling Procedures.....	27	
3.5 Development of the VLA Training Materials.....	28	
3.6 Recruitment and Training of VLA Trainer of Trainers and Field Personnel ..	28	
3.7 Recruitment and Training of VLA Trainer of Trainers (ToTs).....	28	
3.8 VLA Field Work .....	29	
3.9 VLA Data Collection Tools.....	30	
3.10 Data Processing, Analysis and Reporting .....	30	
3.11 Ethical considerations during the VLA Exercise .....	31	



eligible voters as reported by the KPMG RoV audit report

- To compare the quality of the RoV that was used on 4<sup>th</sup> March 2013 general elections with the 2017 RoV
- To make recommendations that would improve voter registration processes, compilation and maintenance of a credible RoV for future elections and referenda in Kenya.

The assessment employed two methodologies namely; computer tests and statistically rigorous one - way field test (People-to- List). Computer tests involved undertaking a series of logical tests to analyze an electronic copy of the 2017 RoV to determine the degree of errors and registration rates and trends for various demographic groups. It involved undertaking internal consistency tests and external consistency tests. Internal consistency tests examined issues such as duplicates records, under age voters, records with missing information and inaccurate records. External consistency tests compared variables such as gender breakdowns, registration rates for youth, regional distribution and other details to external baseline data such as the voting age in 2017, Number of ID card issued by the National Registration Bureau (NRB) and Number of passports issued by the Ministry of Foreign Affairs. The computer analysis analyzed 19,611,423 records contained in the register dated 28<sup>th</sup> June 2017 that was shared with ELOG.

The People-to- List field survey sought to determine whether there were people who were eligible to vote and who appeared to have attempted to register, but whose names and other details were absent from the RoV. This methodology utilized a representative sample of 2,280 respondents drawn from the 47 counties. The survey was conducted with a 95% confidence level and a margin of error of +/- 2% .

## KEY FINDINGS AND RECOMMENDATIONS

### 1. NATIONAL VOTER REGISTRATION RATE (NVRR)

The VLA found out that the National Voter Registration Rate (NVRR)<sup>2</sup> during the 2017 general elections ranged from 77% to 78%. This was 10% increase from the 2013 general elections where the NVRR was 68%. This is an indication that majority of Kenyans are aware of their sovereign power as provided in Article

<sup>1</sup> KPMG Independent Audit of 2017 RoV, P.21

<sup>2</sup> This is the percentage of approximate population aged 18 years and above who actually registered and their details are in the RoV



This is the exhibit marked TK-4 referred to in the annexed affidavit of Immaculate Kassarit sworn and declared before me this 27th day of Oct 2020 at Nairobi  
Notary Public  
Commissioner for State

Annexure 14-4



### APPLICATION FOR RELEASE OF VOTERS REGISTER

Applicant ID/Passport Number of a valid passport \_\_\_\_\_

Name: \_\_\_\_\_  
Last First Middle

Office Address: \_\_\_\_\_

Office Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Office email: \_\_\_\_\_

I hereby request Independent Electoral and Boundaries Commission to issue to me a copy of the Voters Register for \_\_\_\_\_ electoral area.

Designated Office(s): \_\_\_\_\_

Intended purpose for the Voters Register information: \_\_\_\_\_

#### Information to be released:

- Principal Register (Kshs. 20,000/- twenty thousand shillings)
- County Register (Kshs. 20,000/- twenty thousand shillings)
- Constituency (Kshs. 15,000/- fifteen thousand shillings)
- Ward (Kshs. 5,000/- five thousand shillings)
- Other (specify) \_\_\_\_\_

Terms and conditions

1. This voter register information released will only be used for a period of six months from the date of the request.
2. The data/personal information so released shall only contain names of voters by polling station, county assembly ward, constituency and county.
3. The information released shall only be used for the purpose stated above.
4. The voter register information/data so released will not be used to cause individual/community harm including but not limited to assassinations, murder, injury, identity theft, embarrassment or blackmail or threats.

I

- Accept the set terms and conditions
- Do not accept the set terms and conditions

*(if an applicant does not accept the terms and conditions, the register of voters shall not be made available)*

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*Note: failure to accept the set terms and conditions will lead to denial to access any voters register*

**ANNEXURE 14 - NOMINEE AFFIDAVIT**









**DRAWN BY:-**

KARANU KANAI & CO.  
ADVOCATES  
FORTIS SUITES, SUITE 5  
ALONG HOSPITAL ROAD,  
UPPERHILL,  
P.O. BOX 6224 – 00200  
**NAIROBI.**

