



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT - (THIRD SESSION)  
THE NATIONAL ASSEMBLY**

**COMMUNICATION FROM THE CHAIR**

*(No. 046 of 2024)*

**ON**

**NOTICE OF MOTION FOR PROPOSED REMOVAL FROM OFFICE, BY  
IMPEACHMENT, OF H.E. RIGATHI GACHAGUA, EGH, AS THE DEPUTY  
PRESIDENT OF THE REPUBLIC OF KENYA**

**Honourable Members,**

1. Pursuant to Article 150(1)(b) of the Constitution and Standing Orders 64 and 65, I wish to notify the House that I am in receipt of a Notice of a Special Motion, dated **Thursday, 26<sup>th</sup> September, 2024 and received on Friday, 27<sup>th</sup> September, 2024** from the Member for Kibwezi West Constituency, the **Hon. Eckomas Mwengi Mutuse, M.P.** The Hon. Member seeks a resolution of the House for the removal from office, by impeachment, of **H.E. Rigathi Gachagua, EGH, as the Deputy President of the Republic of Kenya.**
2. **Honourable Members,** Article 150(1)(b) of the Constitution provides as follows, and I quote—

*"150. (1) The Deputy President may be removed from office—*

*(a) .....*

*(b) on impeachment—*

*(i) on the ground of a gross violation of a provision of this Constitution or any other law;*

*(ii) where there are serious reasons to believe that the Deputy President has committed a crime under national or international law; or*

*(iii) for gross misconduct."*

3. The Notice of the Special Motion by the Member for Kibwezi West seeks a resolution of the House for the removal from office, by impeachment, of our Deputy President on **the grounds specified under Article 150(1)(b) of the Constitution** and sets out the particulars in respect of each ground.
4. **Honourable Members**, the Special Motion before the House presents an unprecedented constitutional moment in our democracy. Without doubt, it summons this House to test, for the first time under the 2010 Constitution, the provisions of our Constitution relating to the removal from office, by impeachment, of our Deputy President.
5. It will be recalled that during the term of the 6<sup>th</sup> Parliament on 27<sup>th</sup> April 1989, the then Members for Embakasi, the Hon. David Mwenje successfully moved the House to pass a Vote of No Confidence in the **then Vice-President and Minister for Home Affairs, H.E. Josphat Karanja**. The Motion received an affirmative resolution of the House.
6. **Honourable Members**, It is instructive to note that upon the promulgation of the new Constitution of Kenya in August 2010, the then office of the Vice-President assumed a new clothing as the office of the Deputy President. This new clothing embedded in it a new manner of election, assumption of office and removal from office of the Second-in-Command.
7. Whereas the previous Constitution conferred upon the President the power to appoint and remove the Vice-President, **the Constitution of Kenya 2010 shifted the removal of the Deputy President to Parliament**. This lays the ground for the notice of the Special Motion by the Member for Kibwezi West.
8. **Honourable Members**, Standing Order 64(2), relating to removal, by impeachment, requires the Speaker to dispose of a Special Motion **within three days of receipt of notice by a Member**. Standing Order 64(2) as read in the light of Articles 259(5) and (6) of the Constitution, gives the Speaker the deadline of **today, Tuesday 1<sup>st</sup> October, 2024** to notify the House of receipt of the Special Motion and its admissibility or otherwise.

**9. Honourable Members,** having notified the House of the Special Motion, I will now highlight the preliminary procedural and legal requirements relating to processing a Special Motion for removal from office, by impeachment, of the Deputy President.

**10.** Article 150(2) of the Constitution provides that the provisions of Article 145 of the Constitution shall apply, with the necessary modifications, to the removal from office, by impeachment, of the Deputy President. In particular, Article 145(1) of the Constitution provides that—

***"a member of the National Assembly, supported by at least one third of all the members, may move a motion for impeachment of the President –***

***(a) on the ground of a gross violation of a provision of the Constitution or of any other law;***

***(b) where there are serious reasons for believing that the President has committed a crime under national or international law; or***

***(c) for gross misconduct."***

**11.** Procedurally, Standing Order 64(1) provides that—

***"Before giving notice of motion under Article 150 of the Constitution, a Member shall deliver to the Clerk a copy of the proposed motion in writing—***

***(a) stating the grounds and particulars in terms of Article 145(1) of the Constitution upon which the proposed motion is made;***

***(b) signed by the Member; and***

***(c) signed in support by at least a third of all the Members."***

12. Further, **Honourable Members**, Standing Order 64(1A) lays out the criteria for admissibility of grounds for removal from state office. For clarity, Standing Order 64(1A) states and I quote-

***(1A) The grounds specified in a motion under this Standing Order shall be admissible if—***

***(a) framed clearly to particularize and disclose a gross violation of the Constitution or other written law, where gross violation of the Constitution or other written law is indicated as a ground for the intended removal;***

***(b) stating with precision, the provisions of the Constitution or other written law that are alleged to have been grossly violated, where gross violation of the Constitution or other written law is indicated as a ground for the intended removal; and***

***(c) accompanied by necessary evidence, including annexures or sworn testimonies in respect of the allegations.***

13. The foregoing procedural and legal requirements for processing Special Motions are buttressed by precedents and jurisprudence in various Speaker's Rulings and Court decisions.

14. **Honourable Members**, today, I will refrain from re-stating the jurisprudence and focus on determining the admissibility of the Notice of the proposed Special Motion filed by the Member for Kibwezi West. In determining the admissibility of the Special Motion, I am required to examine its **form, threshold, framing of the grounds** and **attachment of the necessary evidence**.

15. Standing Order 64(1) provides for the criteria for determining **whether the proposed motion meets the requirements of the Constitution and the Standing Orders as to form and the threshold**. On form, it should—

***(a) be in writing;***

***(b) state the grounds and particulars in terms of Article 150(1)(b) of the Constitution upon which the proposed motion is made;***

***(c) be signed by the Member; and***

*(d) be signed in support by at least one-third of all the Members of the Assembly.*

16. Having examined the Notice of the Special Motion by the Member for Kibwezi West, **I find that the Special Motion meets the requirements relating to form and threshold set out in the in Articles 145(1) and 150(1)(b) of the Constitution and Standing Order 64(1).** I have also satisfied myself that the number of Members who have appended their signatures in support of the Special Motion exceed the minimum threshold of 117 Members of this House.

17. **Honourable Members**, with regard to admissibility of the grounds set out in the Special Motion, I am guided by Standing Orders 64(1A), which provides that the grounds specified in a Special Motion shall be admissible if—

*(a) framed clearly to particularize and disclose a gross violation of the Constitution or other written law, where gross violation of the Constitution or other written law is indicated as a ground for the intended removal;*

*(b) stating with precision, the provisions of the Constitution or other written law that are alleged to have been grossly violated, where gross violation of the Constitution or other written law is indicated as a ground for the intended removal; and*

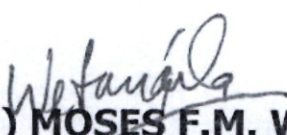
*(c) accompanied by necessary evidence, including annexures or sworn testimonies in respect of the allegations.*

18. **Honourable Members**, having examined the proposed Special Motion, I note that in keeping with the requirements of Article 150(1)(b) of the Constitution and Standing Order 64(1A), the Member has stated **eleven (11) grounds** for removal from office, by impeachment, of H. E. the Deputy President. In addition, I do note that the Special Motion as submitted to my office also contains the **particulars** upon which the Member seeks to move the House to consider the Special Motion.

19. With respect to evidence, the Member has attached documents, including annexures and a sworn affidavit **to substantiate the grounds stated in the Special Motion.**
20. Consequently, **Honourable Members, I find that the proposed Special Motion by the Hon. Eckomas Mwengi Mutuse, MP. meets the requirements of Articles 145(1) and 150(1)(b) of the Constitution and Standing Orders 64 and 65 with regard to form, threshold and grounds necessary for a Member to move a Special Motion for the proposed removal from office, by impeachment, of the Deputy President.**
21. **Honourable Members,** having determined that the Special Motion is admissible, let me now focus on the next step of giving Notice of the Special Motion to the House. Standing Order 47(4A) provides that, with respect to a motion for removal of person from office, **a Member shall give Notice of Motion in the House within three sitting days following approval by the Speaker.**
22. In the circumstances therefore, the Member for Kibwezi West ought to give Notice of his Special Motion **either today or tomorrow.** Given the nature of timelines applicable to this Special Motion, when we reach Order No. 6, that is '*Notices of Motion*', I will accord an opportunity to the Member for Kibwezi West to give the Notice of the Special Motion. Thereafter, I will give further guidance on the matter.

The House is accordingly guided.

I thank you!

  
**THE RT. HON. (DR.) MOSES F.M. WETANG'ULA, EGH, MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

Tuesday, 1<sup>st</sup> October, 2024