THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 07 AUG 2024
DAY
WED
TABLED BY: HON KIMANI ICHUNGWA (MEMBER)
TRACY CHEBET

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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT -THIRD SESSION (2024)

COMMITTEE ON APPOINTMENTS

SECOND REPORT ON THE APPROVAL HEARINGS OF NOMINEES FOR APPOINTMENT AS CABINET SECRETARIES

VOLUME IIIB
MEMORANDA FROM THE PUBLIC

AUGUST 2024

HD/039

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KĪANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA

NAIROBI.

I, BRIAN MWANGANGI, an adult of sound mind, disposition and a citizen of Kenya presently resident in NAIROBI hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
    3) **ADEN BARRE DUALE**
    4) **ROSELINDA SOIPAN TUIYA**
    5) **DAVIS CHIRCHIR**
    6) **SALIM MVURYA MGALA**
    7) **REBECCA KIANO**
    8) **ONESIMUS KIPCHUMBA MURKOMEN**
    9) **ALFRED NGANGA MUTUA**
    10) **JUSTIN BEDAN NJOKA MUTURI**
    11) **JOHN MBADI NG'ONGO**
    12) **JAMES OPIYO WANDAYI**
    13) **HASSAN ALI JOHO, AND**
    14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The first ten persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the first ten persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the first ten persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated 11.07.2024 and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the first ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a** and **b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2** and **3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a** and **b), 152(1** and **2)** and **156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last four named persons are members of and/or affiliated with the ORANGE DEMOCRATIC MOVEMENT (ODM) political party.

27. HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of ODM political party.

28. JOHN MBADI NG'ONGO and JAMES OPIYO WANDAYI are currently members of the National Assembly, having been nominated and elected at the general election in AUGUST 2022 as the candidates for ODM party. JOHN OPIYO WANDAYI is, in fact, currently Leader of the Minority Party in the National Assembly as provided by Article 108 of the Constitution.

29. The Constitution, including under Articles 4(2), 10(2), 90, 91 and 108, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under Article 38, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by Article 4(2) of the Constitution.

30. Further and in addition, under Article 1(3) of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA,** the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009**.

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, these being:

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on 11.07.2024, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the first ten persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of EXECUTIVE ORDER NO. 6 OF 2024 dated 11.07.2024 and published as Kenya Gazette No. 8440/2024 of 12.07.2024. The Order confirmed dismissal of all members of the national executive of the Republic, (including the first ten persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated 23.02.2024 in which EACC, (vide Gazette Notice No. 2089 at page 669 and case reference No. EACC/FI/INQ/18/2023), notified of investigations against WYCLIFFE AMBETSA OPARANYA, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on 18.12.2023, concurred with the Commission's recommendations for prosecution of WYCLIFFE AMBETSA OPARANYA for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, BRIAN MWANGANGI,
ON THIS 29th **DAY OF JULY, 2024**, AT NAIROBI, **IN THE**
PRESENCE OF _____, **COMMISSIONER OF OATHS.**

ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX 20956-00202, NAIROBI

DRAWN AND SUBMITTED BY:

BRIAN MWANGANGI

Contact address for the purpose of this statement:

iamndolo@gmail.com

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL -
clerk@parliament.go.ke and **cna@parliament.go.ke**



REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

BM
2
This is the Exhibit marked "..."
Referred to in the annexed Affidavit/Declaration
of...
Sworn/Declared before me this...
Day of... 20... at...
ADVOCATE AND
COMMISSIONER
Commissioner for Oaths
P.O. BOX 20956-00

SPECIAL ISSUE

THE KENYA GAZETTE

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

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1. Along Kenyatta Avenue
   (a) KCB Bank parking lot;
   (b) Khetias Supermarket parking lot;
   (c) Bank of Baroda parking lot;
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot; and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

DANIEL MUSITA,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT

(*No.* 17 *of* 2012)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (*c*) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (*d*) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot;
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot;
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot;
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot – Junction to Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Ekero – Sabatia Road.

Dated the 9th February, 2024.

AGGREY MUSINDALO,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (*d*) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.

(h) Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliant with section 41 (3) (*a*) of the PPDA, 2015 and Regulation 22 (1) (*c*) of the PPDR, 2020.

(ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.

(iii) Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 (*a*) (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (I) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularies at the Embakasi North Constituency Amounting to KSh. 51,351,357/=.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on 21st August, 2021 on allegations of procurement irregularities and embezzlement of public funds amounting to KSh. 51,351,357 at the Embakasi North Constituency. It was further alleged that the Member of Parliament for Embakasi North Constituency used his office,to award tenders to his children and close associates. The tenders were allegedly for construction of classrooms, event hosting and roadworks within Embakasi North Constituency.

Investigations established that the said constituency awarded various tenders to four companies associated with the daughter of the Member of Parliament for the constituency.

Financial investigations revealed that several payments were made to the companies for various projects allegedly undertaken with the Embakasi Constituency.

Investigations revealed that the said Member of Parliament received a total of KSh. 10,482,298/= either directly or indirectly from the companies associated with the daughter and other close associates. The MP is a signatory to bank account in one of the companies namely Ndakaini Hardware and Property Agencies.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Member of Parliament, the Fund Account Manager and directors of the four companies namely Ndakaini Enterprises Limited, Allica Investment Limited, Pride Wind Africa Limited and Ndakaini Hardware with the following offences;

(a) Two counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(b) Five counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) One count of abuse of office contrary to section 46 as read with section 48 (1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 6th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

4. EACC/PI/INQ/24/2021

Inquiry into Allegations of Irregular Tender Award and Embezzlement of Funds by Officers of Bomas of Kenya in the Award of General Insurance Cover for Financial Years 2020–2021 and 2021–2022 to CIC General Insurance Limited

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation that the Bomas of Kenya (BoK) had irregularly awarded the general property and work injury insurance cover tender to CIC General Insurance Limited during the financial year 2020-2021. Evidence obtained indicates that the tender was awarded to CIC.

Investigations established that BOK violated section 103 of the Public Procurement and Asset Disposal Act, 2015 and illegally awarded the tender to CIC. It was further established that since the tender for FY 2020-2021 was irregularly awarded. Subsequently, the renewal clause in the FY 2020-2021 tender policies could not birth a legitimate renewal in FY 2021-2022. Furthermore, no LPO was issued for the renewed tender. CIC Insurance was illegally paid KSh.9,058,916.70 for the two financial years which payments were made out of flawed procurement process.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Chief Executive Officer for Bomas of Kenya, Finance Officer, Supply Chain Management Officer, Ag. Managing Director CIC General Insurance and a Marketer at CIC, the Managing Director CIC General Insurance and CIC General Insurance Limited be charged with the following offences;

(a) Conspiracy to commit a corruption offence contrary to section 47 a (3) as read with section 48 of Anti-Corruption and Economic Crimes Act.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(d) Two counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

The Commission has in addition instituted the recovery of public property from CIC Insurance Company.

Awaiting DPP's response.

5. EACC/PI/INQ/05/2022

Investigations into Allegations of Irregular Award of Tenders and Embezzlement of Funds by Officials of Bomas of Kenya Limited During Financial Year 2020/2021 through Splitting of Tenders/Contracts to Various Companies Amounting to KSh. 8,587,831/=

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation on 3rd November, 2021. The allegation was that Bomas of Kenya (BOK) was involved in irregular award of tender for purchase of cutlery.

Investigations established that there was no budget allocated for the purchase of cutlery and crockery during the Financial Year 2020/2021 and the board did not approve any re-allocation of funds from other votes. Further investigations also established that there were several procurement irregularities including collusion between the suppliers and procurement officials in the purchase of cutlery for all the quotations at BOK. Some of the directors of the said companies denied participating in the procurement of the cutlery at BOK despite the evidence of bid documents allegedly submitted by their companies.

Financial investigations conducted revealed that after payments were made to the suppliers, they sent money to a particular supplier who would then transfer money to some of the officials of BOK.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Finance Officer, Finance Officer, Supply Chain Management Officer, former Board Chair, Directors of Arwin Gold Limited, Director for Grasonnel Limited, Directors of Bamyoung Limited and Directors of Dysema Limited together with all the four companies with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

(b) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the anti-corruption and economic crimes act, 2003.

(c) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act No. 3 of 2003.

(d) Fraudulent practice in procurement proceeding contrary to section 66 (1) as read with section 176 (1) (i) and (2) of the Public Procurement and Asset Disposal Act of 2015.

(e) One count of forgery contrary to section 345 as read with section 349 of the Penal Code.

(f) Two counts of dealing with Suspect Property contrary To section 47(2) (A) As Read with sections 47 (1) And 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(g) Four counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Awaiting DPPs response.

6. EACC/MSA/FI/INQ/7/2023

Investigations into Allegations of Corruption, Procurement Irregularities and Embezzelement of Funds at Taita Taveta County Government during the Commemoration of World War I Celebrations that Took Place Between 24th to 27th November, 2022

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 5th April, 2022, on allegations of corruption, procurement irregularities and embezzlement of funds at Taita Taveta County Government during the commemoration of World War 1 (WW1) celebrations that took place between 24th to 27th November, 2022.

Investigations established that the Government of Taita Taveta County prepared budget estimates and a consolidated procurement plan for the Financial Year 2022/2023 and the aforesaid event was not provided for in the budget.

Investigations further established that in respect to the World War One Event the Economic advisor and the Chief Officer Finance applied for imprest to facilitate the commemoration of the event. Investigation established that the Taita Taveta County utilised Kshs. 4,048,000.00 through irregular Daily Subsistence Allowance paid to officers.

It was further established that during the process of preparation for the WWI event, the public officers engaged and or directly single sourced suppliers for various services without following the laid down procedures despite the fact that the County Government had a repository of registered suppliers and service providers for the financial year 2022/2024. The suppliers that were engaged directly included Kazi Ngoma Orchestra band, Elbon Agencies, Banane North Explorer's Limited, Voi Wildlife Lodge, Kididi FM a commercial radio station, Tree Top Eatery, Pen and Paper Solutions, Gracious Tents and Sounds and Alconsup Solution Limited.

Investigations established that the receipts that were attached to the surrender documents were forgeries and were not actually issued by the purported entities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Economic Advisor to the Governor, County Secretary, County Chief Officer in charge of Trade, Tourism and Co-operatives Development with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Engaging in a project without prior planning contrary to section 45 (2) (*c*) as read together with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, 2003

(c) Six counts of uttering false documents contrary to section 353 of the Penal Code Cap 63 laws of Kenya

(d) Willful failure to comply with the applicable procedures and guidelines relating to incurring of expenditures contrary to section 45 (2)*(b)* as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003

On 5th February, 2024, the DPP returned the inquiry file with recommendations for further investigations.

7. EACC/MSA/FI/INQ/13/2022

Investigations into Allegations of Corruption and Misappropriation of Public Funds at Taita Taveta County Assembly as a Result of Imprest Advanced to the Speaker of the County Assembly, Clerk Twenty One Members of the County Assembly and Four Other Officers for Traveling to Zanzibar for a Bonding Trip in the Financial Year 2022/2023

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 28th November, 2022 on allegation of embezzlement of public funds against staff of the County Assembly of Taita Taveta. It is alleged that the Speaker, Clerk, twenty-one (21) Members of the County Assembly (MCAs) and four (4) other officers incurred an expenditure of around Kenya Shillings Seven (7) million without following proper guidelines with regard to the edicts of the law on Public Finance at a bonding tour to Marijani Hotel in Zanzibar in November 2022 within the Financial Year 2022/2023.

Investigations established that members of the Liaison Committee and public officials of Taita Taveta County Assembly traveled to Zanzibar on an education tour. However, some delegates were paid excess per diem allowances which they were not entitled because accommodation had been provided while others were paid yet they had not travelled for various reasons.

The procurement process was not properly followed in regard to sourcing of the service provider being the World Scout Parliamentary Union (WSPUK) who would offer the catering and training facilities for the delegates. WSPUK was single sourced and directly engaged for the educational trip to Zanzibar. Investigation established that the procurement threshold was way above KSh. 500,000/= and therefore it ought to have been reported to the Public Procurement Regulatory Authority by the Accounting Officer.

Investigation further established that the Clerk of Taita Taveta County Assembly, authorised payment voucher for full daily subsistence allowance to the delegates whilst knowing that the delegates were not entitled to full daily subsistence allowance since their accommodation had been catered for.

The investigation established that the Taita Taveta County Assembly had lost KSh. 6,181,433.00 through irregular DSA paid to officers. The said County Assembly initiated recoveries from the beneficiaries by deducting their salaries and some made cash deposits to Taita Taveta County Assembly Bank Account amounting to KSh. 2,215,550.60. The outstanding amount yet to be recovered is KSh. 3,943,033.98

It was further established that the Accounting Officer during imprest surrender attached false travel clearance letters for delegates who had not travelled for various personal reasons. He further fraudulently authorised surrender of payment voucher of KSh. 8,037,599 purporting to have been fully accounted for yet it was not sufficiently supported by surrender documents.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Clerk/Accounting Officer and the Deputy Speaker of Taita Taveta County Assembly with the following offences;

(a) Three counts of Abuse of office contrary to section 46 as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering false documents contrary to section 353 of the Penal Code, Cap. 63 Laws of Kenya

(c) False accounting by a public officer contrary to section 331 (1) and (2) of the Penal Code, Cap. 63 Laws of Kenya

(d) Wilful failure to comply with the law applicable, regulations and guidelines relating to procurement, contrary to section 45 (2) (b) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Financial misconduct contrary to section 197(1) (i) as read with section 199 of the Public Finance Management Act, No. 18 of 2012.

On 1st February, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

8. EACC/MSA/FI/INQ/4/2017

Investigations into Allegations of Procurement Irregularities in the Purchase of Stone Cutting Machines by Coast Development Authority (CDA) from Endebes Development Company (EDC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report dated 22nd March, 2017 that Coast Development Authority (CDA) had purchased stone cutting machines from Endebes Development Company (EDC) without following procurement procedures.

Investigations established that CDA leased coral block cutting equipment and vehicles from EDC without following the public procurement laws and procedures i.e use of direct method instead of open tender method as required under the PPDR 2006.

Furthermore, there were no bid documents received from any bidder hence no procurement process was conducted hence the procurement process was a fraud.

EDC offered to sell the said machines to CDA at a cost of KSh. 62,000,000/=. On 10th July, 2012, CDA and EDC entered into a lease agreement for the machines. The lease was signed by the Managing Director on behalf of CDA. EDC received a total sum of KSh. 28,794,834.00 from CDA for the lease of coral block cutting machines. It was established that the lease agreements were entered into illegally and therefore payments made to EDC by CDA were

unlawful. It was revealed that the Director and beneficial owner of EDC is a bank signatory in the company and he had appointed the Managing Director CDA while he was the Minister for Regional Development Authorities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Managing Director, the Director of the company and Endebes Development Company Limited with the following offences;

(a) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Entering into an obligation that has financial implication contrary to section 196 (3) as read with section (196) (6) of the Public Finance Management Act, 2012.

(d) Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

Awaiting DPP's response.

9. EACC/MSA/FI/INQ/17/2017

Investigations into Allegations of Irregular Procurement for Extension of Bura Water Supply by Coast Water Services Board (CWSb) at a Cost of KSh. 52,020,061/= in the Financial 2017/2018

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an anonymous complaint that the Coast Water Services Board (the Board) flouted the procurement law during the procurement process in the tender CWSB/TR-EQ/W/6A/2017 for extension of Bura Water Supply (the Project). This project had been sanctioned by the Ministry of Water and Irrigation (the Ministry) and was being funded from the Equalisation Fund (the Fund).

Investigations established that the Board advertised the subject procurement on 27th June, 2017 attracting 28 bidders. Further investigations established that the Board failed to subject all the tenders to both technical and financial evaluation contrary to section 80 of the Public Procurement and Disposal Act, 2015. The contract was irregularly awarded to Misriya Company Limited.

It was further established that the Director for Misriya Company limited had made false documents being motor vehicle registration documents and submitted the same to the Coast Water Services Board.

Investigations established that the Head of Procurement at CWSB prepared misleading professional opinion hence did not offer expert advised as was required of him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Evaluation Committee, the Head of Procurement and the Director of the Misriya Company Limited together with the company with the following offences;

(a) Wilful failure to comply with the procurement law contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Fraudulent procurement practice contrary to section 66 (1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

(c) Forgery contrary to section 345 as read with section 349 of the Penal Code.

(d) Uttering a false document contrary to section 353 of the Penal Code.

(e) Knowingly misleading a person carrying out a duty contrary to section 176 (1) (*b*) as read with section 176 (2) of the Public Procurement and Asset Disposal Act, 2015.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

10. EACC/FI/INQ/20/2021

Inquiry into Allegations of Embezzlement/Missapropriation of Public Funds Amounting to KSh. 45,610,187/= by Turkana County Assembly Through Tendering and Construction of Turkana County Assembly Speaker's Residence at Kanamkemer Ward

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on allegation that public funds which were meant for construction of the speaker's residence at Kanamkemer within Turkana County amounting to KSh. 45,610,187/= was misappropriated by the public officer's employed at Turkana County.

Investigations revealed that eight companies submitted their bids for the tender. The tender was irregularly awarded to Ekoriagete Enterprises Limited and the contract was executed by the County Assembly Clerk.

Further, it was established that one of the directors of the said company is an employee of the County Government of Turkana. The work done was valued at KSh. 19,494,994.99 as compared to payments made to the contractor totaling to KSh. 54,392,735.87. There was an overpayment of KSh. 34,897,740.88.

Investigations revealed that the said company was not registered with the National Construction Authority for the period between the years 2013 to 2018. The NCA certificates submitted by Ekoriagete Enterprises Limited as part of the requirement were forgeries.

Furthermore, financial investigations conducted revealed that payments were made to the company' account. The account was established to be operated by one of the county officials who is a director in the company. Upon receipt of the funds, the county official withdrew KSh. 18,495,500/= between August and September 2018 in a clear case of conflict of interest.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Deputy Clerk of Turkana County Assembly, the Clerk, the County Works Officer and the Director of the Ekoriagete Enterprises Limited with the following offences;

(a) One count of conspiracy to commit an offence of economic crime contrary to Section 47A (3) all as read with Section 48 of ACECA.

(b) One count of fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of abuse of office contrary to section 46 as read with section 48(1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

(d) One count of fraudulently making payments from public revenues for services not rendered contrary to section 45(2) (iii) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(e) One count of fraudulent procurement practice contrary to section 66(1) and (2) as read with section 177 of the Public Procurement and Disposal Act, 2015.

(f) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(g) One count of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

On 19th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

11. EACC/NKR/INQ/FI/101/2017

Inquiry into the Allegations of Misappropriation of Public Funds And Procurement Irregularities in the Rehabilitation And Construction of Salgaa-Elburgon Road By The County Government of Nakuru At the Cost of KSh. 10,000,000/= in the Financial Year 2015/2016

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th January, 2017 on allegations that the County Government of Nakuru had misappropriated KSh. 10,000,000/= in the rehabilitation and construction of Salgaa-Elburgon road.

Investigations established that the County Government of Nakuru had planned for the construction and rehabilitation of Salga-Elburgon Road as per the roads work plan at KSh. 8,084,300/= during the financial year 2015/2016. It was established that the technical evaluation was not conducted as required by regulation 16(4) of the Public Procurement and Disposal Regulations 2013. The procurement process was therefore flawed. The award was issued to Gee El Construction Works Limited and was paid for KSh. 6,508,478.53.

It was further established that the said company was not registered with the National Construction Authority and that the certificate provided by the company was a forgery.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Tender Evaluation Committee members, the Supply Chain Management Officer, the Chief Officer for Department of Roads and Public Works and the Directors of Gee El Construction Works Limited with the following offences;

(a) One count of Fraudulent practice in the procurement proceedings contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act, 2015.

(b) One count of Fraudulent acquisition of public property contrary to section 45(1) (*a*) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45(2) (*b*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and

(d) One count of Abuse of office contrary to section 45(2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

12. EACC/MSA/FI/INQ/04/2021 (C)

Inquiry into Allegations of Conflict of Interest and Procurment Irregularities Involving the Head of Treasury at The Kwale County Government Who is Alleged to own a Company Known as Chilongola Holdings Limited, which has Been Trading with the County Government of Kwale

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 4th February, 2021 alleging conflict of interest against the Head of Treasury, Kwale County Government who was alleged to own two companies namely; Rome Investment Limited and Chilongola Limited Companies which transacted and received KSh. 9,000,000/= from the said institution during the Financial Year 2017/18 and 2018/2019.

Investigations established that the companies were awarded ten tenders to supply and deliver sanitation materials, food and ration, general office supplies, and institutional appliances. It was further established that the procurement process undertaken was flawed. Rome investment and Chilongola Limited entered into a contract with the County Government of Kwale through Local Purchase Orders for the 10 tenders despite the procurement process having been flawed.

It was established that the tender documents including purchase requisition forms, minutes of the Tender Opening Committee, letters of appointment of inspection and acceptance committee and inspection and acceptance minutes relating to the said tenders were forgeries and the same were presented at the Kwale County Government by the Accountant and the Hospital Administrator. Further investigations established that Rome Investments and Chilongola Limited were paid a sum of KSh 44,919,341 and KSh. 4,007,943, respectively.

Further investigations disclosed that the Head of Treasury at the county was the Director at Chilongola Holdings together with his brothers who were directors for Rome Investments (k) Limited. The Head of Treasury was a mandatory signatory of the said companies bank accounts held at KCB Kwale Branch.

Financial investigations revealed that the Head of Treasury was a beneficial owner of the two companies, by virtue of the withdrawals he made. The total amount received by the two companies was KSh. 44,919,341 and the same distributed to the directors of the companies.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the Head of Treasury and a Director of Chilogola Holdings Limited and Rome Investment Limited, an Accountant and Hospital Administrator of the Kwale County Government be charged as follows:

(a) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(c) Deceiving principal contrary to section 412) as read with as read with section 48(1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(d) Fraudulent practise in procurement contrary to section 66 as read with section 177 of the Public Procurement and Asset Disposal Act, 2015

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

13. EACC/BGM/PI/INQ/09/2020

Investigation into Allegations of Procurement Irregularities and Conflict of Interest in the Procurement of A Double Cabin Pick-Up and a 33 Isuzu Bus Seater by the County Assembly of Bungoma in the Financial Year 2018/2019

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on allegations of procurement irregularities in in tender number CA/BGM/PUR/205/2019-2020 for the supply of a double cabin pick-up and a 33 Isuzu bus seater by the County Assembly of Bungoma during the Financial Year 2018/2019. It was further alleged that the Accounting Officer of the County Assembly had participated in the procurement amounting to Conflict of interest.

It was established that seven bidders participated in the procurement process. The Evaluation Committee conducted the evaluation exercise and recommended Westfield Motors Limited for the award for both the bus and double cabin. However, after a professional opinion was submitted with the foregoing recommendations, the clerk disregarded the opinion and went ahead to establish a different three-member committee to conduct another evaluation which was irregular since the substantive evaluation committee had not been disbanded.

It was further established that the Procurement Officer and the Clerk of the County Assembly prepared and approved a professional opinion which was misleading. The Accounting Officer executed the contract and authorised payments of KSh. 5,870,000/= and KSh. 4,980,000/= to be made in full to Westfield Motors Limited and Kenyan Coach Industries Limited respectively while knowing that the vehicles had not been supplied.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Accounting Officer and the Head of Procurement with the following offences;

(a) Three counts of wilful failure to comply with applicable procedures and guidelines relating to procurement of services contrary to section 45 (2) (*b*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

14. EACC/EL/INQ/29(ii)/2022

Inquiry into Allegation that an Employee Falsified Academic Certificates To Secure Employment at Rural Electrification And Renewable Energy Corporation (REREC) as a Supply Chain Management Assistant

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received that the officer used a forged Bachelor's degree in purchasing and supplies Chain Management from Jomo Kenyatta University of Agriculture and Technology to gain employment at REREC as a Supply Chain Management Assistant (Procurement and Disposal).

Investigations established that the Supply Chain Management Assistant forged a Bachelor's degree certificate No. 3701 in purchasing and supplies from Jomo Kenyatta University and Technology. He uttered the certificate while making application to be employed in the position of Supply Chain Management Assistant as captured from his employment records. Investigations revealed that he also submitted fake transcripts to REREC.

It was established that he had irregularly been paid a net salary amounting to KSh. 311,974.45 since the April, 2022 to July, 2022.

On 17th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the aforesaid suspect with the following counts;

(a) One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act.

(b) Five counts of forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Five counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 19th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

15. EACC/EL/INQ/29(v) /2022

Inquiry into Allegations That an Employee used Forged Academic Documents to Secure Employment at Rural Electrification and Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint on 2nd August, 2022 that the employee used forged academic documents to apply for the position of a driver at REREC.

Investigations established that the said driver made an application following an advertisement in the local dailies on 1st December, 2020. In his application he attached several documents including, a Kenya Secondary school certificate No. 2386658 from Kimuri High School issued in the year 2008.

Investigations further established that the KCSE certificate was forged, having been subjected to authentication by the Kenya National Education Council (KNEC). He had worked with REREC from 1st April, 2022 to July, 2022 and irregularly earned a net salary of KSh. 293,240.94

On 17th October, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the suspect being a driver at REREC with the following offences;

(a) Fraudulent acquisition Contrary to section 45 (1) (*a*) all as read with section 48 of ACECA,

(b) Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 2nd January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

16. EACC/EL/INQ/29(iii)/2022

Inquiry into Allegations that an Employee used Forged Academic Documents To Get Employment at Rural Electrification And Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 2nd August, 2022 on allegations that the employee used forged academic documents to apply for the position of Supply Chain Management Assistant (Inventory and Logistics) at REREC.

It was established that the REREC advertised for various positions in the daily nation dated 1st December, 2020. One of the positions advertised was that of Supply Chain Management Assistant (Inventory and logistics). She applied for the position and in her application; she indicated that she holds a Diploma in Business Information Technology from Kenya Methodist University awarded in the year 2014

Investigations established that she did not study at the said institution and the Diploma certificate in question was therefore a forged document. It was further established that she had been working at REREC from 1st April, 2022 to 14th July, 2022. She illegally gained from the institution a net salary of KSh. 293,457.07 considering that she was not qualified for the position.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act 2003.

(b) One count of Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) One count of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Two counts of Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

17. EACC/ISL/EL/INQ/2/2020

Inquiry Into Allegations that the Ward Administrator for Marsabit Central Used Forged Academic Documents to get Employment

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received with allegations that the Ward Administrator for Marsabit Central had allegedly used forged Kenya Certificate of Secondary Education Certificate (KCSE) and diploma certificate to gain employment in Marsabit County.

Investigations established that the suspect applied for employment opportunity at the Marsabit County Government in the year 2018. He submitted his curriculum vitae, which indicated that he had a Diploma in Community Development and Social Work.

Investigations revealed that the Ward Administrator also applied for the position of Civic Education Officer and attached a KCSE Certificate serial No. 2023397 from Marsabit Secondary School. He further submitted a KNEC Certificate serial No. BTEP/D004270 for diploma in Community Development and Social work. The suspect was appointed as a Public Participation and Civic Education Officer from 28th January, 2019.

Investigations further revealed that the positions in which he was appointed into had not been advertised and therefore the appointments were irregular.

Further investigation revealed that the suspect had altered the grades in the KCSE certificate that he submitted to the Marsabit County Government and the Diploma in Community and Social Development were forgeries. It was further established that the Ward Administrator had earned a net salary from April, 2019 to September, 2023 amounting to KSh. 1,954,324.15

On 27th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Ward Administrator with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of ACECA.

(b) One count of Deceiving principal contrary to section 412) as read with as read with section 48(1) of ACECA.

(c) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(d) Two counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

18. EACC/MSA/FI/INQ/13/2023

Inquiry into Allegations Joskat Construction Company did not Follow the Bills of Quantities when Performing Contracts for Likoni CDF in erecting the Perimeter wall for Timbwani Secondary School in the Financial Year 2021-2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a contractor was not following the bill of quantities when performing contracts for Likoni NG-CDF project for erecting the 400-meter perimeter wall for Timbwani Secondary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Timbwani secondary School were followed from the initiation of the tender process until the award of contract. The contract was awarded to Joskat Construction Company Limited at a cost of KSh.. 6,394,807/=. The Project Management Committee confirmed that the progress was good and that the work was being done as per the specifications. The company completed the said construction as per the contract and as a result, payments were made to the contractor. The project has been completed but was yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

19. EACC/MSA/FI/INQ/11/2022

Inquiry into Allegations that a Company Called Sallysam Limited did not Follow The Bills of Quantities when Erecting the Perimeter Wall for Mrima Primary School in Likoni Consituency during the Financial Year 2021/2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a company namely Sallysam Ltd was not following the bill of quantities when performing contracts for Likoni NG-CDF project for construction of classes for Mrima Primary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Mrima Primary School were followed from the initiation of the tender process until the award of contract to Sallysam Limited. The construction was also completed as per the contract and as a result, payments were made to the contractor. The project has been completed and yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

20. EACC/MSA/FI/INQ/14/2023

Inquiry into Allegations that a Company Called Sallysam Enterprises did not follow the Bills of Quantities When Erecting The Perimeter Wall For Mtongwe Girls Secondary School in Likoni Constituency during The Financial Year 2021/2022

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 26th September, 2022 that a company called Sallysam Limited was not following the bill of quantities when performing contracts for Likoni NG-CDF project of erecting the perimeter wall for Mtongwe girls Secondary school during the Financial Year 2021/2022.

Investigations established that the NG-CDF Board approved a code of projects including Mtongwe Girls Secondary School with an allocated amount of KSh. 5,985,075/=. The procurement entity was Likoni Constituency Development Fund. Three companies submitted their bids and a final award issued to Sallysam Enterprises Limited. The contract was executed on 3rd May, 2022. The works were executed by the said company and it was noted that the project was going on well as per the specifications of the Bill of quantities. Investigations did not reveal any procurement irregularities in the subject project.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed with no further action.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

21. EACC/KSI/OPS/INQ/3/2022

Inquiry into Allegations of Corruption against a Court Assistant Working for the Judiciary at Migori Law Courts

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 11th April, 2022 that a Court Assistant had approached him and that he could assist him to get a favourable judgment from the Magistrate handling the criminal matter at a court in Migori. He was required to give KSh. 100,000/=.

Investigations established that there was a criminal matter at Migori Law Courts where the complainant was the accused and was coming up for judgment. The Court Assistant requested for KSh. 100,000/= in order to assist the complainant to get a favourable judgment. The Commission established that the Court Assistant had demanded and received a bribe of KSh. 20,000/= which was recovered from him upon arrest.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations that the Court Assistant be charged with two counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 (1) and (2) of the Bribery Act, 2016.

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

22.EACC/OPS/INQ/20/2023

Inquiry into Bribery Allegation of Corrupt Conduct Against a Kenya Revenue Authority Officer

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 14th March, 2023 alleging that a Waiver Processing Officer at the Kenya Revenue Authority was demanding for a benefit of KSh. 50,000/= in order to write off accrued erroneous value added tax penalty amounting to KSh. 410,000/=.

Investigations established that the Waiver Processing Officer worked at the KRA and had requested and received KSh. 40,000/= as a financial benefit.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Waiver Processing Officer at KRA with three counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 of the Bribery Act No. 47 of 2016

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

23.EACC/MCKS/OPS/INQ/2/2021

Inquiry into Allegations that the Head Teacher at Unoa Primary School was Charging Illegal Levies as Fees in Violation of Guidelines by the Ministry of Education on Free Primary Education (FPE)

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received on 14th January, 2020 that the Head teacher at Unoa Primary School was charging illegal levies as fees in violation of guidelines by the Ministry of Education on free primary education.

Investigations further established that the head teacher had been charging illegal fees in form of development fees of Kshs. 5,000/=, harambee fee of KSh. 1,000/=, Fencing fee of KSh. 1000/= and feeding programme fee of KSh. 1850/= plus other motivation and activity fee totalling to KSh. 10,000/=.

Financial Investigations established that the head teacher owned a private enterprise namely AGPHILY Enterprise that was trading with the school wherein he was the head.

Further investigations established that the head teacher purported to have made supplies to the school and he had signed a cheque of KSh. 183,500/= in his favour. The cheque was not honoured at the bank since no supporting document was provided to the bank.

On 9th November, 2023, a report was compiled and forwarded to the DPP with the recommendations to charge the head teacher, Unoa Primary school with the following offences;

(a) Conflict of interest contrary to section 42 (3) as read with Section 48 of the ACECA, 2003.

(b) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

24. EACC/OPS/INQ/36/2023

An Inquiry into Allegations of Corrupt Conduct against a Nairobi City County Revenue Officer Based at City Hall.

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received a report dated 18th May, 2023 alleging that a Nairobi City County Revenue Officer based at City Hall was demanding for a bribe of KSh. 20,000/= from him in order to write off cess arrears amounting to KSh. 47,0000/= accrued by his lorry.

Investigations established that on 27th April, 2023 the County Official informed owner of lorry that he had cess arrears of Kshs. 47,000/= . The suspect reduced the amount to KSh. 20,000/= and required the owner of the lorry to pay KSh. 10,000/= through paybill number and was given KSh. 10,000/= in cash. On a later date, the lorry owner was informed that he had cess arrears of KSh. 14,000/=.

The Commission established that he was employed as an Administrative Officer III at the Nairobi City County Government. The county official requested and received KSh. 10,000/= in order to facilitate write-off cess arrears accrued by his lorry owed to Nairobi City County Government.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Administrative Officer at Nairobi City County Government be charged with three counts of receiving a bribe contrary to section 6 (1) *(a)* as read with section 18 of the bribery Act No. 47 of 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

25. EACC/MCKS/OPS/INQ/54B/2018

An Inquiry into Allegations of Obstruction against a Suspect In ACC 636/2020 - Republic Vs. Eldah Konzolo

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 11th April, 2021 on allegations that an accused person in Anti-corruption case no. ACC 636/2020 – R vs. Eldah Konzolo had offered KSh. 17,000/= to a witness in order to change his testimony in the stated matter which was pending trial before Mavoko law courts.

Investigations established that the suspect had compromised the witness in the said matter and indeed sent KSh. 17,000/= through Mpesa to a proxy to avoid any direct link. The money was intended to persuade the witness to change his testimony in court. It was established that the said amount was sent to one of his colleague. Investigations also established that the conduct of the accused amounted to interference with a witness with an aim to obstruct justice.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the suspect, with the following offences;

(a) One count of giving a bribe contrary to section 5 of the Bribery Act, 2016.

(b) One count of interfering with witnesses contrary to section 117 (1) of the Penal Code Cap 63.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

26. EACC/OPS/INQ/44/2023

Inquiry into Allegations of Bribery against a Member of County Assembly, Hospital Ward, Kiambu County.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 24th May, 2023 to the effect that a Member of County Assembly, Hospital Ward, Kiambu County was requesting for a financial advantage of KSh. 130,000/- as an inducement to allow her proceed with the intended development activities on Parcel No. Thika Municipality Block 11/377.

Investigations established that county official requested that he be given a portion of land and Kshs. 200,000/= so that he could disregard an alleged Petition by members of the public against any development on the subject plot. They negotiated the amount downwards to KSh. 100,000/=.

It was established that the suspect is Public Officer by virtue of him being a Member of County Assembly (MCA), Kiambu County. He was acting in his official capacity as MCA and Chairperson of the Development Committee of the Assembly when he requested for the benefit.

The Commission established that the county official requested for a bribe of KSh. 130,000/= intending that, in consequence, the owner of the plot proceeds with her intended development on Parcel No. Thika Municipality Block 11/377.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge him with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

27. EACC/BGM/OPS/INQ/8/2021

Investigation into Allegations of Bribery against a Police Officer Attached to Kakamega Central Police Station.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th December,2021 with allegations that a Police Officer attached to the DCI Kakamega Central Police Station at Kakamega County, had requested for a financial advantage of KSh. 100,000/= to give to a Magistrate stationed at Kakamega Law Courts in order to influence the outcome of an inquest proceeding at the Kakamega Magistrates Court.

Investigations established that there was an inquest under Inquest No. 3 of 2020. The inquest proceedings had concluded and pending the verdict of the Principal Magistrate. The Police Officer who was at the time the investigating officer requested for a benefit in order to compromise the said magistrate to rule in favour of the deceased.

Investigations further established that the police officer was employed at the Ministry of Interior and Co-ordination of National Government (Administration Police). The Commission established that the police officer received the bribe of KSh. 40,000/= which was recovered from him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the police officer be charged with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Total No. of files forwarded to the Director of Public Prosecutions	27
No. of files recommended for prosecution	24
No. of files recommended for administrative or other action	0
No. of files recommended for closure	3
No. of files recommended for prosecution and the cases are already lodged before Court	-
No. of files where recommendation to prosecute accepted	7
No. of files where recommendation for administrative or other action accepted	-
No. of files where recommendation for closure accepted	3
No. of files returned for further investigations	14
No. of files where recommendation to prosecute not accepted	-
No. of files where recommendation for administrative or other action not accepted	-
No. of files where closure not accepted	-

No. of files where prosecution declined but administrative action recommended	-
No. of files awaiting the DPP's advice	3

Dated the 13th February, 2024.

DAVID OGINDE, *Chairperson.*

TWALIB MBARAK, *Secretary/Chief Executive Officer.*

PTG 1703/23-24

GAZETTE NOTICE NO. 2090

THE KENYA INFORMATION AND COMMUNICATIONS ACT

(*No.* 2 *of* 1998)

APPLICATION FOR LICENCES

NOTICE is given that the following applicants have, pursuant to the provisions of the Kenya Information and Communications Act, 1998, made applications to the Communications Authority of Kenya for grant of the licences as shown in the Table below:

Name	*Station Identity*	*Licence Category*
Darwy Afrik Photography and Safaris Limited, P.O. Box 5572–0100, Eldoret	Assis FM	Commercial Free to Air Radio Licence
Alhaajar Investment Limited, P.O. Box 98558–80100, Mombasa	Alhaajar TV	Commercial Free to Air Television Licence
AIPCA Bahati TV and Radio Limited, P.O. Box 73053–00200, Nairobi	AIPCA Bahati TV	Commercial Free to Air Television Licence
Way of Truth Media Limited, P.O. Box 3556–00200, Nairobi	Truth Wave TV	Commercial Free to Air Television Licence
Nifty Works Plus Limited, P.O. Box 21933–00505, Nairobi	NWPLUS TV	Subscription Broadcasting Service Licence
University of Eastern Africa Baraton, P.O. Box 2500–30100, Eldoret	Baraton FM	Community Free to Air Radio Licence
Go Shipping Cargo Agency Limited, P.O. Box 4689–00100, Nairobi		International Postal/ Courier Operator Licence
Samina Senders and Logistics Limited, P.O. Box 90231–80100, Mombasa		National Postal/ Courier Operator Licence
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DXA Technologies Limited, P.O. Box 79450–00200, Nairobi		Network Facilities Provider Tier 2 (NPF-T2)

The licences, if granted, will enable the applicants to operate and provide the services as indicated in the Table above. The grant of these licences may affect the public and local authorities, companies, persons or bodies of persons within the country.

The Authority wishes to notify the general public that any legal or natural person, or group of individuals, who are desirous of making any representation and/or any objection to the said applications, to do so *vide* a letter addressed to: The Director-General, Communications Authority of Kenya, CA Centre, Waiyaki Way, P.O. Box 14448–00800, Nairobi, indicating the licence category on the cover enclosing it.

The said representation and/or objection must be filed on or before expiry of thirty (30) days from the date of publication of this notice and a copy of the same be forwarded to the applicants.

Dated the 13th February, 2024.

DAVID MUGONYI, *Director-General.*

PTG 1685/23-24

GAZETTE NOTICE NO. 2091

THE WATER ACT, 2016

(*Sections* 70, 85, 87 *and* 139)

PUBLIC CONSULTATION MEETING ON LICENCING OF WATER SERVICE PROVIDER

THE Water Services Regulatory Board (WASREB) has received licence application from Nyeri Water and Sanitation Company Limited to provide water services within Nyeri County.

The licence application has been made pursuant to the Water Act 2016 (section 85(1)- "A person shall not provide water services except under a licence issued by the Regulatory Board, upon submission of an application and such supporting documents as the Board may require".

Therefore, in compliance to WASREB principal object under the Water Act, 2016 section 70 (1)–"protection of the interests and rights of consumers in the provision of water services", section 87(1)- "An application for a licence shall be subject to public participation" read together with the provision of section 139, we wish to advise that the public consultation meeting shall be held at the venue stated below to get stakeholders concerns on services provided, licencing conditions and proposals for services improvement going forward.

Please note that the Water Service Provider shall hold hybrid public consultation meeting (physical and virtual) as outlined below.

Water Service Provider	*County*	*Venue*		*Day Date and Time*
Nyeri Water and Sanitation Company	Nyeri	Physical meeting:	Wangari Mathai Hall, Nyeri Town	Tuesday, 5th March, 2024 10.00 a.m.
		Virtual meeting:	WSP to provide links	

Participants should be seated by 10.00 a.m. Personal identification of participants will be required. Members of the public in respective areas are invited to make oral and written submissions and ask any questions that may relate to the provision of water services in their areas.

Comments on the application shall be emailed to info@wasreb.go.ke or send in hard copy to:

The Chief Executive Officer,
Water Services Regulatory Board,
5th Floor NHIF Building,
Ngong Road,
P.O. Box 41621–00100,
Nairobi.

The closing date for receipt of comments is thirty (30) days after the publication of this notice.

Dated the 6th February, 2024.

JULIUS ITUNGA, *Ag. Chief Executive Officer, Water Services Regulatory Board.*

MR/6198975

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, Elm3 Githoho Miano, an adult of sound mind, disposition and a citizen of Kenya presently resident in Ruiru hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
    3) **ADEN BARRE DUALE**
    4) **ROSELINDA SOIPAN TUIYA**
    5) **DAVIS CHIRCHIR**
    6) **SALIM MVURYA MGALA**
    7) **REBECCA KIANO**
    8) **ONESIMUS KIPCHUMBA MURKOMEN**
    9) **ALFRED NGANGA MUTUA**
    10) **JUSTIN BEDAN NJOKA MUTURI**
    11) **JOHN MBADI NG'ONGO**
    12) **JAMES OPIYO WANDAYI**
    13) **HASSAN ALI JOHO, AND**
    14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The **first ten** persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the **first ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated 11.07.2024 and in the EXECUTIVE ORDER NO. 6 OF 2024, which the dismissed persons, including the first ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a** and **b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2** and **3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a** and **b), 152(1** and **2)** and **156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last four named persons are members of and/or affiliated with the ORANGE DEMOCRATIC MOVEMENT (ODM) political party.

27. HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of ODM political party.

28. JOHN MBADI NG'ONGO and JAMES OPIYO WANDAYI are currently members of the National Assembly, having been nominated and elected at the general election in AUGUST 2022 as the candidates for ODM party. JOHN OPIYO WANDAYI is, in fact, currently Leader of the Minority Party in the National Assembly as provided by Article 108 of the Constitution.

29. The Constitution, including under Articles 4(2), 10(2), 90, 91 and 108, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under Article 38, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by Article 4(2) of the Constitution.

30. Further and in addition, under Article 1(3) of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA,** the leader of **ODM,** was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION,** as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI,** one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI,** an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009**.

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on 11.07.2024, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of 12.07.2024. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide Gazette Notice No. 2089 at page 669 and case reference No. **EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, Miano Elvis Gichohi.
ON THIS 29 **DAY OF JULY, 2024,** AT Nairobi **, IN THE**
PRESENCE OF _____, **COMMISSIONER OF OATHS.**

NERIMA AKINYI WERE
ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX 20956-00202, NAIROBI

DRAWN AND SUBMITTED BY:

Contact address for the purpose of this statement:

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

This is the Exhibit marked "M.E.G."
Referred to in the annexed Affidavit/Declaration
of Miano Wwere Gichohi
Sworn/Declared before me this 5th
Day of July 2024 Nairobi

Commissioner for Oaths

MERIMA AKIN WWERE
ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX 20956-00202, NAIROBI

HARAMBEE



REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

This is the Exhibit marked "MEG2"
Referred to in the annexed Affidavit/Declaration
of Mwangi Kiunyi Gichol
Sworn/Declared before me this 20th
Day of July 20 at Nairobi
Commissioner for Oaths

NERIMA AKINYI WERE
ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX 20956-00202, NAIROBI

SPECIAL ISSUE

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

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1. Along Kenyatta Avenue
   (a) KCB Bank parking lot;
   (b) Khetias Supermarket parking lot;
   (c) Bank of Baroda parking lot;
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot; and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

DANIEL MUSITA,
Municipal Manager, Kakamega Municipality.

MR/6208579

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT

(*No.* 17 *of* 2012)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (*c*) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (*d*) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot;
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot;
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot;
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot – Junction to Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Ekero – Sabatia Road.

Dated the 9th February, 2024.

AGGREY MUSINDALO,
Municipal Manager, Kakamega Municipality.

MR/6208579

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (*d*) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.

(h) Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliant with section 41 (3) (*a*) of the PPDA, 2015 and Regulation 22 (1) (*c*) of the PPDR, 2020.

(ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited. ,

*(iii)*Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 (*a*) (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (I) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularies at the Embakasi North Constituency Amounting to KSh. 51,351,357/=.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on 21st August, 2021 on allegations of procurement irregularities and embezzlement of public funds amounting to KSh. 51,351,357 at the Embakasi North Constituency. It was further alleged that the Member of Parliament for Embakasi North Constituency used his office to award tenders to his children and close associates. The tenders were allegedly for construction of classrooms, event hosting and roadworks within Embakasi North Constituency.

Investigations established that the said constituency awarded various tenders to four companies associated with the daughter of the Member of Parliament for the constituency.

Financial investigations revealed that several payments were made to the companies for various projects allegedly undertaken with the Embakasi Constituency.

Investigations revealed that the said Member of Parliament received a total of KSh. 10,482,298/= either directly or indirectly from the companies associated with the daughter and other close associates. The MP is a signatory to bank account in one of the companies namely Ndakaini Hardware and Property Agencies.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Member of Parliament, the Fund Account Manager and directors of the four companies namely Ndakaini Enterprises Limited, Allica Investment Limited, Pride Wind Africa Limited and Ndakaini Hardware with the following offences;

(a) Two counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(b) Five counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) One count of abuse of office contrary to section 46 as read with section 48 (1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 6th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

4. EACC/PI/INQ/24/2021

Inquiry into Allegations of Irregular Tender Award and Embezzlement of Funds by Officers of Bomas of Kenya in the Award of General Insurance Cover for Financial Years 2020–2021 and 2021–2022 to CIC General Insurance Limited

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation that the Bomas of Kenya (BoK) had irregularly awarded the general property and work injury insurance cover tender to CIC General Insurance Limited during the financial year 2020-2021. Evidence obtained indicates that the tender was awarded to CIC.

Investigations established that BOK violated section 103 of the Public Procurement and Asset Disposal Act, 2015 and illegally awarded the tender to CIC. It was further established that since the tender for FY 2020-2021 was irregularly awarded. Subsequently, the renewal clause in the FY 2020-2021 tender policies could not birth a legitimate renewal in FY 2021-2022. Furthermore, no LPO was issued for the renewed tender. CIC Insurance was illegally paid KSh.9,058,916.70 for the two financial years which payments were made out of flawed procurement process.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Chief Executive Officer for Bomas of Kenya, Finance Officer, Supply Chain Management Officer, Ag. Managing Director CIC General Insurance and a Marketer at CIC, the Managing Director CIC General Insurance and CIC General Insurance Limited be charged with the following offences;

(a) Conspiracy to commit a corruption offence contrary to section 47 a (3) as read with section 48 of Anti-Corruption and Economic Crimes Act.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(d) Two counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

The Commission has in addition instituted the recovery of public property from CIC Insurance Company.

Awaiting DPP's response.

5. EACC/PI/INQ/05/2022

Investigations into Allegations of Irregular Award of Tenders and Embezzlement of Funds by Officials of Bomas of Kenya Limited During Financial Year 2020/2021 through Splitting of Tenders/Contracts to Various Companies Amounting to KSh. 8,587,831/=

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation on 3rd November, 2021. The allegation was that Bomas of Kenya (BOK) was involved in irregular award of tender for purchase of cutlery.

Investigations established that there was no budget allocated for the purchase of cutlery and crockery during the Financial Year 2020/2021 and the board did not approve any re-allocation of funds from other votes. Further investigations also established that there were several procurement irregularities including collusion between the suppliers and procurement officials in the purchase of cutlery for all the quotations at BOK. Some of the directors of the said companies denied participating in the procurement of the cutlery at BOK despite the evidence of bid documents allegedly submitted by their companies.

Financial investigations conducted revealed that after payments were made to the suppliers, they sent money to a particular supplier who would then transfer money to some of the officials of BOK.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Finance Officer, Finance Officer, Supply Chain Management Officer, former Board Chair, Directors of Arwin Gold Limited, Director for Grasonnel Limited, Directors of Bamyoung Limited and Directors of Dysema Limited together with all the four companies with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

(b) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the anti-corruption and economic crimes act, 2003.

(c) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act No. 3 of 2003.

(d) Fraudulent practice in procurement proceeding contrary to section 66 (1) as read with section 176 (1) (i) and (2) of the Public Procurement and Asset Disposal Act of 2015.

(e) One count of forgery contrary to section 345 as read with section 349 of the Penal Code.

(f) Two counts of dealing with Suspect Property contrary To section 47(2) (A) As Read with sections 47 (1) And 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(g) Four counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Awaiting DPPs response.

6. EACC/MSA/FI/INQ/7/2023

Investigations into Allegations of Corruption, Procurement Irregularities and Embezzelement of Funds at Taita Taveta County Government during the Commemoration of World War I Celebrations that Took Place Between 24th to 27th November, 2022

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 5th April, 2022, on allegations of corruption, procurement irregularities and embezzlement of funds at Taita Taveta County Government during the commemoration of World War 1 (WW1) celebrations that took place between 24th to 27th November, 2022.

Investigations established that the Government of Taita Taveta County prepared budget estimates and a consolidated procurement plan for the Financial Year 2022/2023 and the aforesaid event was not provided for in the budget.

Investigations further established that in respect to the World War One Event the Economic advisor and the Chief Officer Finance applied for imprest to facilitate the commemoration of the event. Investigation established that the Taita Taveta County utilised Kshs. 4,048,000.00 through irregular Daily Subsistence Allowance paid to officers.

It was further established that during the process of preparation for the WWI event, the public officers engaged and or directly single sourced suppliers for various services without following the laid down procedures despite the fact that the County Government had a repository of registered suppliers and service providers for the financial year 2022/2024. The suppliers that were engaged directly included Kazi Ngoma Orchestra band, Elbon Agencies, Banane North Explorer's Limited, Voi Wildlife Lodge, Kididi FM a commercial radio station, Tree Top Eatery, Pen and Paper Solutions, Gracious Tents and Sounds and Alconsup Solution Limited.

Investigations established that the receipts that were attached to the surrender documents were forgeries and were not actually issued by the purported entities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Economic Advisor to the Governor, County Secretary, County Chief Officer in charge of Trade, Tourism and Co-operatives Development with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Engaging in a project without prior planning contrary to section 45 (2) (*c*) as read together with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, 2003

(c) Six counts of uttering false documents contrary to section 353 of the Penal Code Cap 63 laws of Kenya

(d) Willful failure to comply with the applicable procedures and guidelines relating to incurring of expenditures contrary to section 45 (2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003

On 5th February, 2024, the DPP returned the inquiry file with recommendations for further investigations.

7. EACC/MSA/FI/INQ/13/2022

Investigations into Allegations of Corruption and Misappropriation of Public Funds at Taita Taveta County Assembly as a Result of Imprest Advanced to the Speaker of the County Assembly, Clerk Twenty One Members of the County Assembly and Four Other Officers for Traveling to Zanzibar for a Bonding Trip in the Financial Year 2022/2023

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 28th November, 2022 on allegation of embezzlement of public funds against staff of the County Assembly of Taita Taveta. It is alleged that the Speaker, Clerk, twenty-one (21) Members of the County Assembly (MCAs) and four (4) other officers incurred an expenditure of around Kenya Shillings Seven (7) million without following proper guidelines with regard to the edicts of the law on Public Finance at a bonding tour to Marijani Hotel in Zanzibar in November 2022 within the Financial Year 2022/2023.

Investigations established that members of the Liaison Committee and public officials of Taita Taveta County Assembly traveled to Zanzibar on an education tour. However, some delegates were paid excess per diem allowances which they were not entitled because accommodation had been provided while others were paid yet they had not travelled for various reasons.

The procurement process was not properly followed in regard to sourcing of the service provider being the World Scout Parliamentary Union (WSPUK) who would offer the catering and training facilities for the delegates. WSPUK was single sourced and directly engaged for the educational trip to Zanzibar. Investigation established that the procurement threshold was way above KSh. 500,000/= and therefore it ought to have been reported to the Public Procurement Regulatory Authority by the Accounting Officer.

Investigation further established that the Clerk of Taita Taveta County Assembly, authorised payment voucher for full daily subsistence allowance to the delegates whilst knowing that the delegates were not entitled to full daily subsistence allowance since their accommodation had been catered for.

The investigation established that the Taita Taveta County Assembly had lost KSh. 6,181,433.00 through irregular DSA paid to officers. The said County Assembly initiated recoveries from the beneficiaries by deducting their salaries and some made cash deposits to Taita Taveta County Assembly Bank Account amounting to KSh. 2,215,550.60. The outstanding amount yet to be recovered is KSh. 3,943,033.98

It was further established that the Accounting Officer during imprest surrender attached false travel clearance letters for delegates who had not travelled for various personal reasons. He further fraudulently authorised surrender of payment voucher of KSh. 8,037,599 purporting to have been fully accounted for yet it was not sufficiently supported by surrender documents.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Clerk/Accounting Officer and the Deputy Speaker of Taita Taveta County Assembly with the following offences;

(a) Three counts of Abuse of office contrary to section 46 as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering false documents contrary to section 353 of the Penal Code, Cap. 63 Laws of Kenya

(c) False accounting by a public officer contrary to section 331 (1) and (2) of the Penal Code, Cap. 63 Laws of Kenya

(d) Wilful failure to comply with the law applicable, regulations and guidelines relating to procurement, contrary to section 45 (2) (b) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Financial misconduct contrary to section 197(1) (i) as read with section 199 of the Public Finance Management Act, No. 18 of 2012.

On 1st February, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

8. EACC/MSA/FI/INQ/4/2017

Investigations into Allegations of Procurement Irregularities in the Purchase of Stone Cutting Machines by Coast Development Authority (CDA) from Endebes Development Company (EDC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report dated 22nd March, 2017 that Coast Development Authority (CDA) had purchased stone cutting machines from Endebes Development Company (EDC) without following procurement procedures.

Investigations established that CDA leased coral block cutting equipment and vehicles from EDC without following the public procurement laws and procedures i.e use of direct method instead of open tender method as required under the PPDR 2006.

Furthermore, there were no bid documents received from any bidder hence no procurement process was conducted hence the procurement process was a fraud.

EDC offered to sell the said machines to CDA at a cost of KSh. 62,000,000/=. On 10th July, 2012, CDA and EDC entered into a lease agreement for the machines. The lease was signed by the Managing Director on behalf of CDA. EDC received a total sum of KSh. 28,794,834.00 from CDA for the lease of coral block cutting machines. It was established that the lease agreements were entered into illegally and therefore payments made to EDC by CDA were

unlawful. It was revealed that the Director and beneficial owner of EDC is a bank signatory in the company and he had appointed the Managing Director CDA while he was the Minister for Regional Development Authorities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Managing Director, the Director of the company and Endebes Development Company Limited with the following offences;

(a) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Entering into an obligation that has financial implication contrary to section 196 (3) as read with section (196) (6) of the Public Finance Management Act, 2012.

(d) Unlawful acquisition of public property contrary to section 45 (1) (a) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

Awaiting DPP's response.

9. EACC/MSA/FI/INQ/17/2017

Investigations into Allegations of Irregular Procurement for Extension of Bura Water Supply by Coast Water Services Board (CWSb) at a Cost of KSh. 52,020,061/= in the Financial 2017/2018

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an anonymous complaint that the Coast Water Services Board (the Board) flouted the procurement law during the procurement process in the tender CWSB/TR-EQ/W/6A/2017 for extension of Bura Water Supply (the Project). This project had been sanctioned by the Ministry of Water and Irrigation (the Ministry) and was being funded from the Equalisation Fund (the Fund).

Investigations established that the Board advertised the subject procurement on 27th June, 2017 attracting 28 bidders. Further investigations established that the Board failed to subject all the tenders to both technical and financial evaluation contrary to section 80 of the Public Procurement and Disposal Act, 2015. The contract was irregularly awarded to Misriya Company Limited.

It was further established that the Director for Misriya Company limited had made false documents being motor vehicle registration documents and submitted the same to the Coast Water Services Board.

Investigations established that the Head of Procurement at CWSB prepared misleading professional opinion hence did not offer expert advised as was required of him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Evaluation Committee, the Head of Procurement and the Director of the Misriya Company Limited together with the company with the following offences;

(a) Wilful failure to comply with the procurement law contrary to section 45 (2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Fraudulent procurement practice contrary to section 66 (1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

(c) Forgery contrary to section 345 as read with section 349 of the Penal Code.

(d) Uttering a false document contrary to section 353 of the Penal Code.

(e) Knowingly misleading a person carrying out a duty contrary to section 176 (1) (b) as read with section 176 (2) of the Public Procurement and Asset Disposal Act, 2015.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

10. EACC/FI/INQ/20/2021

Inquiry into Allegations of Embezzlement/Missapropriation of Public Funds Amounting to KSh. 45,610,187/= by Turkana County Assembly Through Tendering and Construction of Turkana County Assembly Speaker's Residence at Kanamkemer Ward

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on allegation that public funds which were meant for construction of the speaker's residence at Kanamkemer within Turkana County amounting to KSh. 45,610,187/= was misappropriated by the public officer's employed at Turkana County.

Investigations revealed that eight companies submitted their bids for the tender. The tender was irregularly awarded to Ekoriagete Enterprises Limited and the contract was executed by the County Assembly Clerk.

Further, it was established that one of the directors of the said company is an employee of the County Government of Turkana. The work done was valued at KSh. 19,494,994.99 as compared to payments made to the contractor totaling to KSh. 54,392,735.87. There was an overpayment of KSh. 34,897,740.88.

Investigations revealed that the said company was not registered with the National Construction Authority for the period between the years 2013 to 2018. The NCA certificates submitted by Ekoriagete Enterprises Limited as part of the requirement were forgeries.

Furthermore, financial investigations conducted revealed that payments were made to the company' account. The account was established to be operated by one of the county officials who is a director in the company. Upon receipt of the funds, the county official withdrew KSh. 18,495,500/= between August and September 2018 in a clear case of conflict of interest.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Deputy Clerk of Turkana County Assembly, the Clerk, the County Works Officer and the Director of the Ekoriagete Enterprises Limited with the following offences;

(a) One count of conspiracy to commit an offence of economic crime contrary to Section 47A (3) all as read with Section 48 of ACECA.

(b) One count of fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of abuse of office contrary to section 46 as read with section 48(1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

(d) One count of fraudulently making payments from public revenues for services not rendered contrary to section 45(2) (iii) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(e) One count of fraudulent procurement practice contrary to section 66(1) and (2) as read with section 177 of the Public Procurement and Disposal Act, 2015.

(f) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(g) One count of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

On 19th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

11. EACC/NKR/INQ/FI/101/2017

Inquiry into the Allegations of Misappropriation of Public Funds And Procurement Irregularities in the Rehabilitation And Construction of Salgaa-Elburgon Road By The County Government of Nakuru At the Cost of KSh. 10,000,000/= in the Financial Year 2015/2016

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th January, 2017 on allegations that the County Government of Nakuru had misappropriated KSh. 10,000,000/= in the rehabilitation and construction of Salgaa-Elburgon road.

Investigations established that the County Government of Nakuru had planned for the construction and rehabilitation of Salga-Elburgon Road as per the roads work plan at KSh. 8,084,300/= during the financial year 2015/2016. It was established that the technical evaluation was not conducted as required by regulation 16(4) of the Public Procurement and Disposal Regulations 2013. The procurement process was therefore flawed. The award was issued to Gee El Construction Works Limited and was paid for KSh. 6,508,478.53.

It was further established that the said company was not registered with the National Construction Authority and that the certificate provided by the company was a forgery.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Tender Evaluation Committee members, the Supply Chain Management Officer, the Chief Officer for Department of Roads and Public Works and the Directors of Gee El Construction Works Limited with the following offences;

(a) One count of Fraudulent practice in the procurement proceedings contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act, 2015.

(b) One count of Fraudulent acquisition of public property contrary to section 45(1) (*a*) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45(2) (*b*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and

(d) One count of Abuse of office contrary to section 45(2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

12. EACC/MSA/FI/INQ/04/2021 (C)

Inquiry into Allegations of Conflict of Interest and Procurment Irregularities Involving the Head of Treasury at The Kwale County Government Who is Alleged to own a Company Known as Chilongola Holdings Limited, which has Been Trading with the County Government of Kwale

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 4th February, 2021 alleging conflict of interest against the Head of Treasury, Kwale County Government who was alleged to own two companies namely; Rome Investment Limited and Chilongola Limited Companies which transacted and received KSh. 9,000,000/= from the said institution during the Financial Year 2017/18 and 2018/2019.

Investigations established that the companies were awarded ten tenders to supply and deliver sanitation materials, food and ration, general office supplies, and institutional appliances. It was further established that the procurement process undertaken was flawed. Rome investment and Chilongola Limited entered into a contract with the County Government of Kwale through Local Purchase Orders for the 10 tenders despite the procurement process having been flawed.

It was established that the tender documents including purchase requisition forms, minutes of the Tender Opening Committee, letters of appointment of inspection and acceptance committee and inspection and acceptance minutes relating to the said tenders were forgeries and the same were presented at the Kwale County Government by the Accountant and the Hospital Administrator. Further investigations established that Rome Investments and Chilongola Limited were paid a sum of KSh 44,919,341 and KSh. 4,007,943, respectively.

Further investigations disclosed that the Head of Treasury at the county was the Director at Chilongola Holdings together with his brothers who were directors for Rome Investments (k) Limited. The Head of Treasury was a mandatory signatory of the said companies bank accounts held at KCB Kwale Branch.

Financial investigations revealed that the Head of Treasury was a beneficial owner of the two companies, by virtue of the withdrawals he made. The total amount received by the two companies was KSh. 44,919,341 and the same distributed to the directors of the companies.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the Head of Treasury and a Director of Chilogola Holdings Limited and Rome Investment Limited, an Accountant and Hospital Administrator of the Kwale County Government be charged as follows:

(a) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(c) Deceiving principal contrary to section 412) as read with as read with section 48(1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(d) Fraudulent practise in procurement contrary to section 66 as read with section 177 of the Public Procurement and Asset Disposal Act, 2015

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

13. EACC/BGM/PI/INQ/09/2020

Investigation into Allegations of Procurement Irregularities and Conflict of Interest in the Procurement of A Double Cabin Pick-Up and a 33 Isuzu Bus Seater by the County Assembly of Bungoma in the Financial Year 2018/2019

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on allegations of procurement irregularities in in tender number CA/BGM/PUR/205/2019-2020 for the supply of a double cabin pick-up and a 33 Isuzu bus seater by the County Assembly of Bungoma during the Financial Year 2018/2019. It was further alleged that the Accounting Officer of the County Assembly had participated in the procurement amounting to Conflict of interest.

It was established that seven bidders participated in the procurement process. The Evaluation Committee conducted the evaluation exercise and recommended Westfield Motors Limited for the award for both the bus and double cabin. However, after a professional opinion was submitted with the foregoing recommendations, the clerk disregarded the opinion and went ahead to establish a different three-member committee to conduct another evaluation which was irregular since the substantive evaluation committee had not been disbanded.

It was further established that the Procurement Officer and the Clerk of the County Assembly prepared and approved a professional opinion which was misleading. The Accounting Officer executed the contract and authorised payments of KSh. 5,870,000/= and KSh. 4,980,000/= to be made in full to Westfield Motors Limited and Kenyan Coach Industries Limited respectively while knowing that the vehicles had not been supplied.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Accounting Officer and the Head of Procurement with the following offences;

(a) Three counts of wilful failure to comply with applicable procedures and guidelines relating to procurement of services contrary to section 45 (2) (*b*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

14. EACC/EL/INQ/29(ii)/2022

Inquiry into Allegation that an Employee Falsified Academic Certificates To Secure Employment at Rural Electrification And Renewable Energy Corporation (REREC) as a Supply Chain Management Assistant

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received that the officer used a forged Bachelor's degree in purchasing and supplies Chain Management from Jomo Kenyatta University of Agriculture and Technology to gain employment at REREC as a Supply Chain Management Assistant (Procurement and Disposal).

Investigations established that the Supply Chain Management Assistant forged a Bachelor's degree certificate No. 3701 in purchasing and supplies from Jomo Kenyatta University and Technology. He uttered the certificate while making application to be employed in the position of Supply Chain Management Assistant as captured from his employment records. Investigations revealed that he also submitted fake transcripts to REREC.

It was established that he had irregularly been paid a net salary amounting to KSh. 311,974.45 since the April, 2022 to July, 2022.

On 17th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the aforesaid suspect with the following counts;

(a) One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act.

(b) Five counts of forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Five counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 19th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

15. EACC/EL/INQ/29(v) /2022

Inquiry into Allegations That an Employee used Forged Academic Documents to Secure Employment at Rural Electrification and Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint on 2nd August, 2022 that the employee used forged academic documents to apply for the position of a driver at REREC.

Investigations established that the said driver made an application following an advertisement in the local dailies on 1st December, 2020. In his application he attached several documents including, a Kenya Secondary school certificate No. 2386658 from Kimuri High School issued in the year 2008.

Investigations further established that the KCSE certificate was forged, having been subjected to authentication by the Kenya National Education Council (KNEC). He had worked with REREC from 1st April, 2022 to July, 2022 and irregularly earned a net salary of KSh. 293,240.94

On 17th October, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the suspect being a driver at REREC with the following offences;

(a) Fraudulent acquisition Contrary to section 45 (1) (*a*) all as read with section 48 of ACECA,

(b) Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 2nd January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

16. EACC/EL/INQ/29(iii)/2022

Inquiry into Allegations that an Employee used Forged Academic Documents To Get Employment at Rural Electrification And Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 2nd August, 2022 on allegations that the employee used forged academic documents to apply for the position of Supply Chain Management Assistant (Inventory and Logistics) at REREC.

It was established that the REREC advertised for various positions in the daily nation dated 1st December, 2020. One of the positions advertised was that of Supply Chain Management Assistant (Inventory and Jogistics). She applied for the position and in her application; she indicated that she holds a Diploma in Business Information Technology from Kenya Methodist University awarded in the year 2014

Investigations established that she did not study at the said institution and the Diploma certificate in question was therefore a forged document. It was further established that she had been working at REREC from 1st April, 2022 to 14th July, 2022. She illegally gained from the institution a net salary of KSh. 293,457.07 considering that she was not qualified for the position.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act 2003.

(b) One count of Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) One count of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Two counts of Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

17. EACC/ISL/EL/INQ/2/2020

Inquiry Into Allegations that the Ward Administrator for Marsabit Central Used Forged Academic Documents to get Employment

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received with allegations that the Ward Administrator for Marsabit Central had allegedly used forged Kenya Certificate of Secondary Education Certificate (KCSE) and diploma certificate to gain employment in Marsabit County.

Investigations established that the suspect applied for employment opportunity at the Marsabit County Government in the year 2018. He submitted his curriculum vitae, which indicated that he had a Diploma in Community Development and Social Work.

Investigations revealed that the Ward Administrator also applied for the position of Civic Education Officer and attached a KCSE Certificate serial No. 2023397 from Marsabit Secondary School. He further submitted a KNEC Certificate serial No. BTEP/D004270 for diploma in Community Development and Social work. The suspect was appointed as a Public Participation and Civic Education Officer from 28th January, 2019.

Investigations further revealed that the positions in which he was appointed into had not been advertised and therefore the appointments were irregular.

Further investigation revealed that the suspect had altered the grades in the KCSE certificate that he submitted to the Marsabit County Government and the Diploma in Community and Social Development were forgeries. It was further established that the Ward Administrator had earned a net salary from April, 2019 to September, 2023 amounting to KSh. 1,954,324.15

On 27th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Ward Administrator with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of ACECA.

(b) One count of Deceiving principal contrary to section 412) as read with as read with section 48(1) of ACECA.

(c) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(d) Two counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

18. EACC/MSA/FI/INQ/13/2023

Inquiry into Allegations Joskat Construction Company did not Follow the Bills of Quantities when Performing Contracts for Likoni CDF in erecting the Perimeter wall for Timbwani Secondary School in the Financial Year 2021-2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a contractor was not following the bill of quantities when performing contracts for Likoni NG-CDF project for erecting the 400-meter perimeter wall for Timbwani Secondary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Timbwani secondary School were followed from the initiation of the tender process until the award of contract. The contract was awarded to Joskat Construction Company Limited at a cost of KSh.. 6,394,807/=. The Project Management Committee confirmed that the progress was good and that the work was being done as per the specifications. The company completed the said construction as per the contract and as a result, payments were made to the contractor. The project has been completed but was yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

19. EACC/MSA/FI/INQ/11/2022

Inquiry into Allegations that a Company Called Sallysam Limited did not Follow The Bills of Quantities when Erecting the Perimeter Wall for Mrima Primary School in Likoni Consituency during the Financial Year 2021/2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a company namely Sallysam Ltd was not following the bill of quantities when performing contracts for Likoni NG-CDF project for construction of classes for Mrima Primary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Mrima Primary School were followed from the initiation of the tender process until the award of contract to Sallysam Limited. The construction was also completed as per the contract and as a result, payments were made to the contractor. The project has been completed and yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

20. EACC/MSA/FI/INQ/14/2023

Inquiry into Allegations that a Company Called Sallysam Enterprises did not follow the Bills of Quantities When Erecting The Perimeter Wall For Mtongwe Girls Secondary School in Likoni Constituency during The Financial Year 2021/2022

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 26th September, 2022 that a company called Sallysam Limited was not following the bill of quantities when performing contracts for Likoni NG-CDF project of erecting the perimeter wall for Mtongwe girls Secondary school during the Financial Year 2021/2022.

Investigations established that the NG-CDF Board approved a code of projects including Mtongwe Girls Secondary School with an allocated amount of KSh. 5,985,075/=. The procurement entity was Likoni Constituency Development Fund. Three companies submitted their bids and a final award issued to Sallysam Enterprises Limited. The contract was executed on 3rd May, 2022. The works were executed by the said company and it was noted that the project was going on well as per the specifications of the Bill of quantities. Investigations did not reveal any procurement irregularities in the subject project.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed with no further action.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

21. EACC/KSI/OPS/INQ/3/2022

Inquiry into Allegations of Corruption against a Court Assistant Working for the Judiciary at Migori Law Courts

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 11th April, 2022 that a Court Assistant had approached him and that he could assist him to get a favourable judgment from the Magistrate handling the criminal matter at a court in Migori. He was required to give KSh. 100,000/=.

Investigations established that there was a criminal matter at Migori Law Courts where the complainant was the accused and was coming up for judgment. The Court Assistant requested for KSh. 100,000/= in order to assist the complainant to get a favourable judgment. The Commission established that the Court Assistant had demanded and received a bribe of KSh. 20,000/= which was recovered from him upon arrest.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations that the Court Assistant be charged with two counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 (1) and (2) of the Bribery Act, 2016.

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

22.EACC/OPS/INQ/20/2023

Inquiry into Bribery Allegation of Corrupt Conduct Against a Kenya Revenue Authority Officer

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 14th March, 2023 alleging that a Waiver Processing Officer at the Kenya Revenue Authority was demanding for a benefit of KSh. 50,000/= in order to write off accrued erroneous value added tax penalty amounting to KSh. 410,000/=.

Investigations established that the Waiver Processing Officer worked at the KRA and had requested and received KSh. 40,000/= as a financial benefit.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Waiver Processing Officer at KRA with three counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 of the Bribery Act No. 47 of 2016

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

23.EACC/MCKS/OPS/INQ/2/2021

Inquiry into Allegations that the Head Teacher at Unoa Primary School was Charging Illegal Levies as Fees in Violation of Guidelines by the Ministry of Education on Free Primary Education (FPE)

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received on 14th January, 2020 that the Head teacher at Unoa Primary School was charging illegal levies as fees in violation of guidelines by the Ministry of Education on free primary education.

Investigations further established that the head teacher had been charging illegal fees in form of development fees of Kshs. 5,000/=, harambee fee of KSh. 1,000/=, Fencing fee of KSh. 1000/= and feeding programme fee of KSh. 1850/= plus other motivation and activity fee totalling to KSh. 10,000/=.

Financial Investigations established that the head teacher owned a private enterprise namely AGPHILY Enterprise that was trading with the school wherein he was the head.

Further investigations established that the head teacher purported to have made supplies to the school and he had signed a cheque of KSh. 183,500/= in his favour. The cheque was not honoured at the bank since no supporting document was provided to the bank.

HP/102

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, EVYONE KIRIMI, an adult of sound mind, disposition and a citizen of Kenya presently resident in MERU, makes this statement contesting the nominations, by H.E., the President, for approval by the National Assembly, of persons for appointment to the national executive of the Republic as follows:

A. AGAINST ALL THE NOMINEES:

1. I contest the approval, by the National Assembly, of **all the persons** nominated by H.E. the President, for appointment to the national executive of the Republic, **namely:**

1) **ADEN BARE DUALE**
2) **ALFRED NGANGA MUTUA**
3) **ALICE MUTHONI WAHOME**
4) **DAVIS KIMUTAI CHIRCHIR**
5) **DR. ANDREW MWIHIA KARANJA**
6) **DR. DEBRA MLONGO BARASA**
7) **DR. MARGARET NYAMBURA NDUNG'U**
8) **ERIC MURIITHI MUUGA**
9) **HASSAN ALI JOHO**
10) **JAMES OPIYO WANDAYI**
11) **JOHN MBADI NG'ONGO**
12) **JULIUS MIGOS OGAMBA**
13) **JUSTIN BEDAN NJOKA MUTURI**
14) **ONESIMUS KIPCHUMBA MURKOMEN**
15) **PROF. KITHURE KINDIKI**
16) **REBECCA MIANO**
17) **ROSELINDA SOIPAN TUYA**

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
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P O Box 41842, NAIROBI

18) SALIM MVURYA

19) STELLA SOI LANG'AT AND

20) WYCLIFFE AMBETSA OPARANYA

2. Article 152 (1) of the Constitution sets out the composition of the Cabinet of the Republic.

3. Article 27(8) of the Constitution requires that not more than two-thirds of members of elective or appointive bodies shall be of the same gender. This is further reinforced by the national values and principles of governance under **Article 10** and the values and principles of public service under **Article 232** of the Constitution.

4. When, on **11.07.2024**, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, he retained the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

5. If all the above-named nominees are approved by the National Assembly and appointed to the national executive of the Republic by the President as intended, the composition of the national executive will be unconstitutional as it would violate **Article 27(8)** of the Constitution.

6. Upon their approval and appointment, national executive of the Republic will have **twenty-three (23)** members. The gender of those members, composed of elected and appointed persons, will be:

	MEMBER OF CABINET:	GENDER:
1)	**PRESIDENT WILLIAM RUTO**	**MALE**
2)	**DEPUTY PRESIDENT RIGATHI GACHAGUA**	**MALE**
3)	**ALICE MUTHONI WAHOME**	**FEMALE**
4)	**DR. DEBRA MLONGO BARASA**	**FEMALE**
5)	**DR. MARGARET NYAMBURA NDUNG'U**	**FEMALE**
6)	**REBECCA MIANO**	**FEMALE**
7)	**ROSELINDA SOIPAN TUYA**	**FEMALE**
8)	**STELLA SOI LANG'AT**	**FEMALE**
9)	**ADEN BARE DUALE**	**MALE**
10)	**ALFRED NGANGA MUTUA**	**MALE**
11)	**DAVIS KIMUTAI CHIRCHIR**	**MALE**
12)	**DR. ANDREW MWIHIA KARANJA**	**MALE**

13)	ERIC MURIITHI MUUGA	MALE
14)	HASSAN ALI JOHO	MALE
15)	JAMES OPIYO WANDAYI	MALE
16)	JOHN MBADI NG'ONGO	MALE
17)	JULIUS MIGOS OGAMBA	MALE
18)	JUSTIN BEDAN NJOKA MUTURI	MALE
19)	MUSALIA MUDAVADI	MALE
20)	ONESIMUS KIPCHUMBA MURKOMEN	MALE
21)	PROF. KITHURE KINDIKI	MALE
22)	SALIM MVURYA	MALE
23)	WYCLIFFE AMBETSA OPARANYA	MALE

7. Of the twenty-three (23) members of the national executive of the Republic, six (6) will be of the female gender while seventeen (17) will be of the male gender.

8. Under Article 27(8) of the Constitution, not fewer than eight (8) of members of the national executive of the Republic at the end of the instant nomination, approval and appointment process, shall be from the minority-represented gender, in this case, the female gender. Even then, this is merely the bare minimum.

9. As was held by the High Court in ***Marilyn Muthoni Kamuru & 2 others v Attorney General & another [2016] eKLR***, the National Assembly has a duty to ensure that the composition of the Cabinet of the Republic always complies with the Constitution, including by adhering to the requirements imposed by **Article 27(8)** of the Constitution.

10. I submit, therefore, that the National Assembly must **reject all the persons** nominated for approval for appointment as members of the national executive of the Republic as the nominations have been done in violation of the Constitution. It must further require H.E., the President, to submit nominees whom, upon approval by the National Assembly and their appointment by the President, would result in a Cabinet that complies with **Article 27(8)** of the Constitution.

11. The National Assembly cannot sanitise and regularise the unconstitutional nominations by the President by withholding approval of some male nominees to meet the requirements of **Article 27(8)** of the Constitution.

12. It must instead, as required by the Constitution, including **Articles 3, 10, 27, 94, 95, 129, 130, 131, 132, 152, 156, 232** and **259**, withhold its approval for all the nominees without

any further enquiries until the President submits a gender-compliant list of nominees. It is loathsome that this basic requirement is even a ground for contention in **2024**.

B. AGAINST TEN (10) OF THE NOMINEES, NAMELY:

1) **PROF. KITHURE KINDIKI**
2) **ALICE WAHOME**
3) **ADEN BARE DUALE**
4) **ROSELINDA SOIPAN TUYA**
5) **DAVIS CHIRCHIR**
6) **SALIM MVURYA MGALLA**
7) **REBECCA MIANO**
8) **ONESIMUS KIPCHUMBA MURKOMEN**
9) **ALFRED NGANGA MUTUA**
10) **JUSTIN BEDAN NJOKA MUTURI**

13. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

14. The **ten** persons named above were among those members of the national executive of the Republic dismissed by H.E. the President, as notified in the statement.

15. H.E., the President stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

16. Dismissal of the **ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

17. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

18. The Order further recognised the duty imposed on H.E. the President to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

19. In the Order, H.E. the President took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

20. H.E. the President stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

21. The President's actions in dismissing the specified members of his Cabinet, including the ten persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

22. The President's decision to dismiss members of his Cabinet, including the ten persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

23. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

24. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the ten persons named hereinabove.

25. By his own admission and actions on **11.07.2024**, and in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the ten individuals who are the subject of this contestation.

26. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

27. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

28. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

29. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **ten** persons.

30. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

31. **Articles 132(2)(a and b), 152(2) and 156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

32. **Articles 1(1, 2 and 3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National

Assembly, persons to be appointed to his Cabinet under Articles 130(1), 132(2)(a and b), 152(1 and 2) and 156(2).

33. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

34. Based on the foregoing, I oppose the nominations of the above-named **ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

C. AGAINST A FURTHER FOUR (4) NOMINEES:

35. In addition to contesting the nominations of the **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the **four (4)** persons named below, for appointment to the national executive of the Republic, namely:

1) **JOHN MBADI NG'ONGO**
2) **JAMES OPIYO WANDAYI**
3) **HASSAN ALI JOHO, AND**
4) **WYCLIFFE AMBETSA OPARANYA.**

36. It is a matter of public record and notoriety that the **four** persons named above are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party.

37. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between **2013 – 2022**. Both stood as and were elected as members of **ODM** political party.

38. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in

AUGUST 2022 as the candidates for **ODM** party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

39. The Constitution, including under **Articles 4(2), 10(2), 90, 91** and **108**, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

40. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

41. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

42. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in the **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA**, the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

43. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

44. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

45. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

46. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly request the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

D. AGAINST THE NOMINATION OF JAMES OPIYO WANDAYI:

47. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

48. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

49. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

50. This reduction includes the proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

51. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E. the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

52. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of an elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

E. AGAINST THE NOMINATION OF WYCLIFFE AMBETSA OPARANYA:

53. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

54. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with

regards to the nominee's time as the governor for Kakamega County under their case reference No. **EACC/FI/INQ/18/2023**.

55. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

56. Legal proceedings ongoing against the nominee include High Court's **HCACECMISC/E040/2023 ETHICS AND ANTI-CORRUPTION COMMISSION VS WYCLIFFE AMBETSA OPARANYA AND TRICOMP ENERGY COMPANY LIMITED AND OTHERS**. EACC sought and was granted orders freezing assets of the nominee which are suspected to be proceeds of crime. The matter came up for directions at the Anti-Corruption and Economic Crimes Division of the High Court at Milimani, Nairobi, on **22.07.2024**, and remains active.

57. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified and ineligible for the nomination, approval and appointment as a member of the national executive of the Republic. Nomination, approval and appointment would violate the Constitution, including **Articles 10, 73, 75** and **232.**

F. THEREFORE:

58. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5), 201** and **232**, and for the reasons given above in their totality, the National Assembly has a duty to decline to approve **all the persons** named above who have been nominated by H.E., the President, for approval for appointment to be members of the national executive of the Republic.

59. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him strictly, constitutionally accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

60. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page **669** and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences;

4) Notification in the Cause-list for the Anti-Corruption and Economic Crimes Division of the High Court at Milimani, Nairobi, for **22.07.2024**, confirming the listing of **HCACECMISC/E040/2023 ETHICS AND ANTI-CORRUPTION COMMISSION VS WYCLIFFE AMBETSA OPARANYA AND TRICOMP ENERGY COMPANY LIMITED AND OTHERS.**

61. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE SAID, EVYONE KIRIMI ON THIS 29th **DAY OF JULY, 2024,** AT NAIROBI **IN THE PRESENCE OF,** _____, **COMMISSIONER OF OATHS.**

NERIMA AKINYI WERE * ADVOCATE * COMMISSIONER FOR OATHS * P.O. BOX 20956-00202, NAIROBI *

NERIMA AKINYI WERE * ADVOCATE AND COMMISSIONER FOR OATHS * P.O. BOX 20956-00202, NAIROBI *

DRAWN AND SUBMITTED BY:

EVYONE KIRIMI

Contact address for the purpose of this statement: EVYQARWII@GMAIL.COM

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and **cna@parliament.go.ke**



REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

This is the Exhibit marked "EK"

Referred to in the annexed Affidavit/Declaration

of Evyone Kawumi

Sworn/Declared before me this 29th

Day of July 2024 at Nairobi

Commissioner for Oaths

ADVOCATE AND COMMISSIONER FOR OATHS

P.O. BOX 56-00202, NAIROBI

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

SPECIAL ISSUE

This is the Exhibit marked "EK2 Evyone"
Referred to in the annexed Affidavit/Declaration
of Evyone Kirimi
Sworn/Declared before me this 29th
Day of July 20 at Nairobi
Commissioner for Oaths
NERIMA AKINYI WERE ADVOCATE AND COMMISSIONER FOR OATHS P.O. BOX 20[illegible]

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

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1. Along Kenyatta Avenue
   (a) KCB Bank parking lot;
   (b) Khetias Supermarket parking lot;
   (c) Bank of Baroda parking lot;
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot; and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

DANIEL MUSITA,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT

(*No.* 17 *of* 2012)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (*c*) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (*d*) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot;
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot;
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot;
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot – Junction to Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Ekero – Sabatia Road.

Dated the 9th February, 2024.

AGGREY MUSINDALO,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (*d*) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.

(h) Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliant with section 41 (3) (*a*) of the PPDA, 2015 and Regulation 22 (1) (*c*) of the PPDR, 2020.

(ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.

*(iii)*Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 (*a*) (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (I) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularies at the Embakasi North Constituency Amounting to KSh. 51,351,357/=.

REPUBLIC OF KENYA

MILIMANI HIGH COURT

HIGH COURT ANTI CORRUPTION AND ECONOMIC CRIMES

CAUSE LIST

THE HONOURABLE CHIEF JUSTICE HAS CALLED FOR THE JUDICIARY NATIONAL PRAYER DAY TO BE HELD ON THE 29TH JULY 2024 AT THE MILIMANI CEREMONIAL HALL FROM 7:30 AM TO 9:30 AM.

AS SUCH A NOTICE IS GIVEN THAT MILIMANI HIGH COURT-FAMILY DIVISION COURT SESSIONS ON THE 29TH JULY 2024 WILL COMMENCE AT 10:30 AM.

ANY INCONVENIENCE CAUSED IS HIGHLY REGRETTED.

HON. LESOOTIA SAITABAU

DEPUTY REGISTRAR-FAMILY DIVISION

TO ALL COURT USERS

TAKE NOTICE THAT ALL MATTERS LISTED FOR MONDAY 29TH JULY 2024 WILL START AT 10.00 AM DUE TO THE JUDICIARY NATIONAL DAY OF PRAYER AND FASTING.

APOLOGIES FOR ANY INCONVINIECES.

COURT ADMINISTRATOR

MILIMANI CHILDRENS COURT.

This is the Exhibit marked "EK 3"
Referred to in the annexed Affidavit/Declaration
of Evyone Kwimi
Sworn/Declared before me this 29th
Day of July 2024 at Kwimi

Commissioner for Oaths

NERIMA AKINYI WERE
ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX 20956-00202

S/NO.	NAME OF JUDGE ON DUTY	PERIOD
AUGUST		

1.	Hon. Mr. Justice S. Riechi	5th – 9th August, 2024
2.	Hon. Mr. Justice H. Chemitei	12th – 16th August, 2024
3.	Hon. Lady Justice P. Nyaundi (SC)	19th – 23rd August, 2024
4.	Hon. Lady Justice H. Namisi	26th – 30th August, 2024
SEPTEMBER		
5.	Hon. Mr. Justice E. Ogola	2nd – 6th September 2024
6.	Hon. Lady Justice C. Kendagor	9th – 13th September 2024

CERTIFICATES OF URGENCY FILED IN THE WEEK WILL BE HEARD BY THE RECESS DUTY JUDGE ON WEDNESDAY OF EVERY WEEK

G.N. Sitati

Deputy Registrar

Family Division - Milimani Law Courts

.....

MATTERS ON Monday, 22 July 2024

No.	Activity	Case Number	Citation

BEFORE HON. LADY JUSTICE E.N. MAINA HIGH COURT 1 (COURT ROOM 35, 2ND FLOOR)

Virtual Court Link: https://shorturl.at/go4pe

KINDLY NOTE THE NEW LINK TO HON JUSTICE MAINA'S COURT https://shorturl.at/go4pe

TIME 09:00 AM

DIRECTIONS

1.	HCACECMISC/E040/2023	Ethics and Anti-Corruption Commission VS WYCLIFFE AMBETSA OPARANYA AND TRICOMP ENERGY COMPANY LIMITED AND 1 Others
2.	HCACECS/E004/2024	Assets Recovery Agency VS MUHSAN SHARIFF ABDIKADIR
3.	HCACECS/E010/2024	Assets Recovery Agency VS ADAN ABDOW ALIO AND ABDUBA GUYO ALI

DEFENSE HEARING

4.	HCACECS/7/2018	Ethics and Anti-Corruption Commission VS STEPHEN SANGA BARRAWAH T/A MEDISCOPE AGENCIES AND SERAH MUSYIMI AND 1 Others

BEFORE HON. E. M. NYAKUNDI COURTROOM 31(DR)

Virtual Court Link: https://bit.ly/3DaUCl7

TIME 09:00 AM

DIRECTIONS

1.	HCACECPET/1/2020	Peter Odhiambo Agoro VS Anne Kananu Mwenda AND Hon.Mike Mbuvi Sonko AND 1 Others
2.	HCACECS/E027/2021	Assests Recovery Agency VS Peter Wangai Muriithi AND Goldenscape Trees Africa Ltd AND 3 Others
3.	HCACECA/E007/2023	NATHANIEL ATILA KADIMA AND DAISY MOTURI VS The Republic
4.	HCACECS/E033/2023	Assests Recovery Agency VS ANTHONY KEPHA ODIERO
5.	HCACECS/E003/2024	Assets Recovery Agency VS GIDEON KIPKURUI RONO AND KIPKEMOI ISAC AND 9 Others
6.	HCACECA/E002/2024	DAISY KEMUNTO MOTURI VS The Republic
7.	HCACECS/E021/2024	Ethics and Anti-Corruption Commission VS JECINTER ADOYO HEZRON

MENTION

8.	HCACECPET/3/2022	EVAN K CHERUIYOT VS Ethics And Anti-Corruption Commission AND TITUS BARASA MAKHANU
9.	HCACECA/E008/2023	The Republic VS HON. HENRY ROTICH KIPLAGAT AND KENNEDY NYAKUNDI NYACHIRO AND 7 Others

HD/100

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, JAMES MIBUGUA NJENGA, an adult of sound mind, disposition and a citizen of Kenya presently resident in KAHAWA SUKARI, makes this statement contesting the nominations, by H.E., the President, for approval by the National Assembly, of persons for appointment to the national executive of the Republic as follows:

A. AGAINST ALL THE NOMINEES:

1. I contest the approval, by the National Assembly, of **all the persons** nominated by H.E. the President, for appointment to the national executive of the Republic, **namely:**

1) ADEN BARE DUALE
2) ALFRED NGANGA MUTUA
3) ALICE MUTHONI WAHOME
4) DAVIS KIMUTAI CHIRCHIR
5) DR. ANDREW MWIHIA KARANJA
6) DR. DEBRA MLONGO BARASA
7) DR. MARGARET NYAMBURA NDUNG'U
8) ERIC MURIITHI MUUGA
9) HASSAN ALI JOHO
10) JAMES OPIYO WANDAYI
11) JOHN MBADI NG'ONGO
12) JULIUS MIGOS OGAMBA
13) JUSTIN BEDAN NJOKA MUTURI
14) ONESIMUS KIPCHUMBA MURKOMEN
15) PROF. KITHURE KINDIKI
16) REBECCA MIANO
17) ROSELINDA SOIPAN TUYA

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

18) SALIM MVURYA

19) STELLA SOI LANG'AT AND

20) WYCLIFFE AMBETSA OPARANYA

2. Article 152 (1) of the Constitution sets out the composition of the Cabinet of the Republic.

3. Article 27(8) of the Constitution requires that not more than two-thirds of members of elective or appointive bodies shall be of the same gender. This is further reinforced by the national values and principles of governance under **Article 10** and the values and principles of public service under **Article 232** of the Constitution.

4. When, on **11.07.2024**, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, he retained the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

5. If all the above-named nominees are approved by the National Assembly and appointed to the national executive of the Republic by the President as intended, the composition of the national executive will be unconstitutional as it would violate **Article 27(8)** of the Constitution.

6. Upon their approval and appointment, national executive of the Republic will have **twenty-three (23)** members. The gender of those members, composed of elected and appointed persons, will be:

	MEMBER OF CABINET:	GENDER:
1)	PRESIDENT WILLIAM RUTO	MALE
2)	DEPUTY PRESIDENT RIGATHI GACHAGUA	MALE
3)	ALICE MUTHONI WAHOME	FEMALE
4)	DR. DEBRA MLONGO BARASA	FEMALE
5)	DR. MARGARET NYAMBURA NDUNG'U	FEMALE
6)	REBECCA MIANO	FEMALE
7)	ROSELINDA SOIPAN TUYA	FEMALE
8)	STELLA SOI LANG'AT	FEMALE
9)	ADEN BARE DUALE	MALE
10)	ALFRED NGANGA MUTUA	MALE
11)	DAVIS KIMUTAI CHIRCHIR	MALE
12)	DR. ANDREW MWIHIA KARANJA	MALE

13)	ERIC MURIITHI MUUGA	MALE
14)	HASSAN ALI JOHO	MALE
15)	JAMES OPIYO WANDAYI	MALE
16)	JOHN MBADI NG'ONGO	MALE
17)	JULIUS MIGOS OGAMBA	MALE
18)	JUSTIN BEDAN NJOKA MUTURI	MALE
19)	MUSALIA MUDAVADI	MALE
20)	ONESIMUS KIPCHUMBA MURKOMEN	MALE
21)	PROF. KITHURE KINDIKI	MALE
22)	SALIM MVURYA	MALE
23)	WYCLIFFE AMBETSA OPARANYA	MALE

7. Of the twenty-three (23) members of the national executive of the Republic, six (6) will be of the female gender while seventeen (17) will be of the male gender.

8. Under Article 27(8) of the Constitution, not fewer than eight (8) of members of the national executive of the Republic at the end of the instant nomination, approval and appointment process, shall be from the minority-represented gender, in this case, the female gender. Even then, this is merely the bare minimum.

9. As was held by the High Court in *Marilyn Muthoni Kamuru & 2 others v Attorney General & another [2016] eKLR*, the National Assembly has a duty to ensure that the composition of the Cabinet of the Republic always complies with the Constitution, including by adhering to the requirements imposed by **Article 27(8)** of the Constitution.

10. I submit, therefore, that the National Assembly must **reject all the persons** nominated for approval for appointment as members of the national executive of the Republic as the nominations have been done in violation of the Constitution. It must further require H.E., the President, to submit nominees whom, upon approval by the National Assembly and their appointment by the President, would result in a Cabinet that complies with **Article 27(8)** of the Constitution.

11. The National Assembly cannot sanitise and regularise the unconstitutional nominations by the President by withholding approval of some male nominees to meet the requirements of **Article 27(8)** of the Constitution.

12. It must instead, as required by the Constitution, including **Articles 3, 10, 27, 94, 95, 129, 130, 131, 132, 152, 156, 232** and **259**, withhold its approval for all the nominees without

any further enquiries until the President submits a gender-compliant list of nominees. It is loathsome that this basic requirement is even a ground for contention in 2024.

B. AGAINST TEN (10) OF THE NOMINEES, NAMELY:

1) PROF. KITHURE KINDIKI
2) ALICE WAHOME
3) ADEN BARE DUALE
4) ROSELINDA SOIPAN TUYA
5) DAVIS CHIRCHIR
6) SALIM MVURYA MGALLA
7) REBECCA MIANO
8) ONESIMUS KIPCHUMBA MURKOMEN
9) ALFRED NGANGA MUTUA
10) JUSTIN BEDAN NJOKA MUTURI

13. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

14. The ten persons named above were among those members of the national executive of the Republic dismissed by H.E. the President, as notified in the statement.

15. H.E., the President stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the ten persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

16. Dismissal of the **ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

17. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

18. The Order further recognised the duty imposed on H.E. the President to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

19. In the Order, H.E. the President took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

20. H.E. the President stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

21. The President's actions in dismissing the specified members of his Cabinet, including the **ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

22. The President's decision to dismiss members of his Cabinet, including the **ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

23. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

24. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the ten persons named hereinabove.

25. By his own admission and actions on **11.07.2024**, and in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the ten individuals who are the subject of this contestation.

26. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

27. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

28. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

29. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **ten** persons.

30. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

31. **Articles 132(2)(a and b), 152(2) and 156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

32. **Articles 1(1, 2 and 3(b)), 10, 73, 75, 129, 130, 131, 232 and 259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National

Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)**(a and b), **152**(1 and 2) and **156(2)**.

33. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

34. Based on the foregoing, I oppose the nominations of the above-named **ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

C. **AGAINST A FURTHER FOUR (4) NOMINEES:**

35. In addition to contesting the nominations of the **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the **four (4)** persons named below, for appointment to the national executive of the Republic, namely:

1) **JOHN MBADI NG'ONGO**
2) **JAMES OPIYO WANDAYI**
3) **HASSAN ALI JOHO, AND**
4) **WYCLIFFE AMBETSA OPARANYA.**

36. It is a matter of public record and notoriety that the **four** persons named above are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party.

37. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between **2013 – 2022**. Both stood as and were elected as members of **ODM** political party.

38. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in

AUGUST 2022 as the candidates for ODM party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

39. The Constitution, including under **Articles 4(2), 10(2), 90, 91 and 108**, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

40. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

41. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

42. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in the **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA**, the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

43. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

44. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

45. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

46. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly request the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

D. AGAINST THE NOMINATION OF JAMES OPIYO WANDAYI:

47. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

48. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

49. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

50. This reduction includes the proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

51. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E. the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

52. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of an elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

E. AGAINST THE NOMINATION OF WYCLIFFE AMBETSA OPARANYA:

53. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

54. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with

regards to the nominee's time as the governor for Kakamega County under their case reference No. **EACC/FI/INQ/18/2023**.

55. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

56. Legal proceedings ongoing against the nominee include High Court's **HCACECMISC/E040/2023 ETHICS AND ANTI-CORRUPTION COMMISSION VS WYCLIFFE AMBETSA OPARANYA AND TRICOMP ENERGY COMPANY LIMITED AND OTHERS**. EACC sought and was granted orders freezing assets of the nominee which are suspected to be proceeds of crime. The matter came up for directions at the Anti-Corruption and Economic Crimes Division of the High Court at Milimani, Nairobi, on **22.07.2024**, and remains active.

57. It is my belief, including based on the recent High Court judgment in *Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)*, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified and ineligible for the nomination, approval and appointment as a member of the national executive of the Republic. Nomination, approval and appointment would violate the Constitution, including **Articles 10, 73, 75** and **232**.

F. THEREFORE:

58. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5), 201** and **232**, and for the reasons given above in their totality, the National Assembly has a duty to decline to approve **all the persons** named above who have been nominated by H.E., the President, for approval for appointment to be members of the national executive of the Republic.

59. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him strictly, constitutionally accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

60. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs; (MARKED 'JMH 1')

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs; (MARKED 'JMH 2')

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page **669** and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences; (MARKED 'JMH 3')

4) Notification in the Cause-list for the Anti-Corruption and Economic Crimes Division of the High Court at Milimani, Nairobi, for **22.07.2024**, confirming the listing of **HCACECMISC/E040/2023 ETHICS AND ANTI-CORRUPTION COMMISSION VS WYCLIFFE AMBETSA OPARANYA AND TRICOMP ENERGY COMPANY LIMITED AND OTHERS.** (MARKED 'JMH 4')

61. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE SAID, _____ ON THIS **DAY OF JULY, 2024,** AT _____ IN THE PRESENCE OF, MERIMA AKINYI WELE, COMMISSIONER OF OATHS.

NERIMA AKINYI WELE
ADVOCATE AND
COMMISSIONER
FOR OATHS
P.O. BOX 20956-00202, NAIROBI

DRAWN AND SUBMITTED BY:

JAMES NJENGA

Contact address for the purpose of this statement: njengajames823@gmail.com.

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

This is the Exhibit marked "JNK 1".
Referred to in the annexed Affidavit/Declaration
of JAMES MBUGUA NDERITU
Sworn/Declared before me this 29
Day of JULY 20 24 at NAIROBI
Commissioner for Oaths

NERIMA AKINYI OCHIENG
ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX 20956-00202, NAIROBI

HARAMBEE

REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

This is the Exhibit marked "JMM 2"
Referred to in the annexed Affidavit/Declaration of JAMES MBUZU MJENGA
Sworn/Declared before me this 29
Day of JULY 20 24 at MOMBASA
Commissioner for Oaths

SPECIAL ISSUE

THE KENYA GAZETTE

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Vol. CXXVI—No. 102 NAIROBI, 12th July, 2024 Price Sh. 60

GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

NERIMA AKINYI WERE
ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX 20956-00202 NAIROBI

This is the Exhibit marked "JMM 3"
Referred to in the annexed Affidavit/Declaration of JAMES MBUGUA MUENGA
Sworn/Declared before me this 29
Day of JULY 2024 at NAIROBI
Commissioner for Oaths

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1. Along Kenyatta Avenue
   (a) KCB Bank parking lot;
   (b) Khetias Supermarket parking lot;
   (c) Bank of Baroda parking lot;
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot; and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

DANIEL MUSITA,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT

(*No.* 17 *of* 2012)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (*c*) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (*d*) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot;
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot;
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot;
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot – Junction to Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Ekero – Sabatia Road.

Dated the 9th February, 2024.

AGGREY MUSINDALO,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (*d*) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.

(h) Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliant with section 41 (3) (*a*) of the PPDA, 2015 and Regulation 22 (1) (*c*) of the PPDR, 2020.

(ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.

*(iii)*Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 (*a*) (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (I) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularies at the Embakasi North Constituency Amounting to KSh. 51,351,357/=.

Exhibit marked "JMN 4"
in the annexed Affidavit/Declaration
JAMES MBUGUA NJENG
Sw... Declared before me this 29
Day of JULY 2024 at NAIROBI
Commissioner for Oaths

NERIMA AKINYI WERE
ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX 20956-00202, NAIROBI

REPUBLIC OF KENYA

JUDICIARY

MILIMANI HIGH COURT

HIGH COURT ANTI CORRUPTION AND ECONOMIC CRIMES

CAUSE LIST

THE HONOURABLE CHIEF JUSTICE HAS CALLED FOR THE JUDICIARY NATIONAL PRAYER DAY TO BE HELD ON THE 29TH JULY 2024 AT THE MILIMANI CEREMONIAL HALL FROM 7:30 AM TO 9:30 AM.

AS SUCH A NOTICE IS GIVEN THAT MILIMANI HIGH COURT-FAMILY DIVISION COURT SESSIONS ON THE 29TH JULY 2024 WILL COMMENCE AT 10:30 AM.

ANY INCONVENIENCE CAUSED IS HIGHLY REGRETTED.

HON. LESOOTIA SAITABAU

DEPUTY REGISTRAR-FAMILY DIVISION

TO ALL COURT USERS

TAKE NOTICE THAT ALL MATTERS LISTED FOR MONDAY 29TH JULY 2024 WILL START AT 10.00 AM DUE TO THE JUDICIARY NATIONAL DAY OF PRAYER AND FASTING.

APOLOGIES FOR ANY INCONVINIECES.

COURT ADMINISTRATOR

MILIMANI CHILDRENS COURT.

S/NO.	NAME OF JUDGE ON DUTY	PERIOD
AUGUST		

1.	Hon. Mr. Justice S. Riechi	5th – 9th August, 2024
2.	Hon. Mr. Justice H. Chemitei	12th – 16th August, 2024
3.	Hon. Lady Justice P. Nyaundi (SC)	19th – 23rd August, 2024
4.	Hon. Lady Justice H. Namisi	26th – 30th August, 2024
SEPTEMBER		
5.	Hon. Mr. Justice E. Ogola	2nd – 6th September 2024
6.	Hon. Lady Justice C. Kendagor	9th – 13th September 2024

CERTIFICATES OF URGENCY FILED IN THE WEEK WILL BE HEARD BY THE RECESS DUTY JUDGE ON WEDNESDAY OF EVERY WEEK

G.N. Sitati

Deputy Registrar

Family Division - Milimani Law Courts

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MATTERS ON Monday, 22 July 2024

No.	Activity	Case Number	Citation

BEFORE HON. LADY JUSTICE E.N. MAINA HIGH COURT 1 (COURT ROOM 35, 2ND FLOOR)

Virtual Court Link: https://shorturl.at/go4pe

KINDLY NOTE THE NEW LINK TO HON JUSTICE MAINA'S COURT https://shorturl.at/go4pe

TIME 09:00 AM

DIRECTIONS

1.	HCACECMISC/E040/2023	Ethics and Anti-Corruption Commission VS WYCLIFFE AMBETSA OPARANYA AND TRICOMP ENERGY COMPANY LIMITED AND 1 Others
2.	HCACECS/E004/2024	Assets Recovery Agency VS MUHSAN SHARIFF ABDIKADIR
3.	HCACECS/E010/2024	Assets Recovery Agency VS ADAN ABDOW ALIO AND ABDUBA GUYO ALI

DEFENSE HEARING

4.	HCACECS/7/2018	Ethics and Anti-Corruption Commission VS STEPHEN SANGA BARRAWAH T/A MEDISCOPE AGENCIES AND SERAH MUSYIMI AND 1 Others

BEFORE HON. E. M. NYAKUNDI COURTROOM 31(DR)

Virtual Court Link: https://bit.ly/3DaUCl7

TIME 09:00 AM

DIRECTIONS

1.	HCACECPET/1/2020	Peter Odhiambo Agoro VS Anne Kananu Mwenda AND Hon.Mike Mbuvi Sonko AND 1 Others
2.	HCACECS/E027/2021	Assests Recovery Agency VS Peter Wangai Muriithi AND Goldenscape Trees Africa Ltd AND 3 Others
3.	HCACECA/E007/2023	NATHANIEL ATILA KADIMA AND DAISY MOTURI VS The Republic
4.	HCACECS/E033/2023	Assests Recovery Agency VS ANTHONY KEPHA ODIERO
5.	HCACECS/E003/2024	Assets Recovery Agency VS GIDEON KIPKURUI RONO AND KIPKEMOI ISAC AND 9 Others
6.	HCACECA/E002/2024	DAISY KEMUNTO MOTURI VS The Republic
7.	HCACECS/E021/2024	Ethics and Anti-Corruption Commission VS JECINTER ADOYO HEZRON

MENTION

8.	HCACECPET/3/2022	EVAN K CHERUIYOT VS Ethics And Anti-Corruption Commission AND TITUS BARASA MAKHANU
9.	HCACECA/E008/2023	The Republic VS HON. HENRY ROTICH KIPLAGAT AND KENNEDY NYAKUNDI NYACHIRO AND 7 Others

HD/046

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI

President, announced that he had decided to dismiss, with immediate effect, all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The **first ten** persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the **first ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

8. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

9. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for

appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024.** This includes the **first ten** persons named hereinabove.

10. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

11. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated theConstitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

12. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the **first ten** persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the

national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

13. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

14. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

15. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

16. **Articles 132(2)(a** and **b)**, **152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

17. **Articles 1(1, 2** and **3(b))**, **10, 73, 75, 129, 130, 131, 232** and **259** of the

Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a and b), 152(1 and 2) and 156(2).**

18. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

19. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

20. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the **11, 12, 13, & 14** persons named above, for appointment to the national executive of the Republic.

21. It is a matter of public record and notoriety that the **four ()** named persons are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party.

22. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between **2013 – 2022**. Both stood as and were elected as members of **ODM** political party.

23. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in **AUGUST 2022** as the candidates for **ODM** party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

24. The Constitution, including under **Articles 4(2), 10(2), 90, 91 and 108**, decrees

that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

25. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

26. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

27. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA,** the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected

28. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

29. The political and ideological differences between H.E., the President's political party,UDA/KENYA KWANZA ALLIANCE and ODM/AZIMIO LA UMOJA ONE

KENYA COALITION, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

30. The purpose and/or effect of the decision of H.E., the President, to nominate the **four** persons **11, 12, 13, & 14** named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152.**

31. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75.** I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co- opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

32. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

33. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

34. **It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the Finance Bill, 2024. Members of the National Assembly accepted the reservations on 25.07.2024, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for FY 2024/2025 to seek to address the significant reduction in expected revenue for the financial year.**

35. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025.** This reduction will be borne in the management of electoral processes' functions of **IEBC.**

36. **In view of the expected pressure on public finances, including to cover expected shortfall of the approximately Kshs. 344B for the current financial that was to be raised vide the expunged Finance Bill, 2024, I contest the constitutional validity of H.E., the President, and JAMES OPIYO WANDAYI, to cause unnecessary expenditure of scare public resources in the ensuing by-election for UGUNJA upon approval and appointment of the nominee as hoped.**

37. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

38. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for

alleged offences under the **Anti- Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

39. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023.**

40. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

41. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024.**

42. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

43. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

44. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further

achieved at the expense of scarce public funds.

45. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is Impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

46. I will also insist that as a Country we can not keep repeating and recycling names. The Country will never move forward if we keep using the same old men to fix the problems we are experiencing. I dare say their existence is what kept us here in the first place. They use their office to steal and steal. We need new people to seat in Cabinet. Not recycled politicians. They do not know how to get the job done. They just steal from the people.

47. The National Assemble should also seriously vet the candidates and not render the whole process a mockery to democracy. Members of the Committee of Appointments should **double check the qualifications of the Nominated Cabinet Secretaries and ENSURE they compliment the needs of that MINISTRY. The Cabinet Secretary for Environment should IDEALLY & LOGICALLY be headed by an environmentalist. The Ministry of Defense should be headed by a Soldier. The Ministry of Labor should be headed by a Worker. Please stop letting politicians head this offices when they do not know the basics of that Industry or ministry.**

48. Additionally, the National Assembly should not allow anyone who has had corruption scandals in the past to hold an office.

49. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and

published as **Kenya Gazette No. 8440/2024** of **12.07.2024.** The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page **669** and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

50. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

51. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, KIOI NDUNG'U
ON THIS 29th **DAY OF JULY, 2024,** AT NAIROBI, **IN THE PRESENCE OF** _____, **COMMISSIONER OF OATHS.**

NICOLE WAMBUI GITHIRI
ADVOCATE
COMMISSIONER FOR OATHS
P.O. Box 38410 - 00100, NAIROBI

DRAWN AND SUBMITTED BY:

KIOI NDUNG'U

Contact address for the purpose of this statement:

lkioi.ndungu@gmail.com

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA.

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI

President, announced that he had decided to dismiss, with immediate effect, all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The **first ten** persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the **first ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024.**

7. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

8. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

9. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for

appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

10. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

11. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated theConstitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

12. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the **first ten** persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the

national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

13. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

14. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

15. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

16. **Articles 132(2)(a** and **b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

17. **Articles 1(1, 2** and **3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the

Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a and b), 152(1 and 2) and 156(2).**

18. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

19. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

20. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the **11, 12, 13, & 14** persons named above, for appointment to the national executive of the Republic.

21. It is a matter of public record and notoriety that the **four ()** named persons are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party.

22. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between **2013 – 2022**. Both stood as and were elected as members of **ODM** political party.

23. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in **AUGUST 2022** as the candidates for **ODM** party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

24. The Constitution, including under **Articles 4(2), 10(2), 90, 91** and **108**, decrees

that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

25. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

26. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

27. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA,** the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected

28. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

29. The political and ideological differences between H.E., the President's political party,UDA/KENYA KWANZA ALLIANCE and ODM/AZIMIO LA UMOJA ONE

KENYA COALITION, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

30. The purpose and/or effect of the decision of H.E., the President, to nominate the **four** persons **11, 12, 13, & 14** named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152.**

31. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75.** I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co- opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

32. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

33. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

34. **It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the Finance Bill, 2024. Members of the National Assembly accepted the reservations on 25.07.2024, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for FY 2024/2025 to seek to address the significant reduction in expected revenue for the financial year.**

35. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

36. **In view of the expected pressure on public finances, including to cover expected shortfall of the approximately Kshs. 344B for the current financial that was to be raised vide the expunged Finance Bill, 2024, I contest the constitutional validity of H.E., the President, and JAMES OPIYO WANDAYI, to cause unnecessary expenditure of scare public resources in the ensuing by-election for UGUNJA upon approval and appointment of the nominee as hoped.**

37. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

38. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for

alleged offences under the **Anti- Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

39. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023.**

40. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

41. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024.**

42. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5)**; and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

43. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

44. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further

achieved at the expense of scarce public funds.

45. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

46. I will also insist that as a Country we can not keep repeating and recycling names. The Country will never move forward if we keep using the same old men to fix the problems we are experiencing. I dare say their existence is what kept us here in the first place. They use their office to steal and steal. We need new people to seat in Cabinet. Not recycled politicians. They do not know how to get the job done. They just steal from the people.

47. The National Assemble should also seriously vet the candidates and not render the whole process a mockery to democracy. Members of the Committee of Appointments should **double check the qualifications of the Nominated Cabinet Secretaries and ENSURE they compliment the needs of that MINISTRY. The Cabinet Secretary for Environment should IDEALLY & LOGICALLY be headed by an environmentalist. The Ministry of Defense should be headed by a Soldier. The Ministry of Labor should be headed by a Worker. Please stop letting politicians head this offices when they do not know the basics of that Industry or ministry.**

48. Additionally, the National Assembly should not allow anyone who has had corruption scandals in the past to hold an office.

49. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and

published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page **669** and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

50. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

51. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, KIOI NDUNG'U ON THIS 29TH **DAY OF JULY, 2024,** AT NAIROBI, **IN THE PRESENCE OF** _____, **COMMISSIONER OF OATHS.**

NICOLE WAMBUI GITHIRI
ADVOCATE
COMMISSIONER FOR OATHS
P.O. BOX 38410 - 00100, NAIROBI

DRAWN AND SUBMITTED BY:

KIOI NDUNG'U

Contact address for the purpose of this statement:

lkioi.ndungu@gmail.com

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL -
clerk@parliament.go.ke and cna@parliament.go.ke

HD/051

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

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10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

KM

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, KATHERINE APISI MUNGAM, an adult of sound mind, disposition and a citizen of Kenya presently resident in NAIROBI hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

   1) PROF. KITHURE KINDIKI
   2) ALICE WAHOME
   3) ADEN BARRE DUALE
   4) ROSELINDA SOIPAN TUIYA
   5) DAVIS CHIRCHIR
   6) SALIM MVURYA MGALA
   7) REBECCA ~~KIANO~~ MGANO
   8) ONESIMUS KIPCHUMBA MURKOMEN
   9) ALFRED NGANGA MUTUA
   10) JUSTIN BEDAN NJOKA MUTURI
   11) JOHN MBADI NG'ONGO
   12) JAMES OPIYO WANDAYI
   13) HASSAN ALI JOHO, AND
   14) WYCLIFFE AMBETSA OPARANYA.

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

KM

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The first ten persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the **first ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

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of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the first ten persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the first ten persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated 11.07.2024 and in the EXECUTIVE ORDER NO. 6 OF 2024, which the dismissed persons, including the first ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named first ten persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. Articles 132(2)(a and b), 152(2) and 156(2) of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the first ten persons named above was, as stated in the EXECUTIVE ORDER, based on Article 152(5)(b) of the Constitution.

22. Articles 1(1, 2 and 3(b)), 10, 73, 75, 129, 130, 131, 232 and 259 of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under Articles 130(1), 132(2)(a and b), 152(1 and 2) and 156(2).

23. Having determined, on 11.07.2024, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of 11.07.2024 and EXECUTIVE ORDER NO. 6 OF 2024 of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named first ten persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first ten (10) persons named above, I also contest the nomination, for approval by the National Assembly, of the last four (4) persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last four named persons are members of and/or affiliated with the ORANGE DEMOCRATIC MOVEMENT (ODM) political party.

27. HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of ODM political party.

28. JOHN MBADI NG'ONGO and JAMES OPIYO WANDAYI are currently members of the National Assembly, having been nominated and elected at the general election in AUGUST 2022 as the candidates for ODM party. JOHN OPIYO WANDAYI is, in fact, currently Leader of the Minority Party in the National Assembly as provided by Article 108 of the Constitution.

29. The Constitution, including under Articles 4(2), 10(2), 90, 91 and 108, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under Article 38, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by Article 4(2) of the Constitution.

30. Further and in addition, under Article 1(3) of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, UNITED DEMOCRATIC ALLIANCE (UDA) and its coalition partners in KENYA KWANZA ALLIANCE (KKA) are political rivals to the ODM party and its coalition partners, AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA, the leader of ODM, was a rival presidential candidate in the elections held on 09.08.2022 in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that JOHN MBADI NG'ONGO is the chairperson of ODM party while HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, UDA/KENYA KWANZA ALLIANCE and ODM/AZIMIO LA UMOJA ONE KENYA COALITION, as distinct entities under the Constitution, is reinforced by the fact that JAMES OPIYO WANDAYI, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last four persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132 and 152.**

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74 and 75.** I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of JAMES OPIYO WANDAYI, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of IEBC.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009**.

44. The above investigations and charges against WYCLIFFE AMBETSA OPARANYA arose out of action taken by the Ethics and Anti-Corruption Commission (EACC) with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. EACC/FI/INQ/18/2023.

45. On 18.12.2023, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that WYCLIFFE AMBETSA OPARANYA should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, WYCLIFFE AMBETSA OPARANYA is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in *Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)*, that WYCLIFFE AMBETSA OPARANYA is currently unqualified for the nomination as notified on 24.07.2024.

47. Under the Constitution, including Articles 3(1), 4(2), 10, 73, 74, 75, 94(2 and 4) and 95(1, 2 and 5), and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last four persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in Article 10 of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, these being:

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on 11.07.2024, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the first ten persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs; (MARKED 'KAM 1')

2) A copy of EXECUTIVE ORDER NO. 6 OF 2024 dated 11.07.2024 and published as Kenya Gazette No. 8440/2024 of 12.07.2024. The Order confirmed dismissal of all members of the national executive of the Republic, (including the first ten persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs; (MARKED 'KAM2')

3) Excerpts from the Kenya Gazette dated 23.02.2024 in which EACC, (vide Gazette Notice No. 2089 at page 669 and case reference No. EACC/FI/INQ/18/2023), notified of investigations against WYCLIFFE AMBETSA OPARANYA, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on 18.12.2023, concurred with the Commission's recommendations for prosecution of WYCLIFFE AMBETSA OPARANYA for the alleged offences. (MARKED 'KAM3')

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND SIGNED BY THE SAID, KATHERINE APEI MUNGAU

ON THIS 29 DAY OF JULY, 2024, AT NAIROBI, IN THE PRESENCE OF NERIMA AKHI WERE, COMMISSIONER OF OATHS.

DRAWN AND SUBMITTED BY:

NERIMA AKHI WERE
ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX 20956-00202, NAIROBI

Contact address for the purpose of this statement: Katherine.mungau@gmail.com

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

This is the Exhibit marked " KAN 1
Referred to in the annexed Affidavit/Declaration
of KATHERINE APISI MUHOA
Sworn/Declared before me this 30
Day of JULY 2024 at NAIROBI
Commissioner for Oaths

NERIMA AKINYI WERE
ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX 20956-00202, NAIROBI

HARAMBEE

REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

This is the Exhibit
Referred to in the annexed Affidavit/Declaration
of.....
Sworn/Declared before me this.....
Day of.....20.....
.....
Cc
This is the Exhibit marked "KAM 2"
Referred to in the annexed Affidavit/Declaration
of KATHERINE APISI MUNGAU
Sworn/Declared before me this 30
Day of JULY 2024 at NAIROBI
Commissioner for Oaths

SPECIAL ISSUE

THE KENYA GAZETTE

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NERIMA AKINYI WERE
ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX 20956-00202, NAIROBI

GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

HD/049

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, EVERLYN OMBASA MUNGAI, an adult of sound mind, disposition and a citizen of Kenya presently resident in NAIROBI hereby solemnly makes oath and states THAT:

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, namely:

    1) PROF. KITHURE KINDIKI
    2) ALICE WAHOME
    3) ADEN BARRE DUALE
    4) ROSELINDA SOIPAN TUIYA
    5) DAVIS CHIRCHIR
    6) SALIM MVURYA MGALA
    7) REBECCA KIANO
    8) ONESIMUS KIPCHUMBA MURKOMEN
    9) ALFRED NGANGA MUTUA
    10) JUSTIN BEDAN NJOKA MUTURI
    11) JOHN MBADI NG'ONGO
    12) JAMES OPIYO WANDAYI
    13) HASSAN ALI JOHO, AND
    14) WYCLIFFE AMBETSA OPARANYA.

2. My grounds for contesting the nomination of the first ten nominees named above are that:

3. In a statement dated 11.07.2024 issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

em

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The first ten persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the first ten persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the first ten persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the first ten persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the first ten persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the EXECUTIVE ORDER NO. 6 OF 2024, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on 11.07.2024. This includes the first ten persons named hereinabove.

15. By his own admission and actions on 11.07.2024 and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the first ten individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated 11.07.2024 and in the EXECUTIVE ORDER NO. 6 OF 2024, which the dismissed persons, including the first ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named first ten persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. Articles 132(2)(a and b), 152(2) and 156(2) of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the first ten persons named above was, as stated in the EXECUTIVE ORDER, based on Article 152(5)(b) of the Constitution.

22. Articles 1(1, 2 and 3(b)), 10, 73, 75, 129, 130, 131, 232 and 259 of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under Articles 130(1), 132(2)(a and b), 152(1 and 2) and 156(2).

23. Having determined, on 11.07.2024, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of 11.07.2024 and EXECUTIVE ORDER NO. 6 OF 2024 of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named first ten persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first ten (10) persons named above, I also contest the nomination, for approval by the National Assembly, of the last four (4) persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last four named persons are members of and/or affiliated with the ORANGE DEMOCRATIC MOVEMENT (ODM) political party.

27. HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of ODM political party.

28. JOHN MBADI NG'ONGO and JAMES OPIYO WANDAYI are currently members of the National Assembly, having been nominated and elected at the general election in AUGUST 2022 as the candidates for ODM party. JOHN OPIYO WANDAYI is, in fact, currently Leader of the Minority Party in the National Assembly as provided by Article 108 of the Constitution.

29. The Constitution, including under Articles 4(2), 10(2), 90, 91 and 108, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under Article 38, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by Article 4(2) of the Constitution.

30. Further and in addition, under Article 1(3) of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, UNITED DEMOCRATIC ALLIANCE (UDA) and its coalition partners in KENYA KWANZA ALLIANCE (KKA) are political rivals to the ODM party and its coalition partners, AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA, the leader of ODM, was a rival presidential candidate in the elections held on 09.08.2022 in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that JOHN MBADI NG'ONGO is the chairperson of ODM party while HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, UDA/KENYA KWANZA ALLIANCE and ODM/AZIMIO LA UMOJA ONE KENYA COALITION, as distinct entities under the Constitution, is reinforced by the fact that JAMES OPIYO WANDAYI, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to Article 108 of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last four persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132 and 152.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including Articles 73, 74 and 75. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in Article 10 of the Constitution.

37. Further and in addition, nomination of JAMES OPIYO WANDAYI, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to Article 201 of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

44. The above investigations and charges against WYCLIFFE AMBETSA OPARANYA arose out of action taken by the Ethics and Anti-Corruption Commission (EACC) with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. EACC/FI/INQ/18/2023.

45. On 18.12.2023, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that WYCLIFFE AMBETSA OPARANYA should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, WYCLIFFE AMBETSA OPARANYA is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in *Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)*, that WYCLIFFE AMBETSA OPARANYA is currently unqualified for the nomination as notified on 24.07.2024.

47. Under the Constitution, including Articles 3(1), 4(2), 10, 73, 74, 75, 94(2 and 4) and 95(1, 2 and 5), and for the reasons given above, the National Assembly has a duty to reject the nomination of the all the persons named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last four persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in Article 10 of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, these being:

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on 11.07.2024, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the first ten persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs; (MARKED 'EOM 1')

2) A copy of EXECUTIVE ORDER NO. 6 OF 2024 dated 11.07.2024 and published as Kenya Gazette No. 8440/2024 of 12.07.2024. The Order confirmed dismissal of all members of the national executive of the Republic, (including the first ten persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs; (MARKED 'EOM 2')

3) Excerpts from the Kenya Gazette dated 23.02.2024 in which EACC, (vide Gazette Notice No. 2089 at page 669 and case reference No. EACC/FI/INQ/18/2023), notified of investigations against WYCLIFFE AMBETSA OPARANYA, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on 18.12.2023, concurred with the Commission's recommendations for prosecution of WYCLIFFE AMBETSA OPARANYA for the alleged offences. (MARKED 'EOM 3')

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND SIGNED BY THE SAID, EVERLYN OMBASA MUNGALI ON THIS 30TH DAY OF JULY, 2024, AT NAIROBI, IN THE PRESENCE OF NERIMA AKINYI WERE, COMMISSIONER OF OATHS.

NERIMA AKINYI WERE
ADVOCATE
COMMISSIONER FOR OATHS
P.O. BOX 20955-00202 NAIROBI

DRAWN AND SUBMITTED BY:

Contact address for the purpose of this statement: evelynmungau@gmail.com

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

This is the Exhibit marked "EON 1"
Referred to in the annexed Affidavit/Declaration of EVELYN OMBASA MOHGAU
Sworn/Declared before me this 30
Day of JULY 2024 at NAIROBI
Commissioner for Oaths

NERIMA AKINYI WERE
ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX 20956-00202, NAIROBI

HARAMBEE

REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

This is the Exhibit marked "EOM2"
Referred to in the annexed Affidavit/Declarati
of EVELYN OMBASA M
Sworn/Declared before me this 30
Day of JULY 20 24 at NAIROBI
Commissioner for Oaths

NERIMA AKINYI WERE
ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX 20955-00202, NAIROBI

SPECIAL ISSUE

THE KENYA GAZETTE

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

HD/048

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA.

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, ANGELA ATIENO NGESA, an adult of sound mind, disposition and a citizen of Kenya presently resident in ROYSAMBU, NAIROBI hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
    3) **ADEN BARRE DUALE**
    4) **ROSELINDA SOIPAN TUIYA**
    5) **DAVIS CHIRCHIR**
    6) **SALIM MVURYA MGALA**
    7) **REBECCA KIANO**
    8) **ONESIMUS KIPCHUMBA MURKOMEN**
    9) **ALFRED NGANGA MUTUA**
    10) **JUSTIN BEDAN NJOKA MUTURI**
    11) **JOHN MBADI NG'ONGO**
    12) **JAMES OPIYO WANDAYI**
    13) **HASSAN ALI JOHO, AND**
    14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The **first ten** persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the **first ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024.**

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the **first ten** persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a** and **b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2** and **3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a** and **b), 152(1** and **2)** and **156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last **four** named persons are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party..

27. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between **2013 – 2022**. Both stood as and were elected as members of **ODM** political party.

28. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in **AUGUST 2022** as the candidates for **ODM** party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

29. The Constitution, including under **Articles 4(2), 10(2), 90, 91** and **108**, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

30. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega County under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page 669 and case reference No. **EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, ANGELA A. NGESA, Angela

ON THIS 29TH **DAY OF JULY, 2024,** AT NAIROBI, **IN THE PRESENCE OF** _____, **COMMISSIONER OF OATHS.**

NICOLE WAMBUI GITHIRI
ADVOCATE
COMMISSIONER FOR OATHS
P.O. Box 38410 - 00100, NAIROBI

DRAWN AND SUBMITTED BY:

ANGELA ATIENO NGESA

Contact address for the purpose of this statement:

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

This is the exhibit marked"....."
reffered to in the annexed affidavit declaration
of...ANGELA ATIENO NGESA
sworn declared before me this...29th...
day of...JULY...2024

Commissioner For Oaths



REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

SPECIAL ISSUE

This is the exhibit marked"..."
reffered to in the annexed affidavit declaration
of..ANGELA ATIENO' NGESA
sworn declared before me this.....29th.....
day of.....JULY.....2024.....
Commissioner For Oaths

THE KENYA GAZETTE

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

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1. Along Kenyatta Avenue
   (a) KCB Bank parking lot;
   (b) Khetias Supermarket parking lot;
   (c) Bank of Baroda parking lot;
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot; and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

DANIEL MUSITA,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT

(*No.* 17 *of* 2012)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (*c*) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (*d*) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot;
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot;
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot;
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot – Junction to Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Ekero – Sabatia Road.

Dated the 9th February, 2024.

AGGREY MUSINDALO,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (*d*) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I, and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.

(h) Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliant with section 41 (3) (*a*) of the PPDA, 2015 and Regulation 22 (1) (*c*) of the PPDR, 2020.

(ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.

*(iii)*Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 (*a*) (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (I) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularies at the Embakasi North Constituency Amounting to KSh. 51,351,357/=.

REPUBLIC OF KENYA

JUDICIARY

This is the exhibit marked"....."
reffered to in the annexed affidavit declaration
of ANGELA ATIENO HGECA
sworn declared before me this 29th
day of JULY 2024

Commissioner For Oaths

MILIMANI HIGH COURT

HIGH COURT ANTI CORRUPTION AND ECONOMIC CRIMES

CAUSE LIST

THE HONOURABLE CHIEF JUSTICE HAS CALLED FOR THE JUDICIARY NATIONAL PRAYER DAY TO BE HELD ON THE 29TH JULY 2024 AT THE MILIMANI CEREMONIAL HALL FROM 7:30 AM TO 9:30 AM.

AS SUCH A NOTICE IS GIVEN THAT MILIMANI HIGH COURT-FAMILY DIVISION COURT SESSIONS ON THE 29TH JULY 2024 WILL COMMENCE AT 10:30 AM.

ANY INCONVENIENCE CAUSED IS HIGHLY REGRETTED.

HON. LESOOTIA SAITABAU

DEPUTY REGISTRAR-FAMILY DIVISION

TO ALL COURT USERS

TAKE NOTICE THAT ALL MATTERS LISTED FOR MONDAY 29TH JULY 2024 WILL START AT 10.00 AM DUE TO THE JUDICIARY NATIONAL DAY OF PRAYER AND FASTING.

APOLOGIES FOR ANY INCONVINIECES.

COURT ADMINISTRATOR

MILIMANI CHILDRENS COURT.

S/NO.	NAME OF JUDGE ON DUTY	PERIOD
AUGUST		

1.	Hon. Mr. Justice S. Riechi	5th – 9th August, 2024
2.	Hon. Mr. Justice H. Chemitei	12th – 16th August, 2024
3.	Hon. Lady Justice P. Nyaundi (SC)	19th – 23rd August, 2024
4.	Hon. Lady Justice H. Namisi	26th – 30th August, 2024
	SEPTEMBER	
5.	Hon. Mr. Justice E. Ogola	2nd – 6th September 2024
6.	Hon. Lady Justice C. Kendagor	9th – 13th September 2024

CERTIFICATES OF URGENCY FILED IN THE WEEK WILL BE HEARD BY THE RECESS DUTY JUDGE ON WEDNESDAY OF EVERY WEEK

G.N. Sitati

Deputy Registrar

Family Division - Milimani Law Courts

HD/47

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, George Mwagi Kariuki, an adult of sound mind, disposition and a citizen of Kenya presently resident in Nairobi hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
    3) **ADEN BARRE DUALE**
    4) **ROSELINDA SOIPAN TUIYA**
    5) **DAVIS CHIRCHIR**
    6) **SALIM MVURYA MGALA**
    7) **REBECCA KIANO**
    8) **ONESIMUS KIPCHUMBA MURKOMEN**
    9) **ALFRED NGANGA MUTUA**
    10) **JUSTIN BEDAN NJOKA MUTURI**
    11) **JOHN MBADI NG'ONGO**
    12) **JAMES OPIYO WANDAYI**
    13) **HASSAN ALI JOHO, AND**
    14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The **first ten** persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the **first ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the **first ten** persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a** and **b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2** and **3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a** and **b), 152(1** and **2)** and **156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last **four** named persons are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party.

27. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between **2013 – 2022**. Both stood as and were elected as members of **ODM** political party.

28. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in **AUGUST 2022** as the candidates for **ODM** party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

29. The Constitution, including under **Articles 4(2), 10(2), 90, 91** and **108**, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

30. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA,** the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009**.

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page **669** and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, George Mungai Kariuki.
ON THIS 29/07/2024 **DAY OF JULY, 2024,** AT NAIROBI **, IN THE PRESENCE OF** _____**, COMMISSIONER OF OATHS.**

NICOLE WAMBUI GITHIRI
ADVOCATE
COMMISSIONER FOR OATHS
P.O. Box 38410 - 00100, NAIROBI

DRAWN AND SUBMITTED BY:

GEORGE MUNGAI KARIUKI

Contact address for the purpose of this statement:

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

This is the exhibit marked" ..... "
reffered to in the annexed affidavit declaration
of GEORGE MUHGAI KARIUKI
sworn declared before me this 20th
day of JULY 2024
Commissioner For Oaths

REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

SPECIAL ISSUE



This is the exhibit marked"....."
reffered to in the annexed affidavit declaration
of GEORGE MUHGAI KARIUKI
sworn declared before me this 30th
day of JULY 2024
Commissioner For Oaths

THE KENYA GAZETTE

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Vol. CXXVI—No. 102 NAIROBI, 12th July, 2024 Price Sh. 60

GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

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1. Along Kenyatta Avenue
   (a) KCB Bank parking lot;
   (b) Khetias Supermarket parking lot;
   (c) Bank of Baroda parking lot;
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot; and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

DANIEL MUSITA,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT

(*No.* 17 *of* 2012)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (*c*) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (*d*) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot;
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot;
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot;
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot – Junction to Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Ekero – Sabatia Road.

Dated the 9th February, 2024.

AGGREY MUSINDALO,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (*d*) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.

(h) Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliant with section 41 (3) (*a*) of the PPDA, 2015 and Regulation 22 (1) (*c*) of the PPDR, 2020.

(ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.

*(iii)*Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 (*a*) (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (I) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularies at the Embakasi North Constituency Amounting to KSh. 51,351,357/=.

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

REPUBLIC OF KENYA

MILIMANI HIGH COURT

This is the exhibit marked" ..... "
reffered to in the annexed affidavit declaration
of GEORGE MUHGAI KARIUKI
sworn declared before me this 30th
day of JULY 2024

Commissioner For Oaths

HIGH COURT ANTI CORRUPTION AND ECONOMIC CRIMES

CAUSE LIST

THE HONOURABLE CHIEF JUSTICE HAS CALLED FOR THE JUDICIARY NATIONAL PRAYER DAY TO BE HELD ON THE 29TH JULY 2024 AT THE MILIMANI CEREMONIAL HALL FROM 7:30 AM TO 9:30 AM.

AS SUCH A NOTICE IS GIVEN THAT MILIMANI HIGH COURT-FAMILY DIVISION COURT SESSIONS ON THE 29TH JULY 2024 WILL COMMENCE AT 10:30 AM.

ANY INCONVENIENCE CAUSED IS HIGHLY REGRETTED.

HON. LESOOTIA SAITABAU

DEPUTY REGISTRAR-FAMILY DIVISION

TO ALL COURT USERS

TAKE NOTICE THAT ALL MATTERS LISTED FOR MONDAY 29TH JULY 2024 WILL START AT 10.00 AM DUE TO THE JUDICIARY NATIONAL DAY OF PRAYER AND FASTING.

APOLOGIES FOR ANY INCONVINIECES.

COURT ADMINISTRATOR

MILIMANI CHILDRENS COURT.

S/NO.	NAME OF JUDGE ON DUTY	PERIOD
AUGUST		

1.	Hon. Mr. Justice S. Riechi	5th – 9th August, 2024
2.	Hon. Mr. Justice H. Chemitei	12th – 16th August, 2024
3.	Hon. Lady Justice P. Nyaundi (SC)	19th – 23rd August, 2024
4.	Hon. Lady Justice H. Namisi	26th – 30th August, 2024
	SEPTEMBER	
5.	Hon. Mr. Justice E. Ogola	2nd – 6th September 2024
6.	Hon. Lady Justice C. Kendagor	9th – 13th September 2024

CERTIFICATES OF URGENCY FILED IN THE WEEK WILL BE HEARD BY THE RECESS DUTY JUDGE ON WEDNESDAY OF EVERY WEEK

G.N. Sitati

Deputy Registrar

Family Division - Milimani Law Courts

EML/672

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P. O Box 41842, NAIROBI

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF

THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN

9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND
14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, **KIOI NDUNG'U** a male adult of sound mind, disposition and a citizen of Kenya presently resident in **KIAMBU COUNTY, KENYA** hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

1) PROF. KITHURE KINDIKI
2) ALICE WAHOME
3) ADEN BARRE DUALE
4) ROSELINDA SOIPAN TUIYA
5) DAVIS CHIRCHIR
6) SALIM MVURYA MGALA
7) REBECCA KIANO
8) ONESIMUS KIPCHUMBA MURKOMEN
9) ALFRED NGANGA MUTUA
10) JUSTIN BEDAN NJOKA MUTURI
11) JOHN MBADI NG'ONGO
12) JAMES OPIYO WANDAYI

13) HASSAN ALI JOHO, AND

14) WYCLIFFE AMBETSA OPARANYA.

15) ALFRED MUTUA

16) SOIPAN TUIYA

2. My grounds for contesting the nomination of the first ten nominees named above are that:

3. In a statement dated 11.07.2024 issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The first ten persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the first ten persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the first ten persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated 11.07.2024 and published as **Kenya Gazette Notice No. 8440/2024** on 12.07.2024.

7. The President's actions in dismissing the specified members of his Cabinet,

including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

8. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

9. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

10. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

11. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated theConstitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the **President's** duty to respect, uphold, defend and safeguard the Constitution.

12. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated 11.07.2024 and in the EXECUTIVE ORDER NO. 6 OF 2024, which the dismissed persons, including the first ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

13. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

14. Having, upon reflection and after listening keenly to what the people of Kenya, in

exercise of their direct sovereign power, had said and after his holistic appraisal of the performance of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

15. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

16. **Articles 132(2)(a** and **b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

17. **Articles 1(1, 2** and **3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a** and **b), 152(1** and **2)** and **156(2).**

18. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally

suitable to remain as members of the Cabinet of the Republic.

19. Based on the foregoing, I oppose the nominations of the above-named first ten persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

20. In addition to contesting the nominations of the first ten (10) persons named above, I also contest the nomination, for approval by the National Assembly, of the 11, 12, 13, & 14 persons named above, for appointment to the national executive of the Republic.

21. It is a matter of public record and notoriety that the four () named persons are members of and/or affiliated with the ORANGE DEMOCRATIC MOVEMENT (ODM) political party.

22. HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of ODM political party.

23. JOHN MBADI NG'ONGO and JAMES OPIYO WANDAYI are currently members of the National Assembly, having been nominated and elected at the general election in AUGUST 2022 as the candidates for ODM party. JOHN OPIYO WANDAYI is, in fact, currently Leader of the Minority Party in the National Assembly as provided by Article 108 of the Constitution.

24. The Constitution, including under Articles 4(2), 10(2), 90, 91 and 108, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under Article 38, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies.

Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

25. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

26. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

27. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION**. **RAILA AMOLO ODINGA,** the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected

28. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

29. The political and ideological differences between H.E., the President's political party,UDA/KENYA KWANZA ALLIANCE and ODM/AZIMIO LA UMOJA ONE **KENYA COALITION**, as distinct entities under the Constitution, is reinforced by

the fact that JAMES OPIYO WANDAYI, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to Article 108 of the Constitution.

30. The purpose and/or effect of the decision of H.E., the President, to nominate the four persons 11, 12, 13, & 14 named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132 and 152.

31. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including Articles 73, 74 and 75. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co- opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in Article 10 of the Constitution.

32. Further and in addition, nomination of JAMES OPIYO WANDAYI, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to Article 201 of the Constitution.

33. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

34. **It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the Finance Bill, 2024. Members of the National Assembly accepted the reservations on 25.07.2024, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for FY 2024/2025 to seek to address the significant reduction in expected revenue for the financial year.**

35. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of IEBC.

36. **In view of the expected pressure on public finances, including to cover expected shortfall of the approximately Kshs. 344B for the current financial that was to be raised vide the expunged Finance Bill, 2024, I contest the constitutional validity of H.E., the President, and JAMES OPIYO WANDAYI, to cause unnecessary expenditure of scare public resources in the ensuing by-election for UGUNJA upon approval and appointment of the nominee as hoped.**

37. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

38. Further and in addition, the personal integrity, competence and suitability of WYCLIFFE AMBETSA OPARANYA to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the Anti- Corruption and Economic Crimes Act, 2003 and Anti-Money Laundering Act, 2009.

39. The above investigations and charges against WYCLIFFE AMBETSA OPARANYA arose out of action taken by the Ethics and Anti-Corruption Commission (EACC) with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. EACC/FI/INQ/18/2023.

40. On 18.12.2023, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that WYCLIFFE AMBETSA OPARANYA should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, WYCLIFFE AMBETSA OPARANYA is the subject of ongoing criminal investigations and prosecutions.

41. It is my belief, including based on the recent High Court judgment in *Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)*, that WYCLIFFE AMBETSA

OPARANYA is currently unqualified for the nomination as notified on 24.07.2024.

42. Under the Constitution, including Articles 3(1), 4(2), 10, 73, 74, 75, 94(2 and 4) and 95(1, 2 and 5), and for the reasons given above, the National Assembly has a duty to reject the nomination of the all the persons named above.

43. The National Assembly must, among other constitutional requirements, stand up

and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

44. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

45. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is Impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

46. I will also insist that as a Country we can not keep repeating and recycling names. The Country will never move forward if we keep using the same old men to fix the problems we are experiencing. I dare say their existence is what kept us here in the first place. They use their office to steal and steal. We need new people to seat in Cabinet. Not recycled politicians. They do not know how to get the job done. They just steal from the people.

47. The National Assemble should also seriously vet the candidates and not render the whole process a mockery to democracy. Members of the Committee of Appointments should **double check the qualifications of the Nominated Cabinet Secretaries and ENSURE they compliment the needs of that MINISTRY. The Cabinet Secretary for Environment should IDEALLY & LOGICALLY be headed by an environmentalist. The Ministry of Defense**

should be headed by a Soldier. The Ministry of Labor should be headed by a Worker. Please stop letting politicians head this offices when they do not know the basics of that Industry or ministry.

48. Additionally, the National Assembly should not allow anyone who has had corruption scandals in the past to hold an office.

49. In support of this statement, I submit the following documents as evidence, these being:

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on 11.07.2024, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the first ten persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of EXECUTIVE ORDER NO. 6 OF 2024 dated 11.07.2024 and
published as Kenya Gazette No. 8440/2024 of 12.07.2024. The Order confirmed dismissal of all members of the national executive of the Republic, (including the first ten persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated 23.02.2024 in which EACC, (vide Gazette Notice No. 2089 at page 669 and case reference No. EACC/FI/INQ/18/2023), notified of investigations against WYCLIFFE AMBETSA OPARANYA, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on 18.12.2023, concurred with the Commission's recommendations for prosecution of WYCLIFFE AMBETSA OPARANYA for the alleged offences.

50. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

51. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, KIOI NDUNG'U ON THIS 29th **DAY OF JULY, 2024**, AT NAIROBI, **IN THE PRESENCE OF** Nicole Wambui, **COMMISSIONER OF OATHS.**

NICOLE WAMBUI GITHIRI
ADVOCATE
COMMISSIONER FOR OATHS
P.O. Box 38410 - 00100, NAIROBI

DRAWN AND SUBMITTED BY:

KIOI NDUNG'U

Contact address for the purpose of this statement:

lkioi.ndungu@gmail.com

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke



REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.



7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.



13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

SPECIAL ISSUE



THE KENYA GAZETTE

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF

KENYA EXECUTIVE ORDER

NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u,
E.G.H. Mr. Davis Kimutai Chirchir,
E.G.H. Hon. Alfred Nganga Mutua,
E.G.H. Hon. Alice Muthoni Wahome,
E.G.H. Hon. Ababu Namwamba,
E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana,
E.G.H. Hon. Ezekiel Machogu
Ombaki, E.G.H. Mr. Eluid Okech
Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

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1. Along Kenyatta Avenue
   (a) KCB Bank parking lot;
   (b) Khetias Supermarket parking lot;
   (c) Bank of Baroda parking lot;
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot; and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

DANIEL MUSITA,

MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS

ACT (*No. 17 of 2012*)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (*c*) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1)
(d) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot;
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot;
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot;
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot – Junction to Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Ekero – Sabatia Road.

Dated the 9th February, 2024.

AGGREY MUSINDALO,

MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (*d*) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such

other statistical information relating to those reports, as the
Commission considers appropriate.

2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.

(h) Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 (*a*) as read with section 48 of the Anti- corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from

participating in public procurement and asset disposal processes in compliant with section 41 (3) (*a*) of the PPDA, 2015 and Regulation 22 (1) (*c*) of the PPDR, 2020.

(ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.

(iii) Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Mautuma/Shianda/442 and the buildings erected thereon for KSh. 1,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 (*a*) (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (I) as read with section 16 (1) of the proceeds of crime and Anti- money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularies at the Embakasi North Constituency Amounting to KSh. 51,351,357/=.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on 21st August, 2021 on allegations of procurement irregularities and embezzlement of public funds amounting to KSh. 51,351,357 at the Embakasi North Constituency. It was further alleged that the Member of Parliament for Embakasi North Constituency used his office to award tenders to his children and close associates. The tenders were allegedly for construction of classrooms, event hosting and roadworks within Embakasi North Constituency.

Investigations established that the said constituency awarded various tenders to four companies associated with the daughter of the Member of Parliament for the constituency.

Financial investigations revealed that several payments were made to the companies for various projects allegedly undertaken with the Embakasi Constituency.

Investigations revealed that the said Member of Parliament received a total of KSh. 10,482,298/= either directly or indirectly from the companies associated with the daughter and other close associates. The MP is a signatory to bank account in one of the companies namely Ndakaini Hardware and Property Agencies.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Member of Parliament, the Fund Account Manager and directors of the four companies namely Ndakaini Enterprises Limited, Allira Investment Limited, Pride Wind Africa Limited and Ndakaini Hardware with the following offences;

(a) Two counts of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(b) Five counts of unlawful acquisition of public property contrary to section 45 (1) *(a)* as read with section 48 (1) of the Anti- Corruption and Economic Crimes Act, 2003.

(c) One count of abuse of office contrary to section 46 as read with section 48 (1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 6th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

4. EACC/PI/INQ/24/2021

Inquiry into Allegations of Irregular Tender Award and Embezzlement of Funds by Officers of Bomas of Kenya in the Award of General Insurance Cover for Financial Years 2020–2021 and 2021–2022 to CIC General Insurance Limited

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation that the Bomas of Kenya (BoK) had irregularly awarded the general property and work injury insurance cover tender to CIC General Insurance Limited during the financial year 2020-2021. Evidence obtained indicates that the tender was awarded to CIC.

Investigations established that BOK violated section 103 of the Public Procurement and Asset Disposal Act, 2015 and illegally awarded the tender to CIC. It was further established that since the tender for FY 2020-2021 was irregularly awarded. Subsequently, the renewal clause in the FY 2020-2021 tender policies could not birth a legitimate renewal in FY 2021-2022. Furthermore, no LPO was issued for the renewed tender. CIC Insurance was illegally paid KSh.9,058,916.70 for the two financial years which payments were made out of flawed procurement process.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Chief Executive Officer for Bomas of Kenya, Finance Officer, Supply Chain Management Officer, Ag. Managing Director CIC General Insurance and a Marketer at CIC, the Managing Director CIC General Insurance and CIC General Insurance Limited be charged with the following offences;

(a) Conspiracy to commit a corruption offence contrary to section 47 a (β) as read with section 48 of Anti-Corruption and Economic Crimes Actt.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(d) Two counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

The Commission has in addition instituted the recovery of public property from CIC Insurance Company.

Awaiting DPP's response.

5. EACC/PI/INQ/05/2022

Investigations into Allegations of Irregular Award of Tenders and Embezzlement of Funds by Officials of Bomas of Kenya Limited During Financial Year 2020/2021 through Splitting of Tenders/Contracts to Various Companies Amounting to KSh. 8,587,831/=

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation on 3rd November, 2021. The allegation was that Bomas of Kenya (BOK) was involved in irregular award of tender for purchase of cutlery.

Investigations established that there was no budget allocated for the purchase of cutlery and crockery during the Financial Year 2020/2021 and the board did not approve any re-allocation of funds from other votes. Further investigations also established that there were several procurement irregularities including collusion between the suppliers and procurement officials in the purchase of cutlery for all the quotations at BOK. Some of the directors of the said companies denied participating in the procurement of the cutlery at BOK despite the evidence of bid documents allegedly submitted by their companies.

Financial investigations conducted revealed that after payments were made to the suppliers, they sent money to a particular supplier who would then transfer money to some of the officials of BOK.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Finance Officer, Finance Officer, Supply Chain Management Officer, former Board Chair, Directors of Arwin Gold Limited, Director for Grasonnel Limited, Directors of Bamyoung Limited and Directors of Dysema Limited together with all the four companies with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

(b) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the anti-corruption and economic crimes act, 2003.

(c) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act No. 3 of 2003.

(d) Fraudulent practice in procurement proceeding contrary to section 66 (1) as read with section 176 (1) (i) and (2) of the Public Procurement and Asset Disposal Act of 2015.

(e) One count of forgery contrary to section 345 as read with section 349 of the Penal Code.

(f) Two counts of dealing with Suspect Property contrary To section 47(2) (A) As Read with sections 47 (1) And 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(g) Four counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Awaiting DPPs response.

6. EACC/MSA/FI/INQ/7/2023

Investigations into Allegations of Corruption, Procurement Irregularities and Embezzelement of Funds at Taita Taveta County Government during the Commemoration of World War 1 Celebrations that Took Place Between 24th to 27th November, 2022

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 5th April, 2022, on allegations of corruption, procurement irregularities and embezzlement of funds at Taita Taveta County Government during the commemoration of World War 1 (WW1) celebrations that took place between 24th to 27th November, 2022.

Investigations established that the Government of Taita Taveta County prepared budget estimates and a consolidated procurement plan for the Financial Year 2022/2023 and the aforesaid event was not provided for in the budget.

Investigations further established that in respect to the World War One Event the Economic advisor and the Chief Officer Finance applied for imprest to facilitate the commemoration of the event. Investigation established that the Taita Taveta County utilised Kshs. 4,048,000.00 through irregular Daily Subsistence Allowance paid to officers.

It was further established that during the process of preparation for the WWI event, the public officers engaged and or directly single sourced suppliers for various services without following the laid down procedures despite the fact that the County Government had a repository of registered suppliers and service providers for the financial year 2022/2024. The suppliers that were engaged directly included Kazi Ngoma Orchestra band, Elbon Agencies, Banane North Explorer's Limited, Voi Wildlife Lodge, Kididi FM a commercial radio station, Tree Top Eatery, Pen and Paper Solutions, Gracious Tents and Sounds and Alconsup Solution Limited.

Investigations established that the receipts that were attached to the surrender documents were forgeries and were not actually issued by the purported entities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Economic Advisor to the Governor, County Secretary, County Chief Officer in charge of Trade, Tourism and Co-operatives Development with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Engaging in a project without prior planning contrary to section 45 (2) (*c*) as read together with section 48 of the Anti- corruption and Economic Crimes Act, No. 3 of 2003Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, 2003

(c) Six counts of uttering false documents contrary to section 353 of the Penal Code Cap 63 laws of Kenya

(d) Willful failure to comply with the applicable procedures and guidelines relating to incurring of expenditures contrary to section 45 (2) (*b*) as read with section 48 (1) of the Anti- Corruption and Economic Crimes Act, 2003

On 5th February, 2024, the DPP returned the inquiry file with recommendations for further investigations.

7. EACC/MSA/FI/INQ/13/2022

Investigations into Allegations of Corruption and Misappropriation of Public Funds at Taita Taveta County Assembly as a Result of Imprest Advanced to the Speaker of the County Assembly, Clerk Twenty One Members of the County Assembly and Four Other Officers for Traveling to Zanzibar for a Bonding Trip in the Financial Year 2022/2023

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 28th November, 2022 on allegation of embezzlement of public funds against staff of the County Assembly of Taita Taveta. It is alleged that the Speaker, Clerk, twenty- one (21) Members of the County Assembly (MCAs) and four (4) other officers incurred an expenditure of around Kenya Shillings Seven (7) million without following proper guidelines with regard to the edicts of the law on Public Finance at a bonding tour to Marijani Hotel in Zanzibar in November 2022 within the Financial Year 2022/2023.

Investigations established that members of the Liaison Committee and public officials of Taita Taveta County Assembly traveled to Zanzibar on an education tour. However, some delegates were paid excess per diem allowances which they were not entitled because accommodation had been provided while others were paid yet they had not travelled for various reasons.

The procurement process was not properly followed in regard to sourcing of the service provider being the World Scout Parliamentary Union (WSPUK) who would offer the catering and training facilities for the delegates. WSPUK was single sourced and directly engaged for the educational trip to Zanzibar. Investigation established that the procurement threshold was way above KSh. 500,000/= and therefore it ought to have been reported to the Public Procurement Regulatory Authority by the Accounting Officer.

Investigation further established that the Clerk of Taita Taveta County Assembly, authorised payment voucher for full daily subsistence allowance to the delegates whilst knowing that the delegates were not entitled to full daily subsistence allowance since their accommodation had been catered for.

The investigation established that the Taita Taveta County Assembly had lost KSh. 6,181,433.00 through irregular DSA paid to officers. The said County Assembly initiated recoveries from the beneficiaries by deducting their salaries and some made cash deposits to Taita Taveta County Assembly Bank Account amounting to KSh. 2,215,550.60. The outstanding amount yet to be recovered is KSh. 3,943,033.98

It was further established that the Accounting Officer during imprest surrender attached false travel clearance letters for delegates who had not travelled for various personal reasons. He further fraudulently authorised surrender of payment voucher of KSh. 8,037,599 purporting to have been fully accounted for yet it was not sufficiently supported by surrender documents.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Clerk/Accounting Officer and the Deputy Speaker of Taita Taveta County Assembly with the following offences;

(a) Three counts of Abuse of office contrary to section 46 as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering false documents contrary to section 353 of the Penal Code, Cap. 63 Laws of Kenya

(c) False accounting by a public officer contrary to section 331
(1) and (2) of the Penal Code, Cap. 63 Laws of Kenya

(d) Wilful failure to comply with the law applicable, regulations and guidelines relating to procurement, contrary to section 45
(2) (b) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Financial misconduct contrary to section 197(1) (i) as read with section 199 of the Public Finance Management Act, No. 18 of 2012.

On 1st February, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

8. EACC/MSA/FI/INQ/4/2017

Investigations into Allegations of Procurement Irregularities in the Purchase of Stone Cutting Machines by Coast Development Authority (CDA) from Endebes Development Company (EDC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report dated 22nd March, 2017 that Coast Development Authority (CDA) had purchased stone cutting machines from Endebes Development Company (EDC) without following procurement procedures.

Investigations established that CDA leased coral block cutting equipment and vehicles from EDC without following the public procurement laws and procedures i.e use of direct method instead of open tender method as required under the PPDR 2006.

Furthermore, there were no bid documents received from any bidder hence no procurement process was conducted hence the procurement process was a fraud.

EDC offered to sell the said machines to CDA at a cost of KSh. 62,000,000/=. On 10th July, 2012, CDA and EDC entered into a lease agreement for the machines. The lease was signed by the Managing Director on behalf of CDA. EDC received a total sum of KSh. 28,794,834.00 from CDA for the lease of coral block cutting machines. It was established that the lease agreements were entered into illegally and therefore payments made to EDC by CDA were

unlawful. It was revealed that the Director and beneficial owner of EDC is a bank signatory in the company and he had appointed the Managing Director CDA while he was the Minister for Regional Development Authorities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Managing Director, the Director of the company and Endebes Development Company Limited with the following offences;

(a) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Entering into an obligation that has financial implication contrary to section 196 (3) as read with section (196) (6) of the Public Finance Management Act, 2012.

(d) Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

Awaiting DPP's response.

9. EACC/MSA/FI/INQ/17/2017

Investigations into Allegations of Irregular Procurement for Extension of Bura Water Supply by Coast Water Services Board (CWSb) at a Cost of KSh. 52,020,061/= in the Financial 2017/2018

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an anonymous complaint that the Coast Water Services Board (the Board) flouted the procurement law during the procurement process in the tender CWSB/TR-EQ/W/6A/2017 for extension of Bura Water Supply (the Project). This project had been sanctioned by the Ministry of Water and Irrigation (the Ministry) and was being funded from the Equalisation Fund (the Fund).

Investigations established that the Board advertised the subject procurement on 27th June, 2017 attracting 28 bidders. Further investigations established that the Board failed to subject all the tenders to both technical and financial evaluation contrary to section 80 of the Public Procurement and Disposal Act, 2015. The contract was irregularly awarded to Misriya Company Limited.

It was further established that the Director for Misriya Company limited had made false documents being motor vehicle registration documents and submitted the same to the Coast Water Services Board.

Investigations established that the Head of Procurement at CWSB prepared misleading professional opinion hence did not offer expert advised as was required of him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Evaluation Committee, the Head of Procurement and the Director of the Misriya Company Limited together with the company with the following offences;

(a) Wilful failure to comply with the procurement law contrary to section 45 (2) (*b*) as read with section 48 of the Anti- corruption and Economic Crimes Act, No. 3 of 2003.

(b) Fraudulent procurement practice contrary to section 66 (1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

(c) Forgery contrary to section 345 as read with section 349 of the Penal Code.

(d) Uttering a false document contrary to section 353 of the Penal Code.

(e) Knowingly misleading a person carrying out a duty contrary to section 176 (1) (*b*) as read with section 176 (2) of the Public Procurement and Asset Disposal Act, 2015.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

10. EACC/FI/INQ/20/2021

Inquiry into Allegations of Embezzlement/Missapropriation of Public Funds Amounting to KSh. 45,610,187/= by Turkana County Assembly Through Tendering and Construction of Turkana County Assembly Speaker's Residence at Kanamkemer Ward

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on allegation that public funds which were meant for construction of the speaker's residence at Kanamkemer within Turkana County amounting to KSh. 45,610,187/= was misappropriated by the public officer's employed at Turkana County.

Investigations revealed that eight companies submitted their bids for the tender. The tender was irregularly awarded to Ekoriagete Enterprises Limited and the contract was executed by the County Assembly Clerk.

Further, it was established that one of the directors of the said company is an employee of the County Government of Turkana. The work done was valued at KSh. 19,494,994.99 as compared to payments made to the contractor totaling to KSh. 54,392,735.87. There was an overpayment of KSh. 34,897,740.88.

Investigations revealed that the said company was not registered with the National Construction Authority for the period between the years 2013 to 2018. The NCA certificates submitted by Ekoriagete Enterprises Limited as part of the requirement were forgeries.

Furthermore, financial investigations conducted revealed that payments were made to the company' account. The account was established to be operated by one of the county officials who is a director in the company. Upon receipt of the funds, the county official withdrew KSh. 18,495,500/= between August and September 2018 in a clear case of conflict of interest.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Deputy Clerk of Turkana County Assembly, the Clerk, the County Works Officer and the Director of the Ekoriagete Enterprises Limited with the following offences;

(a) One count of conspiracy to commit an offence of economic crime contrary to Section 47A (3) all as read with Section 48 of ACECA.

(b) One count of fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of abuse of office contrary to section 46 as read with section 48(1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

(d) One count of fraudulently making payments from public revenues for services not rendered contrary to section 45(2)
(iii) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(e) One count of fraudulent procurement practice contrary to section 66(1) and (2) as read with section 177 of the Public Procurement and Disposal Act, 2015.

(f) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(g) One count of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

On 19th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

11. EACC/NKR/INQ/FI/101/2017

Inquiry into the Allegations of Misappropriation of Public Funds And Procurement Irregularities in the Rehabilitation And Construction of Salgaa-Elburgon Road By The County Government of Nakuru At the Cost of KSh. 10,000,000/= in the Financial Year 2015/2016

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th January, 2017 on allegations that the County Government of Nakuru had misappropriated KSh. 10,000,000/= in the rehabilitation and construction of Salgaa-Elburgon road.

Investigations established that the County Government of Nakuru had planned for the construction and rehabilitation of Salga-Elburgon Road as per the roads work plan at KSh. 8,084,300/= during the financial year 2015/2016. It was established that the technical evaluation was not conducted as required by regulation 16(4) of the Public Procurement and Disposal Regulations 2013. The procurement process was therefore flawed. The award was issued to Gee El Construction Works Limited and was paid for KSh. 6,508,478.53.

It was further established that the said company was not registered with the National Construction Authority and that the certificate provided by the company was a forgery.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Tender Evaluation Committee members, the Supply Chain Management Officer, the Chief Officer for Department of Roads and Public Works and the Directors of Gee El Construction Works Limited with the following offences;

(a) One count of Fraudulent practice in the procurement proceedings contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act, 2015.

(b) One count of Fraudulent acquisition of public property contrary to section 45(1) (*a*) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45(2) (*b*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and

(d) One count of Abuse of office contrary to section 45(2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

12. EACC/MSA/FI/INQ/04/2021 (C)

Inquiry into Allegations of Conflict of Interest and Procurment Irregularities Involving the Head of Treasury at The Kwale County Government Who is Alleged to own a Company Known as Chilongola Holdings Limited, which has Been Trading with the County Government of Kwale

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 4th February, 2021 alleging conflict of interest against the Head of Treasury, Kwale County Government who was alleged to own two companies namely; Rome Investment Limited and Chilongola Limited Companies which transacted and received KSh. 9,000,000/= from the said institution during the Financial Year 2017/18 and 2018/2019.

Investigations established that the companies were awarded ten tenders to supply and deliver sanitation materials, food and ration, general office supplies, and institutional appliances. It was further established that the procurement process undertaken was flawed. Rome investment and Chilongola Limited entered into a contract with the County Government of Kwale through Local Purchase Orders for the 10 tenders despite the procurement process having been flawed.

It was established that the tender documents including purchase requisition forms, minutes of the Tender Opening Committee, letters of appointment of inspection and acceptance committee and inspection and acceptance minutes relating to the said tenders were forgeries and the same were presented at the Kwale County Government by the Accountant and the Hospital Administrator. Further investigations established that Rome Investments and Chilongola Limited were paid a sum of KSh 44,919,341 and KSh. 4,007,943, respectively.

Further investigations disclosed that the Head of Treasury at the county was the Director at Chilongola Holdings together with his brothers who were directors for Rome Investments (k) Limited. The Head of Treasury was a mandatory signatory of the said companies bank accounts held at KCB Kwale Branch.

Financial investigations revealed that the Head of Treasury was a beneficial owner of the two companies, by virtue of the withdrawals he made. The total amount received by the two companies was KSh. 44,919,341 and the same distributed to the directors of the companies.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the Head of Treasury and a Director of Chilogola Holdings Limited and Rome Investment Limited, an Accountant and Hospital Administrator of the Kwale County Government be charged as follows:

(a) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(c) Deceiving principal contrary to section 412) as read with as read with section 48(1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(d) Fraudulent practise in procurement contrary to section 66 as read with section 177 of the Public Procurement and Asset Disposal Act, 2015

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

13. EACC/BGM/PI/INQ/09/2020

Investigation into Allegations of Procurement Irregularities and Conflict of Interest in the Procurement of A Double Cabin Pick-Up and a 33 Isuzu Bus Seater by the County Assembly of Bungoma in the Financial Year 2018/2019

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on allegations of procurement irregularities in in tender number CA/BGM/PUR/205/2019-2020 for the supply of a double cabin pick- up and a 33 Isuzu bus seater by the County Assembly of Bungoma during the Financial Year 2018/2019. It was further alleged that the Accounting Officer of the County Assembly had participated in the procurement amounting to Conflict of interest.

It was established that seven bidders participated in the procurement process. The Evaluation Committee conducted the evaluation exercise and recommended Westfield Motors Limited for the award for both the bus and double cabin. However, after a professional opinion was submitted with the foregoing recommendations, the clerk disregarded the opinion and went ahead to establish a different three-member committee to conduct another evaluation which was irregular since the substantive evaluation committee had not been disbanded.

It was further established that the Procurement Officer and the Clerk of the County Assembly prepared and approved a professional opinion which was misleading. The Accounting Officer executed the contract and authorised payments of KSh. 5,870,000/= and KSh. 4,980,000/= to be made in full to Westfield Motors Limited and Kenyan Coach Industries Limited respectively while knowing that the vehicles had not been supplied.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Accounting Officer and the Head of Procurement with the following offences;

(a) Three counts of wilful failure to comply with applicable procedures and guidelines relating to procurement of services contrary to section 45 (2) (*b*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

14. EACC/EL/INQ/29(ii)/2022

Inquiry into Allegation that an Employee Falsified Academic Certificates To Secure Employment at Rural Electrification And Renewable Energy Corporation (REREC) as a Supply Chain Management Assistant

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received that the officer used a **forged Bachelor's degree in purchasing and** supplies Chain Management from Jomo Kenyatta University of Agriculture and Technology to gain employment at REREC as a Supply Chain Management Assistant (Procurement and Disposal).

Investigations established that the Supply Chain Management **Assistant forged a Bachelor's degree certificate** No. 3701 in purchasing and supplies from Jomo Kenyatta University and Technology. He uttered the certificate while making application to be employed in the position of Supply Chain Management Assistant as captured from his employment records. Investigations revealed that he also submitted fake transcripts to REREC.

It was established that he had irregularly been paid a net salary amounting to KSh. 311,974.45 since the April, 2022 to July, 2022.

On 17th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the aforesaid suspect with the following counts;

(a) One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act.

(b) Five counts of forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Five counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 19th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

15. EACC/EL/INQ/29(v) /2022

Inquiry into Allegations That an Employee used Forged Academic Documents to Secure Employment at Rural Electrification and Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint on 2nd August, 2022 that the employee used forged academic documents to apply for the position of a driver at REREC.

Investigations established that the said driver made an application following an advertisement in the local dailies on 1st December, 2020. In his application he attached several documents including, a Kenya Secondary school certificate No. 2386658 from Kimuri High School issued in the year 2008.

Investigations further established that the KCSE certificate was forged, having been subjected to authentication by the Kenya National Education Council (KNEC). He had worked with REREC from 1st April, 2022 to July, 2022 and irregularly earned a net salary of KSh. 293,240.94

On 17th October, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the suspect being a driver at REREC with the following offences;

(a) Fraudulent acquisition Contrary to section 45 (1) (*a*) all as read with section 48 of ACECA,

(b) Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 2nd January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

16. EACC/EL/INQ/29(iii)/2022

Inquiry into Allegations that an Employee used Forged Academic Documents To Get Employment at Rural Electrification And Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 2nd August, 2022 on allegations that the employee used forged academic documents to apply for the position of Supply Chain Management Assistant (Inventory and Logistics) at REREC.

It was established that the REREC advertised for various positions in the daily nation dated 1st December, 2020. One of the positions advertised was that of Supply Chain Management Assistant (Inventory and logistics). She applied for the position and in her application; she indicated that she holds a Diploma in Business Information Technology from Kenya Methodist University awarded in the year 2014

Investigations established that she did not study at the said institution and the Diploma certificate in question was therefore a forged document. It was further established that she had been working at REREC from 1st April, 2022 to 14th July, 2022. She illegally gained from the institution a net salary of KSh. 293,457.07 considering that she was not qualified for the position.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act 2003.

(b) One count of Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) One count of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Two counts of Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

17. EACC/ISL/EL/INQ/2/2020

Inquiry Into Allegations that the Ward Administrator for Marsabit Central Used Forged Academic Documents to get Employment

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received with allegations that the Ward Administrator for Marsabit Central had allegedly used forged Kenya Certificate of Secondary Education Certificate (KCSE) and diploma certificate to gain employment in Marsabit County.

Investigations established that the suspect applied for employment opportunity at the Marsabit County Government in the year 2018. He submitted his curriculum vitae, which indicated that he had a Diploma in Community Development and Social Work.

Investigations revealed that the Ward Administrator also applied for the position of Civic Education Officer and attached a KCSE Certificate serial No. 2023397 from Marsabit Secondary School. He further submitted a KNEC Certificate serial No. BTEP/D004270 for diploma in Community Development and Social work. The suspect was appointed as a Public Participation and Civic Education Officer from 28th January, 2019.

Investigations further revealed that the positions in which he was appointed into had not been advertised and therefore the appointments were irregular.

Further investigation revealed that the suspect had altered the grades in the KCSE certificate that he submitted to the Marsabit County Government and the Diploma in Community and Social Development were forgeries. It was further established that the Ward Administrator had earned a net salary from April, 2019 to September, 2023 amounting to KSh. 1,954,324.15

On 27th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Ward Administrator with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of ACECA.

(b) One count of Deceiving principal contrary to section 412) as read with as read with section 48(1) of ACECA.

(c) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(d) Two counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

18. EACC/MSA/FI/INQ/13/2023

Inquiry into Allegations Joskat Construction Company did not Follow the Bills of Quantities when Performing Contracts for Likoni CDF in erecting the Perimeter wall for Timbwani Secondary School in the Financial Year 2021-2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a contractor was not following the bill of quantities when performing contracts for Likoni NG-CDF project for erecting the 400-meter perimeter wall for Timbwani Secondary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Timbwani secondary School were followed from the initiation of the tender process until the award of contract. The contract was awarded to Joskat Construction Company Limited at a cost of KSh.. 6,394,807/=. The Project Management Committee confirmed that the progress was good and that the work was being done as per the specifications. The company completed the said construction as per the contract and as a result, payments were made to the contractor. The project has been completed but was yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

19. EACC/MSA/FI/INQ/11/2022

Inquiry into Allegations that a Company Called Sallysam Limited did not Follow The Bills of Quantities when Erecting the Perimeter Wall for Mrima Primary School in Likoni Consituency during the Financial Year 2021/2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a company namely Sallysam Ltd was not following the bill of quantities when performing contracts for Likoni NG-CDF project for construction of classes for Mrima Primary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Mrima Primary School were followed from the initiation of the tender process until the award of contract to Sallysam Limited. The construction was also completed as per the contract and as a result, payments were made to the contractor. The project has been completed and yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

20. EACC/MSA/FI/INQ/14/2023

Inquiry into Allegations that a Company Called Sallysam Enterprises did not follow the Bills of Quantities When Erecting The Perimeter Wall For Mtongwe Girls Secondary School in Likoni Constituency during The Financial Year 2021/2022

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 26th September, 2022 that a company called Sallysam Limited was not following the bill of quantities when performing contracts for Likoni NG-CDF project of erecting the perimeter wall for Mtongwe girls Secondary school during the Financial Year 2021/2022.

Investigations established that the NG-CDF Board approved a code of projects including Mtongwe Girls Secondary School with an allocated amount of KSh. 5,985,075/=. The procurement entity was Likoni Constituency Development Fund. Three companies submitted their bids and a final award issued to Sallysam Enterprises Limited. The contract was executed on 3rd May, 2022. The works were executed by the said company and it was noted that the project was going on well as per the specifications of the Bill of quantities. Investigations did not reveal any procurement irregularities in the subject project.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed with no further action.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

21. EACC/KSI/OPS/INQ/3/2022

Inquiry into Allegations of Corruption against a Court Assistant Working for the Judiciary at Migori Law Courts

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 11th April, 2022 that a Court Assistant had approached him and that he could assist him to get a favourable judgment from the Magistrate handling the criminal matter at a court in Migori. He was required to give KSh. 100,000/=.

Investigations established that there was a criminal matter at Migori Law Courts where the complainant was the accused and was coming up for judgment. The Court Assistant requested for KSh. 100,000/= in order to assist the complainant to get a favourable judgment. The Commission established that the Court Assistant had demanded and received a bribe of KSh. 20,000/= which was recovered from him upon arrest.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations that the Court Assistant be charged with two counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 (1) and (2) of the Bribery Act, 2016.

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

22. EACC/OPS/INQ/20/2023

Inquiry into Bribery Allegation of Corrupt Conduct Against a Kenya Revenue Authority Officer

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 14th March, 2023 alleging that a Waiver Processing Officer at the Kenya Revenue Authority was demanding for a benefit of KSh. 50,000/= in order to write off accrued erroneous value added tax penalty amounting to KSh. 410,000/=.

Investigations established that the Waiver Processing Officer worked at the KRA and had requested and received KSh. 40,000/= as a financial benefit.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Waiver Processing Officer at KRA with three counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 of the Bribery Act No. 47 of 2016

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

23. EACC/MCKS/OPS/INQ/2/2021

Inquiry into Allegations that the Head Teacher at Unoa Primary School was Charging Illegal Levies as Fees in Violation of Guidelines by the Ministry of Education on Free Primary Education (FPE)

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received on 14th January, 2020 that the Head teacher at Unoa Primary School was charging illegal levies as fees in violation of guidelines by the Ministry of Education on free primary education.

Investigations further established that the head teacher had been charging illegal fees in form of development fees of Kshs. 5,000/=, harambee fee of KSh. 1,000/=, Fencing fee of KSh. 1000/= and feeding programme fee of KSh. 1850/= plus other motivation and activity fee totalling to KSh. 10,000/=.

Financial Investigations established that the head teacher owned a private enterprise namely AGPHILY Enterprise that was trading with the school wherein he was the head.

Further investigations established that the head teacher purported to have made supplies to the school and he had signed a cheque of KSh. 183,500/= in his favour. The cheque was not honoured at the bank since no supporting document was provided to the bank.

On 9th November, 2023, a report was compiled and forwarded to the DPP with the recommendations to charge the head teacher, Unoa Primary school with the following offences;

(a) Conflict of interest contrary to section 42 (3) as read with Section 48 of the ACECA, 2003.

(b) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

24. EACC/OPS/INQ/36/2023

An Inquiry into Allegations of Corrupt Conduct against a Nairobi City County Revenue Officer Based at City Hall.

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received a report dated 18th May, 2023 alleging that a Nairobi City County Revenue Officer based at City Hall was demanding for a bribe of KSh. 20,000/= from him in order to write off cess arrears amounting to KSh. 47,0000/= accrued by his lorry.

Investigations established that on 27th April, 2023 the County Official informed owner of lorry that he had cess arrears of Kshs. 47,000/= . The suspect reduced the amount to KSh. 20,000/= and required the owner of the lorry to pay KSh. 10,000/= through paybill number and was given KSh. 10,000/= in cash. On a later date, the lorry owner was informed that he had cess arrears of KSh. 14,000/=.

The Commission established that he was employed as an Administrative Officer III at the Nairobi City County Government. The county official requested and received KSh. 10,000/= in order to facilitate write-off cess arrears accrued by his lorry owed to Nairobi City County Government.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Administrative Officer at Nairobi City County Government be charged with three counts of receiving a bribe contrary to section 6 (1) *(a)* as read with section 18 of the bribery Act No. 47 of 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

25. EACC/MCKS/OPS/INQ/54B/2018

An Inquiry into Allegations of Obstruction against a Suspect In ACC 636/2020 - Republic Vs. Eldah Konzolo

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 11th April, 2021 on allegations that an accused person in Anti-corruption case no. ACC 636/2020 – R vs. Eldah Konzolo had offered KSh. 17,000/= to a witness in order to change his testimony in the stated matter which was pending trial before Mavoko law courts.

Investigations established that the suspect had compromised the witness in the said matter and indeed sent KSh. 17,000/= through Mpesa to a proxy to avoid any direct link. The money was intended to persuade the witness to change his testimony in court. It was established that the said amount was sent to one of his colleague. Investigations also established that the conduct of the accused amounted to interference with a witness with an aim to obstruct justice.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the suspect, with the following offences;

(a) One count of giving a bribe contrary to section 5 of the Bribery Act, 2016.

(b) One count of interfering with witnesses contrary to section 117
(1) of the Penal Code Cap 63.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

26. EACC/OPS/INQ/44/2023

Inquiry into Allegations of Bribery against a Member of County Assembly, Hospital Ward, Kiambu County.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 24th May, 2023 to the effect that a Member of County Assembly, Hospital Ward, Kiambu County was requesting for a financial advantage of KSh. 130,000/- as an inducement to allow her proceed with the intended development activities on Parcel No. Thika Municipality Block 11/377.

Investigations established that county official requested that he be given a portion of land and Kshs. 200,000/= so that he could disregard an alleged Petition by members of the public against any development on the subject plot. They negotiated the amount downwards to KSh. 100,000/=.

It was established that the suspect is Public Officer by virtue of him being a Member of County Assembly (MCA), Kiambu County. He was acting in his official capacity as MCA and Chairperson of the Development Committee of the Assembly when he requested for the benefit.

The Commission established that the county official requested for a bribe of KSh. 130,000/= intending that, in consequence, the owner of the plot proceeds with her intended development on Parcel No. Thika Municipality Block 11/377.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge him with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

27. EACC/BGM/OPS/INQ/8/2021

Investigation into Allegations of Bribery against a Police Officer Attached to Kakamega Central Police Station.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th December,2021 with allegations that a Police Officer attached to the DCI Kakamega Central Police Station at Kakamega County, had requested for a financial advantage of KSh. 100,000/= to give to a Magistrate stationed at Kakamega Law Courts in order to influence the outcome of an inquest proceeding at the Kakamega Magistrates Court.

Investigations established that there was an inquest under Inquest No. 3 of 2020. The inquest proceedings had concluded and pending the verdict of the Principal Magistrate. The Police Officer who was at the time the investigating officer requested for a benefit in order to compromise the said magistrate to rule in favour of the deceased.

Investigations further established that the police officer was employed at the Ministry of Interior and Co-ordination of National Government (Administration Police). The Commission established that the police officer received the bribe of KSh. 40,000/= which was recovered from him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the police officer be charged with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Total No. of files forwarded to the Director of Public Prosecutions	27
No. of files recommended for prosecution	24
No. of files recommended for administrative or other action	0
No. of files recommended for closure	3
No. of files recommended for prosecution and the cases are already lodged before Court	-
No. of files where recommendation to prosecute accepted	7
No. of files where recommendation for administrative or other action accepted	-
No. of files where recommendation for closure accepted	2

No. of files where prosecution declined but administrative action recommended	-
No. of files awaiting the DPP's advice	3

Dated the 13th February, 2024.

DAVID OGINDE,
Chairperson.

TWALIB MBARAK,
Secretary/Chief Executive Officer.

PTG 1703/23-24

GAZETTE NOTICE NO. 2090

THE KENYA INFORMATION AND COMMUNICATIONS ACT

(*No.* 2 *of* 1998)

APPLICATION FOR

LICENCES

NOTICE is given that the following applicants have, pursuant to the provisions of the Kenya Information and Communications Act, 1998, made applications to the Communications Authority of Kenya for grant of the licences as shown in the Table below:

Name	*Station Identity*	*Licence Category*
Darwy Afrik Photography and Safaris Limited, P.O. Box 5572–0100, Eldoret	Assis FM	Commercial Free to Air Radio Licence
Alhaajar Investment Limited, P.O. Box 98558–80100, Mombasa	Alhaajar TV	Commercial Free to Air Television Licence
AIPCA Bahati TV and Radio Limited, P.O. Box 73053–00200, Nairobi	AIPCA Bahati TV	Commercial Free to Air Television Licence
Way of Truth Media Limited, P.O. Box 3556–00200, Nairobi	Truth Wave TV	Commercial Free to Air Television Licence
Nifty Works Plus Limited, P.O. Box 21933–00505, Nairobi	NWPLUS TV	Subscription Broadcasting Service Licence
University of Eastern Africa Baraton, P.O. Box 2500–30100, Eldoret	Baraton FM	Community Free to Air Radio Licence
Go Shipping Cargo Agency Limited, P.O. Box 4689–00100, Nairobi		International Postal/ Courier Operator Licence
Samina Senders and Logistics Limited, P.O. Box 90231–80100, Mombasa		National Postal/ Courier Operator Licence
Prime Time Meru Travellers Company, P.O. Box 415–60200, Meru		National Postal/ Courier Operator Licence
Iyanat Business Solutions, P.O. Box 30068–00100, Nairobi		National Postal/ Courier Operator Licence
Samper Cabs Limited, P.O. Box 12862–00100, Nairobi		National Postal/ Courier Operator Licence
Wekkitech Limited, P.O. Box 536–20100, Nakuru		Network Facilities Provider Tier 3 (NPF-T3)
DXA Technologies Limited, P.O. Box 79450–00200, Nairobi		Network Facilities Provider Tier 2 (NPF- T2)

The Authority wishes to notify the general public that any legal or natural person, or group of individuals, who are desirous of making any representation and/or any objection to the said applications, to do so *vide* a letter addressed to: The Director-General, Communications Authority of Kenya, CA Centre, Waiyaki Way, P.O. Box 14448– 00800, Nairobi, indicating the licence category on the cover enclosing it.

The said representation and/or objection must be filed on or before expiry of thirty (30) days from the date of publication of this notice and a copy of the same be forwarded to the applicants.

Dated the 13th February, 2024.

The licences, if granted, will enable the applicants to operate and provide the services as indicated in the Table above. The grant of these licences may affect the public and local authorities, companies, persons or bodies of persons within the country.

PTG 1685/23-24

DAVID MUGONYI,
Director-General.

JULIUS ITUNGA,
Ag. Chief Executive Officer,

MR/6198975

Water Services Regulatory Board.

GAZETTE NOTICE NO. 2091

THE WATER ACT, 2016

(*Sections* 70, 85, 87 *and* 139)

PUBLIC CONSULTATION MEETING ON LICENCING OF WATER SERVICE PROVIDER

THE Water Services Regulatory Board (WASREB) has received licence application from Nyeri Water and Sanitation Company Limited to provide water services within Nyeri County.

The licence application has been made pursuant to the Water Act 2016 (section 85(1)- "A person shall not provide water services except under a licence issued by the Regulatory Board, upon submission of an application and such supporting documents as the Board may require".

Therefore, in compliance to WASREB principal object under the Water Act, 2016 section 70 (1)–"protection of the interests and rights of consumers in the provision of water services", section 87(1)- "An application for a licence shall be subject to public participation" read together with the provision of section 139, we wish to advise that the public consultation meeting shall be held at the venue stated below to get stakeholders concerns on services provided, licencing conditions and proposals for services improvement going forward.

Please note that the Water Service Provider shall hold hybrid public consultation meeting (physical and virtual) as outlined below.

Water Service Provider	*County*	*Venue*		*Day Date and Time*
Nyeri Water and Sanitation Company	Nyeri	Physical meeting:	Wangari Mathai Hall, Nyeri Town	Tuesday, 5th March, 2024 10.00 a.m.
		Virtual meeting:	WSP to provide links	

Participants should be seated by 10.00 a.m. Personal identification of participants will be required. Members of the public in respective areas are invited to make oral and written submissions and ask any questions that may relate to the provision of water services in their areas.

Comments on the application shall be emailed to info@wasreb.go.ke or send in hard copy to:

The Chief Executive Officer,
Water Services Regulatory
Board, 5th Floor NHIF
Building,
Ngong Road,
P.O. Box 41621–00100,
Nairobi.

The closing date for receipt of comments is thirty (30) days after the publication of this notice.

Dated the 6th February, 2024.

HD/044

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARE DUALE
4. ROSELINDA SOIPAN TUYA
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALLA
7. REBECCA MIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

13. HASSAN ALI JOHO, AND
14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, Michael Kimemia Kamau, an adult of sound mind, disposition and a citizen of Kenya presently resident in Ngong hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
    3) **ADEN BARE DUALE**
    4) **ROSELINDA SOIPAN TUYA**
    5) **DAVIS CHIRCHIR**
    6) **SALIM MVURYA MGALLA**
    7) **REBECCA MIANO**
    8) **ONESIMUS KIPCHUMBA MURKOMEN**
    9) **ALFRED NGANGA MUTUA**
    10) **JUSTIN BEDAN NJOKA MUTURI**
    11) **JOHN MBADI NG'ONGO**
    12) **JAMES OPIYO WANDAYI**
    13) **HASSAN ALI JOHO, AND**
    14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The first ten persons named above were among those members of the national executive of the Republic dismissed by H.E. the President, as notified in the statement.

5. H.E.the President stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the first ten persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the first ten persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E. the President to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E. the President took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E. the President stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance of its functions, he had decided to dismiss all members of his Cabinet,

except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the first ten persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the first ten persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the first ten persons named hereinabove.

15. By his own admission and actions on **11.07.2024**, and in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the first ten individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that

those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the first ten persons named above, no longer met included:

    1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

    2) Upholding the national values and principles of governance and public service.

    3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

    4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

    5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a and b), 152(2) and 156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2 and 3(b)), 10, 73, 75, 129, 130, 131, 232 and 259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a and b), 152(1 and 2) and 156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first ten (10) persons named above, I also contest the nomination, for approval by the National Assembly, of the last four (4) persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last four named persons are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party.

27. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between **2013 – 2022**. Both stood as and were elected as members of **ODM** political party.

28. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in **AUGUST 2022** as the candidates for **ODM** party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

29. The Constitution, including under **Articles 4(2), 10(2), 90, 91 and 108**, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

30. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in the **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA,** the leader of **ODM**, was a rival presidential candidate in the elections held on 09.08.2022 in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last four persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly request the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes the proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E. the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of an elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the

National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega County under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in *Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)*, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2 and 4) and 95(1, 2 and 5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic

State founded on the national values and principles of governance set out in Article 10 of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, **these being:**

    1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the first ten persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

    2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the first ten persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

    3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page 669 and case reference No. **EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA,** former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND SIGNED BY THE SAID MICHAEL KIMEMIA KAMAU , ON THIS DAY OF 30 JULY 2024, AT THIKA , IN THE PRESENCE OF TITUS MUNENE KINYUA , COMMISSIONER OF OATHS.

MUNENE KINYUA
ADVOCATE & COMMISSIONER
FOR OATHS
P.O. BOX 128-01000 THIKA

DRAWN AND SUBMITTED BY:

Jewel Karungari Ndung'u

1409, 00217.

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

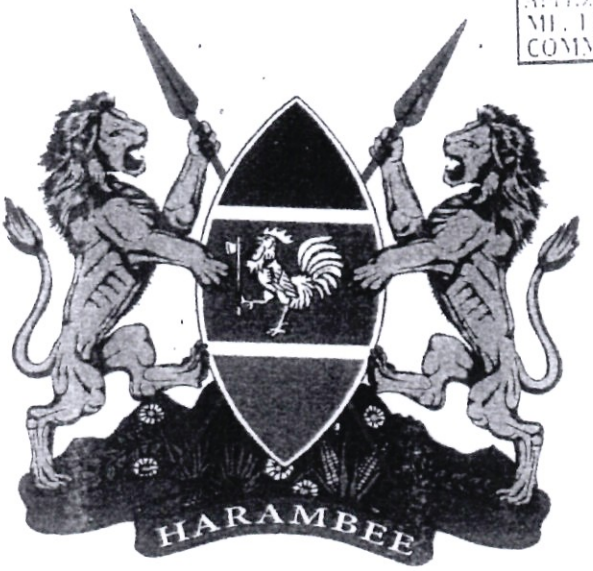
9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

THIS EXHIBIT MARKED EKB
REFERRED TO IN THE ANNEXED
AFFIDAVIT SWORN BEFORE
ME THIS 30TH DAY OF JULY 24
COMMISSIONER FOR OATHS



REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

SPECIAL ISSUE

THIS EXHIBIT MARKED G.B.-2
REFERRED TO IN THE ANNEXED
AFFIDAVIT DECLARED BEFORE
ME, THIS 30th DAY OF JULY 2024
COMMISSIONER FOR OATHS

THE KENYA GAZETTE

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(Registered as a Newspaper at the G.P.O.)

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

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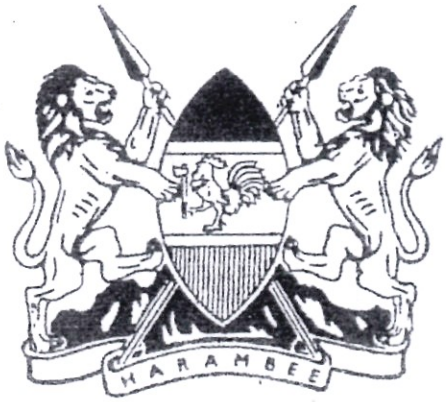

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1. Along Kenyatta Avenue
   (a) KCB Bank parking lot;
   (b) Khetias Supermarket parking lot;
   (c) Bank of Baroda parking lot;
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot; and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

MR/6208579 DANIEL MUSITA,
Municipal Manager, Kakamega Municipality.

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT

(*No.* 17 *of* 2012)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (*c*) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (*d*) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot;
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot;
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot;
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot – Junction to Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Ekero – Sabatia Road.

Dated the 9th February, 2024.

MR/6208579 AGGREY MUSINDALO,
Municipal Manager, Kakamega Municipality.

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (*d*) of the Ethics and Anti-Corruption Commission Act, 2011. (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II. which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022. which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development. were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022. after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure . Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) *(b)* as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.

(h) Fraudulent acquisition of public property contrary to section 45 (1) *(a)* as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 *(a)* as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliant with section 41 (3) *(a)* of the PPDA, 2015 and Regulation 22 (1) *(c)* of the PPDR, 2020.

(ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.

*(iii)*Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 *(a)* (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (T) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularies at the Embakasi North Constituency Amounting to KSh. 51,351,357/=.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on 21st August, 2021 on allegations of procurement irregularities and embezzlement of public funds amounting to KSh. 51,351,357 at the Embakasi North Constituency. It was further alleged that the Member of Parliament for Embakasi North Constituency used his office to award tenders to his children and close associates. The tenders were allegedly for construction of classrooms, event hosting and roadworks within Embakasi North Constituency.

Investigations established that the said constituency awarded various tenders to four companies associated with the daughter of the Member of Parliament for the constituency.

Financial investigations revealed that several payments were made to the companies for various projects allegedly undertaken with the Embakasi Constituency.

Investigations revealed that the said Member of Parliament received a total of KSh. 10,482,298/= either directly or indirectly from the companies associated with the daughter and other close associates. The MP is a signatory to bank account in one of the companies namely Ndakaini Hardware and Property Agencies.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Member of Parliament, the Fund Account Manager and directors of the four companies namely Ndakaini Enterprises Limited, Allica Investment Limited, Pride Wind Africa Limited and Ndakaini Hardware with the following offences;

(a) Two counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(b) Five counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) One count of abuse of office contrary to section 46 as read with section 48 (1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 6th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

4. EACC/PI/INQ/24/2021

Inquiry into Allegations of Irregular Tender Award and Embezzlement of Funds by Officers of Bomas of Kenya in the Award of General Insurance Cover for Financial Years 2020–2021 and 2021–2022 to CIC General Insurance Limited

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation that the Bomas of Kenya (BoK) had irregularly awarded the general property and work injury insurance cover tender to CIC General Insurance Limited during the financial year 2020-2021. Evidence obtained indicates that the tender was awarded to CIC.

Investigations established that BOK violated section 103 of the Public Procurement and Asset Disposal Act, 2015 and illegally awarded the tender to CIC. It was further established that since the tender for FY 2020-2021 was irregularly awarded. Subsequently, the renewal clause in the FY 2020-2021 tender policies could not birth a legitimate renewal in FY 2021-2022. Furthermore, no LPO was issued for the renewed tender. CIC Insurance was illegally paid KSh.9,058,916.70 for the two financial years which payments were made out of flawed procurement process.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Chief Executive Officer for Bomas of Kenya, Finance Officer, Supply Chain Management Officer, Ag. Managing Director CIC General Insurance and a Marketer at CIC, the Managing Director CIC General Insurance and CIC General Insurance Limited be charged with the following offences;

(a) Conspiracy to commit a corruption offence contrary to section 47 a (3) as read with section 48 of Anti-Corruption and Economic Crimes Act.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(d) Two counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

The Commission has in addition instituted the recovery of public property from CIC Insurance Company.

Awaiting DPP's response.

5. EACC/PI/INQ/05/2022

Investigations into Allegations of Irregular Award of Tenders and Embezzlement of Funds by Officials of Bomas of Kenya Limited During Financial Year 2020/2021 through Splitting of Tenders/Contracts to Various Companies Amounting to KSh. 8,587,831/=

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation on 3rd November, 2021. The allegation was that Bomas of Kenya (BOK) was involved in irregular award of tender for purchase of cutlery.

Investigations established that there was no budget allocated for the purchase of cutlery and crockery during the Financial Year 2020/2021 and the board did not approve any re-allocation of funds from other votes. Further investigations also established that there were several procurement irregularities including collusion between the suppliers and procurement officials in the purchase of cutlery for all the quotations at BOK. Some of the directors of the said companies denied participating in the procurement of the cutlery at BOK despite the evidence of bid documents allegedly submitted by their companies.

Financial investigations conducted revealed that after payments were made to the suppliers, they sent money to a particular supplier who would then transfer money to some of the officials of BOK.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Finance Officer, Finance Officer, Supply Chain Management Officer, former Board Chair, Directors of Arwin Gold Limited, Director for Grasonnel Limited, Directors of Bamyoung Limited and Directors of Dysema Limited together with all the four companies with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

(b) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the anti-corruption and economic crimes act, 2003.

(c) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act No. 3 of 2003.

(d) Fraudulent practice in procurement proceeding contrary to section 66 (1) as read with section 176 (1) (i) and (2) of the Public Procurement and Asset Disposal Act of 2015.

(e) One count of forgery contrary to section 345 as read with section 349 of the Penal Code.

(f) Two counts of dealing with Suspect Property contrary To section 47(2) (A) As Read with sections 47 (1) And 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(g) Four counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Awaiting DPPs response.

6. EACC/MSA/FI/INQ/7/2023

Investigations into Allegations of Corruption, Procurement Irregularities and Embezzelement of Funds at Taita Taveta County Government during the Commemoration of World War I Celebrations that Took Place Between 24th to 27th November, 2022

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 5th April, 2022, on allegations of corruption, procurement irregularities and embezzlement of funds at Taita Taveta County Government during the commemoration of World War I (WWI) celebrations that took place between 24th to 27th November, 2022.

Investigations established that the Government of Taita Taveta County prepared budget estimates and a consolidated procurement plan for the Financial Year 2022/2023 and the aforesaid event was not provided for in the budget.

Investigations further established that in respect to the World War One Event the Economic advisor and the Chief Officer Finance applied for imprest to facilitate the commemoration of the event. Investigation established that the Taita Taveta County utilised Kshs. 4,048,000.00 through irregular Daily Subsistence Allowance paid to officers.

It was further established that during the process of preparation for the WWI event, the public officers engaged and or directly single sourced suppliers for various services without following the laid down procedures despite the fact that the County Government had a repository of registered suppliers and service providers for the financial year 2022/2024. The suppliers that were engaged directly included Kazi Ngoma Orchestra band, Elbon Agencies, Banane North Explorer's Limited, Voi Wildlife Lodge, Kididi FM a commercial radio station, Tree Top Eatery, Pen and Paper Solutions, Gracious Tents and Sounds and Alconsup Solution Limited.

Investigations established that the receipts that were attached to the surrender documents were forgeries and were not actually issued by the purported entities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Economic Advisor to the Governor, County Secretary, County Chief Officer in charge of Trade, Tourism and Co-operatives Development with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Engaging in a project without prior planning contrary to section 45 (2) (*c*) as read together with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, 2003

(c) Six counts of uttering false documents contrary to section 353 of the Penal Code Cap 63 laws of Kenya

(d) Willful failure to comply with the applicable procedures and guidelines relating to incurring of expenditures contrary to section 45 (2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003

On 5th February, 2024, the DPP returned the inquiry file with recommendations for further investigations.

7. EACC/MSA/FI/INQ/13/2022

Investigations into Allegations of Corruption and Misappropriation of Public Funds at Taita Taveta County Assembly as a Result of Imprest Advanced to the Speaker of the County Assembly, Clerk Twenty One Members of the County Assembly and Four Other Officers for Traveling to Zanzibar for a Bonding Trip in the Financial Year 2022/2023

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 28th November, 2022 on allegation of embezzlement of public funds against staff of the County Assembly of Taita Taveta. It is alleged that the Speaker, Clerk, twenty-one (21) Members of the County Assembly (MCAs) and four (4) other officers incurred an expenditure of around Kenya Shillings Seven (7) million without following proper guidelines with regard to the edicts of the law on Public Finance at a bonding tour to Marijani Hotel in Zanzibar in November 2022 within the Financial Year 2022/2023.

Investigations established that members of the Liaison Committee and public officials of Taita Taveta County Assembly traveled to Zanzibar on an education tour. However, some delegates were paid excess per diem allowances which they were not entitled because accommodation had been provided while others were paid yet they had not travelled for various reasons.

The procurement process was not properly followed in regard to sourcing of the service provider being the World Scout Parliamentary Union (WSPUK) who would offer the catering and training facilities for the delegates. WSPUK was single sourced and directly engaged for the educational trip to Zanzibar. Investigation established that the procurement threshold was way above KSh. 500,000/= and therefore it ought to have been reported to the Public Procurement Regulatory Authority by the Accounting Officer.

Investigation further established that the Clerk of Taita Taveta County Assembly, authorised payment voucher for full daily subsistence allowance to the delegates whilst knowing that the delegates were not entitled to full daily subsistence allowance since their accommodation had been catered for.

The investigation established that the Taita Taveta County Assembly had lost KSh. 6,181,433.00 through irregular DSA paid to officers. The said County Assembly initiated recoveries from the beneficiaries by deducting their salaries and some made cash deposits to Taita Taveta County Assembly Bank Account amounting to KSh. 2,215,550.60. The outstanding amount yet to be recovered is KSh. 3,943,033.98

It was further established that the Accounting Officer during imprest surrender attached false travel clearance letters for delegates who had not travelled for various personal reasons. He further fraudulently authorised surrender of payment voucher of KSh. 8,037,599 purporting to have been fully accounted for yet it was not sufficiently supported by surrender documents.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Clerk/Accounting Officer and the Deputy Speaker of Taita Taveta County Assembly with the following offences;

(a) Three counts of Abuse of office contrary to section 46 as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering false documents contrary to section 353 of the Penal Code, Cap. 63 Laws of Kenya

(c) False accounting by a public officer contrary to section 331 (1) and (2) of the Penal Code, Cap. 63 Laws of Kenya

(d) Wilful failure to comply with the law applicable, regulations and guidelines relating to procurement, contrary to section 45 (2) (b) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Financial misconduct contrary to section 197(1) (i) as read with section 199 of the Public Finance Management Act, No. 18 of 2012.

On 1st February, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

8. EACC/MSA/FI/INQ/4/2017

Investigations into Allegations of Procurement Irregularities in the Purchase of Stone Cutting Machines by Coast Development Authority (CDA) from Endebes Development Company (EDC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report dated 22nd March, 2017 that Coast Development Authority (CDA) had purchased stone cutting machines from Endebes Development Company (EDC) without following procurement procedures.

Investigations established that CDA leased coral block cutting equipment and vehicles from EDC without following the public procurement laws and procedures i.e use of direct method instead of open tender method as required under the PPDR 2006.

Furthermore, there were no bid documents received from any bidder hence no procurement process was conducted hence the procurement process was a fraud.

EDC offered to sell the said machines to CDA at a cost of KSh. 62,000,000/=. On 10th July, 2012, CDA and EDC entered into a lease agreement for the machines. The lease was signed by the Managing Director on behalf of CDA. EDC received a total sum of KSh. 28,794,834.00 from CDA for the lease of coral block cutting machines. It was established that the lease agreements were entered into illegally and therefore payments made to EDC by CDA were

unlawful. It was revealed that the Director and beneficial owner of EDC is a bank signatory in the company and he had appointed the Managing Director CDA while he was the Minister for Regional Development Authorities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Managing Director, the Director of the company and Endebes Development Company Limited with the following offences;

(a) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Entering into an obligation that has financial implication contrary to section 196 (3) as read with section (196) (6) of the Public Finance Management Act, 2012.

(d) Unlawful acquisition of public property contrary to section 45 (1) (a) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

Awaiting DPP's response.

9. EACC/MSA/FI/INQ/17/2017

Investigations into Allegations of Irregular Procurement for Extension of Bura Water Supply by Coast Water Services Board (CWSb) at a Cost of KSh. 52,020,061/= in the Financial 2017/2018

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an anonymous complaint that the Coast Water Services Board (the Board) flouted the procurement law during the procurement process in the tender CWSB/TR-EQ/W/6A/2017 for extension of Bura Water Supply (the Project). This project had been sanctioned by the Ministry of Water and Irrigation (the Ministry) and was being funded from the Equalisation Fund (the Fund).

Investigations established that the Board advertised the subject procurement on 27th June, 2017 attracting 28 bidders. Further investigations established that the Board failed to subject all the tenders to both technical and financial evaluation contrary to section 80 of the Public Procurement and Disposal Act, 2015. The contract was irregularly awarded to Misriya Company Limited.

It was further established that the Director for Misriya Company limited had made false documents being motor vehicle registration documents and submitted the same to the Coast Water Services Board.

Investigations established that the Head of Procurement at CWSB prepared misleading professional opinion hence did not offer expert advised as was required of him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Evaluation Committee, the Head of Procurement and the Director of the Misriya Company Limited together with the company with the following offences;

(a) Wilful failure to comply with the procurement law contrary to section 45 (2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Fraudulent procurement practice contrary to section 66 (1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

(c) Forgery contrary to section 345 as read with section 349 of the Penal Code.

(d) Uttering a false document contrary to section 353 of the Penal Code.

(e) Knowingly misleading a person carrying out a duty contrary to section 176 (1) (b) as read with section 176 (2) of the Public Procurement and Asset Disposal Act, 2015.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

10. EACC/FI/INQ/20/2021

Inquiry into Allegations of Embezzlement/Missapropriation of Public Funds Amounting to KSh. 45,610,187/= by Turkana County Assembly Through Tendering and Construction of Turkana County Assembly Speaker's Residence at Kanamkemer Ward

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on allegation that public funds which were meant for construction of the speaker's residence at Kanamkemer within Turkana County amounting to KSh. 45,610.187/= was misappropriated by the public officer's employed at Turkana County.

Investigations revealed that, eight companies submitted their bids for the tender. The tender was irregularly awarded to Ekoriagete Enterprises Limited and the contract was executed by the County Assembly Clerk.

Further, it was established that one of the directors of the said company is an employee of the County Government of Turkana. The work done was valued at KSh. 19,494,994.99 as compared to payments made to the contractor totaling to KSh. 54,392,735.87. There was an overpayment of KSh. 34,897,740.88.

Investigations revealed that the said company was not registered with the National Construction Authority for the period between the years 2013 to 2018. The NCA certificates submitted by Ekoriagete Enterprises Limited as part of the requirement were forgeries.

Furthermore, financial investigations conducted revealed that payments were made to the company' account. The account was established to be operated by one of the county officials who is a director in the company. Upon receipt of the funds, the county official withdrew KSh. 18,495,500/= between August and September 2018 in a clear case of conflict of interest.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Deputy Clerk of Turkana County Assembly, the Clerk, the County Works Officer and the Director of the Ekoriagete Enterprises Limited with the following offences;

(a) One count of conspiracy to commit an offence of economic crime contrary to Section 47A (3) all as read with Section 48 of ACECA.

(b) One count of fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of abuse of office contrary to section 46 as read with section 48(1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

(d) One count of fraudulently making payments from public revenues for services not rendered contrary to section 45(2) (iii) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(e) One count of fraudulent procurement practice contrary to section 66(1) and (2) as read with section 177 of the Public Procurement and Disposal Act, 2015.

(f) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(g) One count of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

On 19th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

11. EACC/NKR/INQ/FI/101/2017

Inquiry into the Allegations of Misappropriation of Public Funds And Procurement Irregularities in the Rehabilitation And Construction of Salgaa-Elburgon Road By The County Government of Nakuru At the Cost of KSh. 10,000,000/= in the Financial Year 2015/2016

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th January, 2017 on allegations that the County Government of Nakuru had misappropriated KSh. 10,000,000/= in the rehabilitation and construction of Salgaa-Elburgon road.

Investigations established that the County Government of Nakuru had planned for the construction and rehabilitation of Salga-Elburgon Road as per the roads work plan at KSh. 8,084,300/= during the financial year 2015/2016. It was established that the technical evaluation was not conducted as required by regulation 16(4) of the Public Procurement and Disposal Regulations 2013. The procurement process was therefore flawed. The award was issued to Gee El Construction Works Limited and was paid for KSh. 6,508,478.53.

It was further established that the said company was not registered with the National Construction Authority and that the certificate provided by the company was a forgery.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Tender Evaluation Committee members, the Supply Chain Management Officer, the Chief Officer for Department of Roads and Public Works and the Directors of Gee El Construction Works Limited with the following offences;

(a) One count of Fraudulent practice in the procurement proceedings contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act, 2015.

(b) One count of Fraudulent acquisition of public property contrary to section 45(1) (*a*) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45(2) (*b*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and

(d) One count of Abuse of office contrary to section 45(2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

12. EACC/MSA/FI/INQ/04/2021 (C)

Inquiry into Allegations of Conflict of Interest and Procurment Irregularities Involving the Head of Treasury at The Kwale County Government Who is Alleged to own a Company Known as Chilongola Holdings Limited, which has Been Trading with the County Government of Kwale

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 4th February, 2021 alleging conflict of interest against the Head of Treasury, Kwale County Government who was alleged to own two companies namely; Rome Investment Limited and Chilongola Limited Companies which transacted and received KSh. 9,000,000/= from the said institution during the Financial Year 2017/18 and 2018/2019.

Investigations established that the companies were awarded ten tenders to supply and deliver sanitation materials, food and ration, general office supplies, and institutional appliances. It was further established that the procurement process undertaken was flawed. Rome investment and Chilongola Limited entered into a contract with the County Government of Kwale through Local Purchase Orders for the 10 tenders despite the procurement process having been flawed.

It was established that the tender documents including purchase requisition forms, minutes of the Tender Opening Committee, letters of appointment of inspection and acceptance committee and inspection and acceptance minutes relating to the said tenders were forgeries and the same were presented at the Kwale County Government by the Accountant and the Hospital Administrator. Further investigations established that Rome Investments and Chilongola Limited were paid a sum of KSh 44,919,341 and KSh. 4,007,943, respectively.

Further investigations disclosed that the Head of Treasury at the county was the Director at Chilongola Holdings together with his brothers who were directors for Rome Investments (k) Limited. The Head of Treasury was a mandatory signatory of the said companies bank accounts held at KCB Kwale Branch.

Financial investigations revealed that the Head of Treasury was a beneficial owner of the two companies, by virtue of the withdrawals he made. The total amount received by the two companies was KSh. 44,919,341 and the same distributed to the directors of the companies.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the Head of Treasury and a Director of Chilogola Holdings Limited and Rome Investment Limited, an Accountant and Hospital Administrator of the Kwale County Government be charged as follows:

(a) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(c) Deceiving principal contrary to section 412) as read with as read with section 48(1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(d) Fraudulent practise in procurement contrary to section 66 as read with section 177 of the Public Procurement and Asset Disposal Act, 2015

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

13. EACC/BGM/PI/INQ/09/2020

Investigation into Allegations of Procurement Irregularities and Conflict of Interest in the Procurement of A Double Cabin Pick-Up and a 33 Isuzu Bus Seater by the County Assembly of Bungoma in the Financial Year 2018/2019

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on allegations of procurement irregularities in in tender number CA/BGM/PUR/205/2019-2020 for the supply of a double cabin pick-up and a 33 Isuzu bus seater by the County Assembly of Bungoma during the Financial Year 2018/2019. It was further alleged that the Accounting Officer of the County Assembly had participated in the procurement amounting to Conflict of interest.

It was established that seven bidders participated in the procurement process. The Evaluation Committee conducted the evaluation exercise and recommended Westfield Motors Limited for the award for both the bus and double cabin. However, after a professional opinion was submitted with the foregoing recommendations, the clerk disregarded the opinion and went ahead to establish a different three-member committee to conduct another evaluation which was irregular since the substantive evaluation committee had not been disbanded.

It was further established that the Procurement Officer and the Clerk of the County Assembly prepared and approved a professional opinion which was misleading. The Accounting Officer executed the contract and authorised payments of KSh. 5,870,000/= and KSh. 4,980,000/= to be made in full to Westfield Motors Limited and Kenyan Coach Industries Limited respectively while knowing that the vehicles had not been supplied.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Accounting Officer and the Head of Procurement with the following offences;

(a) Three counts of wilful failure to comply with applicable procedures and guidelines relating to procurement of services contrary to section 45 (2) (*b*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

14. EACC/EL/INQ/29(ii)/2022

Inquiry into Allegation that an Employee Falsified Academic Certificates To Secure Employment at Rural Electrification And Renewable Energy Corporation (REREC) as a Supply Chain Management Assistant

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received that the officer used a forged Bachelor's degree in purchasing and supplies Chain Management from Jomo Kenyatta University of Agriculture and Technology to gain, employment at REREC as a Supply Chain Management Assistant (Procurement and Disposal).

Investigations established that the Supply Chain Management Assistant forged a Bachelor's degree certificate No. 3701 in purchasing and supplies from Jomo Kenyatta University and Technology. He uttered the certificate while making application to be employed in the position of Supply Chain Management Assistant as captured from his employment records. Investigations revealed that he also submitted fake transcripts to REREC.

It was established that he had irregularly been paid a net salary amounting to KSh. 311,974.45 since the April, 2022 to July, 2022.

On 17th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the aforesaid suspect with the following counts;

(a) One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act.

(b) Five counts of forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Five counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 19th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

15. EACC/EL/INQ/29(v) /2022

Inquiry into Allegations That an Employee used Forged Academic Documents to Secure Employment at Rural Electrification and Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint on 2nd August, 2022 that the employee used forged academic documents to apply for the position of a driver at REREC.

Investigations established that the said driver made an application following an advertisement in the local dailies on 1st December, 2020. In his application he attached several documents including, a Kenya Secondary school certificate No. 2386658 from Kimuri High School issued in the year 2008.

Investigations further established that the KCSE certificate was forged, having been subjected to authentication by the Kenya National Education Council (KNEC). He had worked with REREC from 1st April, 2022 to July, 2022 and irregularly earned a net salary of KSh. 293,240.94

On 17th October, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the suspect being a driver at REREC with the following offences;

(a) Fraudulent acquisition Contrary to section 45 (1) (*a*) all as read with section 48 of ACECA,

(b) Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 2nd January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

16. EACC/EL/INQ/29(iii)/2022

Inquiry into Allegations that an Employee used Forged Academic Documents To Get Employment at Rural Electrification And Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 2nd August, 2022 on allegations that the employee used forged academic documents to apply for the position of Supply Chain Management Assistant (Inventory and Logistics) at REREC.

It was established that the REREC advertised for various positions in the daily nation dated 1st December, 2020. One of the positions advertised was that of Supply Chain Management Assistant (Inventory and logistics). She applied for the position and in her application; she indicated that she holds a Diploma in Business Information Technology from Kenya Methodist University awarded in the year 2014

Investigations established that she did not study at the said institution and the Diploma certificate in question was therefore a forged document. It was further established that she had been working at REREC from 1st April, 2022 to 14th July, 2022. She illegally gained from the institution a net salary of KSh. 293,457.07 considering that she was not qualified for the position.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act 2003.

(b) One count of Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) One count of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Two counts of Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

17. EACC/ISL/EL/INQ/2/2020

Inquiry Into Allegations that the Ward Administrator for Marsabit Central Used Forged Academic Documents to get Employment

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received with allegations that the Ward Administrator for Marsabit Central had allegedly used forged Kenya Certificate of Secondary Education Certificate (KCSE) and diploma certificate to gain employment in Marsabit County.

Investigations established that the suspect applied for employment opportunity at the Marsabit County Government in the year 2018. He submitted his curriculum vitae, which indicated that he had a Diploma in Community Development and Social Work.

Investigations revealed that the Ward Administrator also applied for the position of Civic Education Officer and attached a KCSE Certificate serial No. 2023397 from Marsabit Secondary School. He further submitted a KNEC Certificate serial No. BTEP/D004270 for diploma in Community Development and Social work. The suspect was appointed as a Public Participation and Civic Education Officer from 28th January, 2019.

Investigations further revealed that the positions in which he was appointed into had not been advertised and therefore the appointments were irregular.

Further investigation revealed that the suspect had altered the grades in the KCSE certificate that he submitted to the Marsabit County Government and the Diploma in Community and Social Development were forgeries. It was further established that the Ward Administrator had earned a net salary from April, 2019 to September, 2023 amounting to KSh. 1,954,324.15

On 27th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Ward Administrator with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of ACECA.

(b) One count of Deceiving principal contrary to section 412) as read with as read with section 48(1) of ACECA.

(c) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(d) Two counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

18. EACC/MSA/FI/INQ/13/2023

Inquiry into Allegations Joskat Construction Company did not Follow the Bills of Quantities when Performing Contracts for Likoni CDF in erecting the Perimeter wall for Timbwani Secondary School in the Financial Year 2021-2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a contractor was not following the bill of quantities when performing contracts for Likoni NG-CDF project for erecting the 400-meter perimeter wall for Timbwani Secondary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Timbwani secondary School were followed from the initiation of the tender process until the award of contract. The contract was awarded to Joskat Construction Company Limited at a cost of KSh.. 6,394,807/=. The Project Management Committee confirmed that the progress was good and that the work was being done as per the specifications. The company completed the said construction as per the contract and as a result, payments were made to the contractor. The project has been completed but was yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

19. EACC/MSA/FI/INQ/11/2022

Inquiry into Allegations that a Company Called Sallysam Limited did not Follow The Bills of Quantities when Erecting the Perimeter Wall for Mrima Primary School in Likoni Consituency during the Financial Year 2021/2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a company namely Sallysam Ltd was not following the bill of quantities when performing contracts for Likoni NG-CDF project for construction of classes for Mrima Primary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Mrima Primary School were followed from the initiation of the tender process until the award of contract to Sallysam Limited. The construction was also completed as per the contract and as a result, payments were made to the contractor. The project has been completed and yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

20. EACC/MSA/FI/INQ/14/2023

Inquiry into Allegations that a Company Called Sallysam Enterprises did not follow the Bills of Quantities When Erecting The Perimeter Wall For Mtongwe Girls Secondary School in Likoni Constituency during The Financial Year 2021/2022

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 26th September, 2022 that a company called Sallysam Limited was not following the bill of quantities when performing contracts for Likoni NG-CDF project of erecting the perimeter wall for Mtongwe girls Secondary school during the Financial Year 2021/2022.

Investigations established that the NG-CDF Board approved a code of projects including Mtongwe Girls Secondary School with an allocated amount of KSh. 5,985,075/=. The procurement entity was Likoni Constituency Development Fund. Three companies submitted their bids and a final award issued to Sallysam Enterprises Limited. The contract was executed on 3rd May, 2022. The works were executed by the said company and it was noted that the project was going on well as per the specifications of the Bill of quantities. Investigations did not reveal any procurement irregularities in the subject project.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed with no further action.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

21. EACC/KSI/OPS/INQ/3/2022

Inquiry into Allegations of Corruption against a Court Assistant Working for the Judiciary at Migori Law Courts

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 11th April, 2022 that a Court Assistant had approached him and that he could assist him to get a favourable judgment from the Magistrate handling the criminal matter at a court in Migori. He was required to give KSh. 100,000/=.

Investigations established that there was a criminal matter at Migori Law Courts where the complainant was the accused and was coming up for judgment. The Court Assistant requested for KSh. 100,000/= in order to assist the complainant to get a favourable judgment. The Commission established that the Court Assistant had demanded and received a bribe of KSh. 20,000/= which was recovered from him upon arrest.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations that the Court Assistant be charged with two counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 (1) and (2) of the Bribery Act, 2016.

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

22.EACC/OPS/INQ/20/2023

Inquiry into Bribery Allegation of Corrupt Conduct Against a Kenya Revenue Authority Officer

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 14th March, 2023 alleging that a Waiver Processing Officer at the Kenya Revenue Authority was demanding for a benefit of KSh. 50,000/= in order to write off accrued erroneous value added tax penalty amounting to KSh. 410,000/=.

Investigations established that the Waiver Processing Officer worked at the KRA and had requested and received KSh. 40,000/= as a financial benefit.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Waiver Processing Officer at KRA with three counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 of the Bribery Act No. 47 of 2016

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

23.EACC/MCKS/OPS/INQ/2/2021

Inquiry into Allegations that the Head Teacher at Unoa Primary School was Charging Illegal Levies as Fees in Violation of Guidelines by the Ministry of Education on Free Primary Education (FPE)

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received on 14th January, 2020 that the Head teacher at Unoa Primary School was charging illegal levies as fees in violation of guidelines by the Ministry of Education on free primary education.

Investigations further established that the head teacher had been charging illegal fees in form of development fees of Kshs. 5,000/=, harambee fee of KSh. 1,000/=, Fencing fee of KSh. 1000/= and feeding programme fee of KSh. 1850/= plus other motivation and activity fee totalling to KSh. 10,000/=.

Financial Investigations established that the head teacher owned a private enterprise namely AGPHILY Enterprise that was trading with the school wherein he was the head.

Further investigations established that the head teacher purported to have made supplies to the school and he had signed a cheque of KSh. 183,500/= in his favour. The cheque was not honoured at the bank since no supporting document was provided to the bank.

On 9th November, 2023, a report was compiled and forwarded to the DPP with the recommendations to charge the head teacher, Unoa Primary school with the following offences;

(a) Conflict of interest contrary to section 42 (3) as read with Section 48 of the ACECA, 2003.

(b) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

24. EACC/OPS/INQ/36/2023

An Inquiry into Allegations of Corrupt Conduct against a Nairobi City County Revenue Officer Based at City Hall.

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received a report dated 18th May, 2023 alleging that a Nairobi City County Revenue Officer based at City Hall was demanding for a bribe of KSh. 20,000/= from him in order to write off cess arrears amounting to KSh. 47,0000/= accrued by his lorry.

Investigations established that on 27th April, 2023 the County Official informed owner of lorry that he had cess arrears of Kshs. 47,000/= . The suspect reduced the amount to KSh. 20,000/= and required the owner of the lorry to pay KSh. 10,000/= through paybill number and was given KSh. 10,000/= in cash. On a later date, the lorry owner was informed that he had cess arrears of KSh. 14,000/=.

The Commission established that he was employed as an Administrative Officer III at the Nairobi City County Government. The county official requested and received KSh. 10,000/= in order to facilitate write-off cess arrears accrued by his lorry owed to Nairobi City County Government.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Administrative Officer at Nairobi City County Government be charged with three counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 of the bribery Act No. 47 of 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

25. EACC/MCKS/OPS/INQ/54B/2018

An Inquiry into Allegations of Obstruction against a Suspect In ACC 636/2020 - Republic Vs. Eldah Konzolo

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 11th April, 2021 on allegations that an accused person in Anti-corruption case no. ACC 636/2020 – R vs. Eldah Konzolo had offered KSh. 17,000/= to a witness in order to change his testimony in the stated matter which was pending trial before Mavoko law courts.

Investigations established that the suspect had compromised the witness in the said matter and indeed sent KSh. 17,000/= through Mpesa to a proxy to avoid any direct link. The money was intended to persuade the witness to change his testimony in court. It was established that the said amount was sent to one of his colleague. Investigations also established that the conduct of the accused amounted to interference with a witness with an aim to obstruct justice.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the suspect, with the following offences;

(a) One count of giving a bribe contrary to section 5 of the Bribery Act, 2016.

(b) One count of interfering with witnesses contrary to section 117 (1) of the Penal Code Cap 63.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

26. EACC/OPS/INQ/44/2023

Inquiry into Allegations of Bribery against a Member of County Assembly, Hospital Ward, Kiambu County.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 24th May, 2023 to the effect that a Member of County Assembly, Hospital Ward, Kiambu County was requesting for a financial advantage of KSh. 130,000/- as an inducement to allow her proceed with the intended development activities on Parcel No. Thika Municipality Block 11/377.

Investigations established that county official requested that he be given a portion of land and Kshs. 200,000/= so that he could disregard an alleged Petition by members of the public against any development on the subject plot. They negotiated the amount downwards to KSh. 100,000/=.

It was established that the suspect is Public Officer by virtue of him being a Member of County Assembly (MCA), Kiambu County. He was acting in his official capacity as MCA and Chairperson of the Development Committee of the Assembly when he requested for the benefit.

The Commission established that the county official requested for a bribe of KSh. 130,000/= intending that, in consequence, the owner of the plot proceeds with her intended development on Parcel No. Thika Municipality Block 11/377.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge him with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

27. EACC/BGM/OPS/INQ/8/2021

Investigation into Allegations of Bribery against a Police Officer Attached to Kakamega Central Police Station.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th December,2021 with allegations that a Police Officer attached to the DCI Kakamega Central Police Station at Kakamega County, had requested for a financial advantage of KSh. 100,000/= to give to a Magistrate stationed at Kakamega Law Courts in order to influence the outcome of an inquest proceeding at the Kakamega Magistrates Court.

Investigations established that there was an inquest under Inquest No. 3 of 2020. The inquest proceedings had concluded and pending the verdict of the Principal Magistrate. The Police Officer who was at the time the investigating officer requested for a benefit in order to compromise the said magistrate to rule in favour of the deceased.

Investigations further established that the police officer was employed at the Ministry of Interior and Co-ordination of National Government (Administration Police). The Commission established that the police officer received the bribe of KSh. 40,000/= which was recovered from him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the police officer be charged with two counts of receiving a bribe contrary to section (6) (1) (*a*) of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Total No. of files forwarded to the Director of Public Prosecutions	27
No. of files recommended for prosecution	24
No. of files recommended for administrative or other action	0
No. of files recommended for closure	3
No. of files recommended for prosecution and the cases are already lodged before Court	-
No. of files where recommendation to prosecute accepted	7
No. of files where recommendation for administrative or other action accepted	-
No. of files where recommendation for closure accepted	3
No. of files returned for further investigations	14
No. of files where recommendation to prosecute not accepted	-
No. of files where recommendation for administrative or other action not accepted	-
No. of files where closure not accepted	-

No. of files where prosecution declined but administrative action recommended	-
No. of files awaiting the DPP's advice	3

Dated the 13th February, 2024.

DAVID OGINDE,
Chairperson.

TWALIB MBARAK,
Secretary/Chief Executive Officer.

PTG 1703/23-24

GAZETTE NOTICE NO. 2090

THE KENYA INFORMATION AND COMMUNICATIONS ACT

(*No. 2 of* 1998)

APPLICATION FOR LICENCES

NOTICE is given that the following applicants have, pursuant to the provisions of the Kenya Information and Communications Act, 1998, made applications to the Communications Authority of Kenya for grant of the licences as shown in the Table below:

Name	*Station Identity*	*Licence Category*
Darwy Afrik Photography and Safaris Limited, P.O. Box 5572–0100, Eldoret	Assis FM	Commercial Free to Air Radio Licence
Alhaajar Investment Limited, P.O. Box 98558–80100, Mombasa	Alhaajar TV	Commercial Free to Air Television Licence
AIPCA Bahati TV and Radio Limited, P.O. Box 73053–00200, Nairobi	AIPCA Bahati TV	Commercial Free to Air Television Licence
Way of Truth Media Limited, P.O. Box 3556–00200, Nairobi	Truth Wave TV	Commercial Free to Air Television Licence
Nifty Works Plus Limited, P.O. Box 21933–00505, Nairobi	NWPLUS TV	Subscription Broadcasting Service Licence
University of Eastern Africa Baraton, P.O. Box 2500–30100, Eldoret	Baraton FM	Community Free to Air Radio Licence
Go Shipping Cargo Agency Limited, P.O. Box 4689–00100, Nairobi		International Postal/ Courier Operator Licence
Samina Senders and Logistics Limited, P.O. Box 90231–80100, Mombasa		National Postal/ Courier Operator Licence
Prime Time Meru Travellers Company, P.O. Box 415–60200, Meru		National Postal/ Courier Operator Licence
Iyanat Business Solutions, P.O. Box 30068–00100, Nairobi		National Postal/ Courier Operator Licence
Samper Cabs Limited, P.O. Box 12862–00100, Nairobi		National Postal/ Courier Operator Licence
Wekkitech Limited, P.O. Box 536–20100, Nakuru		Network Facilities Provider Tier 3 (NPF-T3)
DXA Technologies Limited, P.O. Box 79450–00200, Nairobi		Network Facilities Provider Tier 2 (NPF-T2)

The licences, if granted, will enable the applicants to operate and provide the services as indicated in the Table above. The grant of these licences may affect the public and local authorities, companies, persons or bodies of persons within the country.

The Authority wishes to notify the general public that any legal or natural person, or group of individuals, who are desirous of making any representation and/or any objection to the said applications, to do so *vide* a letter addressed to: The Director-General, Communications Authority of Kenya, CA Centre, Waiyaki Way, P.O. Box 14448–00800, Nairobi, indicating the licence category on the cover enclosing it.

The said representation and/or objection must be filed on or before expiry of thirty (30) days from the date of publication of this notice and a copy of the same be forwarded to the applicants.

Dated the 13th February, 2024.

DAVID MUGONYI,
Director-General.

PTG 1685/23-24

GAZETTE NOTICE NO. 2091

THE WATER ACT, 2016

(*Sections* 70, 85, 87 *and* 139)

PUBLIC CONSULTATION MEETING ON LICENCING OF WATER SERVICE PROVIDER

THE Water Services Regulatory Board (WASREB) has received licence application from Nyeri Water and Sanitation Company Limited to provide water services within Nyeri County.

The licence application has been made pursuant to the Water Act 2016 (section 85(1)- "A person shall not provide water services except under a licence issued by the Regulatory Board, upon submission of an application and such supporting documents as the Board may require".

Therefore, in compliance to WASREB principal object under the Water Act, 2016 section 70 (1)–"protection of the interests and rights of consumers in the provision of water services", section 87(1)- "An application for a licence shall be subject to public participation" read together with the provision of section 139, we wish to advise that the public consultation meeting shall be held at the venue stated below to get stakeholders concerns on services provided, licencing conditions and proposals for services improvement going forward.

Please note that the Water Service Provider shall hold hybrid public consultation meeting (physical and virtual) as outlined below.

Water Service Provider	*County*	*Venue*		*Day Date and Time*
Nyeri Water and Sanitation Company	Nyeri	Physical meeting:	Wangari Mathai Hall, Nyeri Town	Tuesday, 5th March, 2024 10.00 a.m.
		Virtual meeting:	WSP to provide links	

Participants should be seated by 10.00 a.m. Personal identification of participants will be required. Members of the public in respective areas are invited to make oral and written submissions and ask any questions that may relate to the provision of water services in their areas.

Comments on the application shall be emailed to info@wasreb.go.ke or send in hard copy to:

The Chief Executive Officer,
Water Services Regulatory Board,
5th Floor NHIF Building,
Ngong Road,
P.O. Box 41621–00100,
Nairobi.

The closing date for receipt of comments is thirty (30) days after the publication of this notice.

Dated the 6th February, 2024.

JULIUS ITUNGA,
Ag. Chief Executive Officer,
Water Services Regulatory Board.

MR/6198975

HD/045

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA.

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, Susan Daleaka, an adult of sound mind, disposition and a citizen of Kenya presently resident in Nairobi, Kenya hereby solemnly makes oath and states THAT:

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, namely:

    1) PROF. KITHURE KINDIKI
    2) ALICE WAHOME
    3) ADEN BARRE DUALE
    4) ROSELINDA SOIPAN TUIYA
    5) DAVIS CHIRCHIR
    6) SALIM MVURYA MGALA
    7) REBECCA KIANO
    8) ONESIMUS KIPCHUMBA MURKOMEN
    9) ALFRED NGANGA MUTUA
    10) JUSTIN BEDAN NJOKA MUTURI
    11) JOHN MBADI NG'ONGO
    12) JAMES OPIYO WANDAYI
    13) HASSAN ALI JOHO, AND
    14) WYCLIFFE AMBETSA OPARANYA.

2. My grounds for contesting the nomination of the first ten nominees named above are that:

3. In a statement dated 11.07.2024 issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The first ten persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the first ten persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the first ten persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the first ten persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the first ten persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first** ten individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated 11.07.2024 and in the EXECUTIVE ORDER NO. 6 OF 2024, which the dismissed persons, including the first ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named first ten persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. Articles 132(2)(a and b), 152(2) and 156(2) of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the first ten persons named above was, as stated in the EXECUTIVE ORDER, based on Article 152(5)(b) of the Constitution.

22. Articles 1(1, 2 and 3(b)), 10, 73, 75, 129, 130, 131, 232 and 259 of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under Articles 130(1), 132(2)(a and b), 152(1 and 2) and 156(2).

23. Having determined, on 11.07.2024, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of 11.07.2024 and EXECUTIVE ORDER NO. 6 OF 2024 of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named first ten persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first ten (10) persons named above, I also contest the nomination, for approval by the National Assembly, of the last four (4) persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last four named persons are members of and/or affiliated with the ORANGE DEMOCRATIC MOVEMENT (ODM) political party.

27. HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of ODM political party.

28. JOHN MBADI NG'ONGO and JAMES OPIYO WANDAYI are currently members of the National Assembly, having been nominated and elected at the general election in AUGUST 2022 as the candidates for ODM party. JOHN OPIYO WANDAYI is, in fact, currently Leader of the Minority Party in the National Assembly as provided by Article 108 of the Constitution.

29. The Constitution, including under Articles 4(2), 10(2), 90, 91 and 108, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under Article 38, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by Article 4(2) of the Constitution.

30. Further and in addition, under Article 1(3) of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, UNITED DEMOCRATIC ALLIANCE (UDA) and its coalition partners in KENYA KWANZA ALLIANCE (KKA) are political rivals to the ODM party and its coalition partners, AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA, the leader of ODM, was a rival presidential candidate in the elections held on 09.08.2022 in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that JOHN MBADI NG'ONGO is the chairperson of ODM party while HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, UDA/KENYA KWANZA ALLIANCE and ODM/AZIMIO LA UMOJA ONE KENYA COALITION, as distinct entities under the Constitution, is reinforced by the fact that JAMES OPIYO WANDAYI, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to Article 108 of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last four persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132 and 152.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including Articles 73, 74 and 75. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in Article 10 of the Constitution.

37. Further and in addition, nomination of JAMES OPIYO WANDAYI, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to Article 201 of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of IEBC.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

44. The above investigations and charges against WYCLIFFE AMBETSA OPARANYA arose out of action taken by the Ethics and Anti-Corruption Commission (EACC) with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. EACC/FI/INQ/18/2023.

45. On 18.12.2023, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that WYCLIFFE AMBETSA OPARANYA should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, WYCLIFFE AMBETSA OPARANYA is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in *Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)*, that WYCLIFFE AMBETSA OPARANYA is currently unqualified for the nomination as notified on 24.07.2024.

47. Under the Constitution, including Articles 3(1), 4(2), 10, 73, 74, 75, 94(2 and 4) and 95(1, 2 and 5), and for the reasons given above, the National Assembly has a duty to reject the nomination of the all the persons named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last four persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in Article 10 of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, these being:

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on 11.07.2024, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the first ten persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of EXECUTIVE ORDER NO. 6 OF 2024 dated 11.07.2024 and published as Kenya Gazette No. 8440/2024 of 12.07.2024. The Order confirmed dismissal of all members of the national executive of the Republic, (including the first ten persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated 23.02.2024 in which EACC, (vide Gazette Notice No. 2089 at page 669 and case reference No. EACC/FI/INQ/18/2023), notified of investigations against WYCLIFFE AMBETSA OPARANYA, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on 18.12.2023, concurred with the Commission's recommendations for prosecution of WYCLIFFE AMBETSA OPARANYA for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND SIGNED BY THE SAID, SUSAN NALIAKA,
ON THIS 30TH DAY OF JULY, 2024, AT NAIROBI, IN THE
PRESENCE OF _____, COMMISSIONER OF OATHS.

NICOLE WAMBUI GITHIRI
ADVOCATE
COMMISSIONER FOR OATHS
P.O. Box 38410 - 00100, NAIROBI

DRAWN AND SUBMITTED BY:

Susan Naliaka

Contact address for the purpose of this statement:

Nairobi Kenya

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

SERIAL NUMBER 702278488 ID NUMBER 33543571

FULL NAMES
SUSAN NALIAKA MUNYASIA



DATE OF BIRTH
20. 11. 1994

SEX
FEMALE

DISTRICT OF BIRTH
THIKA WEST

PLACE OF ISSUE
HDM CITY SQUARE

DATE OF ISSUE
28. 01. 2020

HOLDER'S SIGN



DISTRICT
BUNGOMA NORTH

DIVISION
CENTRAL

LOCATION
NAITIRI

SUB-LOCATION
NAITIRI



PRINCIPAL REGISTRAR'S SIGN

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SUSAN<NALIAKA<MUNYASIA<<<<<<<<

I Certify that this is a true copy of the Original

.....

NICOLE WAMBUI GITHIRI - ADVOCATE
P.105/16361/19
LSK/.2024/.02947
P. O. Box 38410 / 00100, NAIROBI

HD/871

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, Margaret Kavuna, an adult of sound mind, disposition and a citizen of Kenya presently resident in Nairobi Kenya hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

1) **PROF. KITHURE KINDIKI**
2) **ALICE WAHOME**
3) **ADEN BARRE DUALE**
4) **ROSELINDA SOIPAN TUIYA**
5) **DAVIS CHIRCHIR**
6) **SALIM MVURYA MGALA**
7) **REBECCA KIANO**
8) **ONESIMUS KIPCHUMBA MURKOMEN**
9) **ALFRED NGANGA MUTUA**
10) **JUSTIN BEDAN NJOKA MUTURI**
11) **JOHN MBADI NG'ONGO**
12) **JAMES OPIYO WANDAYI**
13) **HASSAN ALI JOHO, AND**
14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The first ten persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the first ten persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the first ten persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

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10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

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Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the **first ten** persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

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4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

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18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a** and **b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2** and **3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a** and **b), 152(1** and **2)** and **156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last four named persons are members of and/or affiliated with the ORANGE DEMOCRATIC MOVEMENT (ODM) political party.

27. HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of ODM political party.

28. JOHN MBADI NG'ONGO and JAMES OPIYO WANDAYI are currently members of the National Assembly, having been nominated and elected at the general election in AUGUST 2022 as the candidates for ODM party. JOHN OPIYO WANDAYI is, in fact, currently Leader of the Minority Party in the National Assembly as provided by Article 108 of the Constitution.

29. The Constitution, including under Articles 4(2), 10(2), 90, 91 and 108, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under Article 38, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by Article 4(2) of the Constitution.

30. Further and in addition, under Article 1(3) of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION**. **RAILA AMOLO ODINGA,** the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, these being:

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide Gazette Notice **No. 2089** at page **669** and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, MARGARET WAMBUI WAWERU ON THIS 30th **DAY OF JULY, 2024,** AT NAIROBI, **IN THE PRESENCE OF** _____, **COMMISSIONER OF OATHS.**

NICOLE WAMBUI GITHIRI
ADVOCATE
COMMISSIONER FOR OATHS
P.O. Box 38410 - 00100, NAIROBI

DRAWN AND SUBMITTED BY:

MARGARET WAMBUI WAWERU

Contact address for the purpose of this statement:

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

HD/28

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, Zipporah Mueni Kioko, an adult of sound mind, disposition and a citizen of Kenya presently resident in Masii hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
    3) **ADEN BARRE DUALE**
    4) **ROSELINDA SOIPAN TUIYA**
    5) **DAVIS CHIRCHIR**
    6) **SALIM MVURYA MGALA**
    7) **REBECCA KIANO**
    8) **ONESIMUS KIPCHUMBA MURKOMEN**
    9) **ALFRED NGANGA MUTUA**
    10) **JUSTIN BEDAN NJOKA MUTURI**
    11) **JOHN MBADI NG'ONGO**
    12) **JAMES OPIYO WANDAYI**
    13) **HASSAN ALI JOHO, AND**
    14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The first ten persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the first ten persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the first ten persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the first ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a** and **b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2** and **3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a** and **b), 152(1** and **2)** and **156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last four named persons are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party.

27. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of **ODM** political party.

28. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in **AUGUST 2022** as the candidates for **ODM** party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

29. The Constitution, including under **Articles 4(2), 10(2), 90, 91** and **108**, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

30. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION**. **RAILA AMOLO ODINGA,** the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

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34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on 24.07.2024.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, these being:

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on 11.07.2024, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the first ten persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the first ten persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page 669 and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA,** former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, ZIPPORAH NUENI KIOKO.
ON THIS 30th **DAY OF JULY, 2024,** AT NAIROBI **, IN THE**
PRESENCE OF _____**, COMMISSIONER OF OATHS.**

NICOLE WAMBUI GITHIRI
ADVOCATE
COMMISSIONER FOR OATHS
P.O. Box 38410 - 00100, NAIROBI

DRAWN AND SUBMITTED BY:

ZIPPORAH NUENI KIOKO

Contact address for the purpose of this statement:

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

This is the exhibit marked"....."
reffered to in the annexed affidavit declaration
of TIPPORAH MUGHI KIOKO
sworn declared before me this 30th
day of JULY 2024
.....
Commissioner For Oaths



REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

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of ZIPPORAH NUENI KIOKO
sworn declared before me this 30th
day of JULY 2024

Commissioner For Oaths

HARAMBEE

REPUBLIC OF KENYA

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6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

SPECIAL ISSUE

This is the exhibit marked"..."
reffered to in the annexed affidavit declaration
of...ZIPPORAH NDUENYI KYOKO
sworn declared before me this...30th...
day of...JULY 2024...
Commissioner For Oaths

THE KENYA GAZETTE

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

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1. Along Kenyatta Avenue
   (a) KCB Bank parking lot;
   (b) Khetias Supermarket parking lot;
   (c) Bank of Baroda parking lot;
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot; and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

DANIEL MUSITA,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT

(*No.* 17 *of* 2012)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (*c*) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (*d*) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot;
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot;
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot;
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot – Junction to Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Ekero – Sabatia Road.

Dated the 9th February, 2024.

AGGREY MUSINDALO,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (*d*) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.

(h) Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliant with section 41 (3) (*a*) of the PPDA, 2015 and Regulation 22 (1) (*c*) of the PPDR, 2020.

(ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.

(iii) Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 (*a*) (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (I) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularies at the Embakasi North Constituency Amounting to KSh. 51,351,357/=.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on 21st August, 2021 on allegations of procurement irregularities and embezzlement of public funds amounting to KSh. 51,351,357 at the Embakasi North Constituency. It was further alleged that the Member of Parliament for Embakasi North Constituency used his office to award tenders to his children and close associates. The tenders were allegedly for construction of classrooms, event hosting and roadworks within Embakasi North Constituency.

Investigations established that the said constituency awarded various tenders to four companies associated with the daughter of the Member of Parliament for the constituency.

Financial investigations revealed that several payments were made to the companies for various projects allegedly undertaken with the Embakasi Constituency.

Investigations revealed that the said Member of Parliament received a total of KSh. 10,482,298/= either directly or indirectly from the companies associated with the daughter and other close associates. The MP is a signatory to bank account in one of the companies namely Ndakaini Hardware and Property Agencies.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Member of Parliament, the Fund Account Manager and directors of the four companies namely Ndakaini Enterprises Limited, Allica Investment Limited, Pride Wind Africa Limited and Ndakaini Hardware with the following offences;

(a) Two counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(b) Five counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) One count of abuse of office contrary to section 46 as read with section 48 (1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 6th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

4. EACC/PI/INQ/24/2021

Inquiry into Allegations of Irregular Tender Award and Embezzlement of Funds by Officers of Bomas of Kenya in the Award of General Insurance Cover for Financial Years 2020–2021 and 2021–2022 to CIC General Insurance Limited

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation that the Bomas of Kenya (BoK) had irregularly awarded the general property and work injury insurance cover tender to CIC General Insurance Limited during the financial year 2020-2021. Evidence obtained indicates that the tender was awarded to CIC.

Investigations established that BOK violated section 103 of the Public Procurement and Asset Disposal Act, 2015 and illegally awarded the tender to CIC. It was further established that since the tender for FY 2020-2021 was irregularly awarded. Subsequently, the renewal clause in the FY 2020-2021 tender policies could not birth a legitimate renewal in FY 2021-2022. Furthermore, no LPO was issued for the renewed tender. CIC Insurance was illegally paid KSh.9,058,916.70 for the two financial years which payments were made out of flawed procurement process.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Chief Executive Officer for Bomas of Kenya, Finance Officer, Supply Chain Management Officer, Ag. Managing Director CIC General Insurance and a Marketer at CIC, the Managing Director CIC General Insurance and CIC General Insurance Limited be charged with the following offences;

(a) Conspiracy to commit a corruption offence contrary to section 47 a (3) as read with section 48 of Anti-Corruption and Economic Crimes Act.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(d) Two counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

The Commission has in addition instituted the recovery of public property from CIC Insurance Company.

Awaiting DPP's response.

5. EACC/PI/INQ/05/2022

Investigations into Allegations of Irregular Award of Tenders and Embezzlement of Funds by Officials of Bomas of Kenya Limited During Financial Year 2020/2021 through Splitting of Tenders/Contracts to Various Companies Amounting to KSh. 8,587,831/=

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation on 3rd November, 2021. The allegation was that Bomas of Kenya (BOK) was involved in irregular award of tender for purchase of cutlery.

Investigations established that there was no budget allocated for the purchase of cutlery and crockery during the Financial Year 2020/2021 and the board did not approve any re-allocation of funds from other votes. Further investigations also established that there were several procurement irregularities including collusion between the suppliers and procurement officials in the purchase of cutlery for all the quotations at BOK. Some of the directors of the said companies denied participating in the procurement of the cutlery at BOK despite the evidence of bid documents allegedly submitted by their companies.

Financial investigations conducted revealed that after payments were made to the suppliers, they sent money to a particular supplier who would then transfer money to some of the officials of BOK.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Finance Officer, Finance Officer, Supply Chain Management Officer, former Board Chair, Directors of Arwin Gold Limited, Director for Grasonnel Limited, Directors of Bamyoung Limited and Directors of Dysema Limited together with all the four companies with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

(b) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the anti-corruption and economic crimes act, 2003.

(c) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act No. 3 of 2003.

(d) Fraudulent practice in procurement proceeding contrary to section 66 (1) as read with section 176 (1) (i) and (2) of the Public Procurement and Asset Disposal Act of 2015.

(e) One count of forgery contrary to section 345 as read with section 349 of the Penal Code.

(f) Two counts of dealing with Suspect Property contrary To section 47(2) (A) As Read with sections 47 (1) And 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(g) Four counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Awaiting DPPs response.

6. EACC/MSA/FI/INQ/7/2023

Investigations into Allegations of Corruption, Procurement Irregularities and Embezzelement of Funds at Taita Taveta County Government during the Commemoration of World War I Celebrations that Took Place Between 24th to 27th November, 2022

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 5th April, 2022, on allegations of corruption, procurement irregularities and embezzlement of funds at Taita Taveta County Government during the commemoration of World War 1 (WW1) celebrations that took place between 24th to 27th November, 2022.

Investigations established that the Government of Taita Taveta County prepared budget estimates and a consolidated procurement plan for the Financial Year 2022/2023 and the aforesaid event was not provided for in the budget.

Investigations further established that in respect to the World War One Event the Economic advisor and the Chief Officer Finance applied for imprest to facilitate the commemoration of the event. Investigation established that the Taita Taveta County utilised Kshs. 4,048,000.00 through irregular Daily Subsistence Allowance paid to officers.

It was further established that during the process of preparation for the WWI event, the public officers engaged and or directly single sourced suppliers for various services without following the laid down procedures despite the fact that the County Government had a repository of registered suppliers and service providers for the financial year 2022/2024. The suppliers that were engaged directly included Kazi Ngoma Orchestra band, Elbon Agencies, Banane North Explorer's Limited, Voi Wildlife Lodge, Kididi FM a commercial radio station, Tree Top Eatery, Pen and Paper Solutions, Gracious Tents and Sounds and Alconsup Solution Limited.

Investigations established that the receipts that were attached to the surrender documents were forgeries and were not actually issued by the purported entities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Economic Advisor to the Governor, County Secretary, County Chief Officer in charge of Trade, Tourism and Co-operatives Development with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Engaging in a project without prior planning contrary to section 45 (2) (*c*) as read together with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, 2003

(c) Six counts of uttering false documents contrary to section 353 of the Penal Code Cap 63 laws of Kenya

(d) Willful failure to comply with the applicable procedures and guidelines relating to incurring of expenditures contrary to section 45 (2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003

On 5th February, 2024, the DPP returned the inquiry file with recommendations for further investigations.

7. EACC/MSA/FI/INQ/13/2022

Investigations into Allegations of Corruption and Misappropriation of Public Funds at Taita Taveta County Assembly as a Result of Imprest Advanced to the Speaker of the County Assembly, Clerk Twenty One Members of the County Assembly and Four Other Officers for Traveling to Zanzibar for a Bonding Trip in the Financial Year 2022/2023

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 28th November, 2022 on allegation of embezzlement of public funds against staff of the County Assembly of Taita Taveta. It is alleged that the Speaker, Clerk, twenty-one (21) Members of the County Assembly (MCAs) and four (4) other officers incurred an expenditure of around Kenya Shillings Seven (7) million without following proper guidelines with regard to the edicts of the law on Public Finance at a bonding tour to Marijani Hotel in Zanzibar in November 2022 within the Financial Year 2022/2023.

Investigations established that members of the Liaison Committee and public officials of Taita Taveta County Assembly traveled to Zanzibar on an education tour. However, some delegates were paid excess per diem allowances which they were not entitled because accommodation had been provided while others were paid yet they had not travelled for various reasons.

The procurement process was not properly followed in regard to sourcing of the service provider being the World Scout Parliamentary Union (WSPUK) who would offer the catering and training facilities for the delegates. WSPUK was single sourced and directly engaged for the educational trip to Zanzibar. Investigation established that the procurement threshold was way above KSh. 500,000/= and therefore it ought to have been reported to the Public Procurement Regulatory Authority by the Accounting Officer.

Investigation further established that the Clerk of Taita Taveta County Assembly, authorised payment voucher for full daily subsistence allowance to the delegates whilst knowing that the delegates were not entitled to full daily subsistence allowance since their accommodation had been catered for.

The investigation established that the Taita Taveta County Assembly had lost KSh. 6,181,433.00 through irregular DSA paid to officers. The said County Assembly initiated recoveries from the beneficiaries by deducting their salaries and some made cash deposits to Taita Taveta County Assembly Bank Account amounting to KSh. 2,215,550.60. The outstanding amount yet to be recovered is KSh. 3,943,033.98

It was further established that the Accounting Officer during imprest surrender attached false travel clearance letters for delegates who had not travelled for various personal reasons. He further fraudulently authorised surrender of payment voucher of KSh. 8,037,599 purporting to have been fully accounted for yet it was not sufficiently supported by surrender documents.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Clerk/Accounting Officer and the Deputy Speaker of Taita Taveta County Assembly with the following offences;

(a) Three counts of Abuse of office contrary to section 46 as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering false documents contrary to section 353 of the Penal Code, Cap. 63 Laws of Kenya

(c) False accounting by a public officer contrary to section 331 (1) and (2) of the Penal Code, Cap. 63 Laws of Kenya

(d) Wilful failure to comply with the law applicable, regulations and guidelines relating to procurement, contrary to section 45 (2) (b) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Financial misconduct contrary to section 197(1) (i) as read with section 199 of the Public Finance Management Act, No. 18 of 2012.

On 1st February, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

8. EACC/MSA/FI/INQ/4/2017

Investigations into Allegations of Procurement Irregularities in the Purchase of Stone Cutting Machines by Coast Development Authority (CDA) from Endebes Development Company (EDC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report dated 22nd March, 2017 that Coast Development Authority (CDA) had purchased stone cutting machines from Endebes Development Company (EDC) without following procurement procedures.

Investigations established that CDA leased coral block cutting equipment and vehicles from EDC without following the public procurement laws and procedures i.e use of direct method instead of open tender method as required under the PPDR 2006.

Furthermore, there were no bid documents received from any bidder hence no procurement process was conducted hence the procurement process was a fraud.

EDC offered to sell the said machines to CDA at a cost of KSh. 62,000,000/=. On 10th July, 2012, CDA and EDC entered into a lease agreement for the machines. The lease was signed by the Managing Director on behalf of CDA. EDC received a total sum of KSh. 28,794,834.00 from CDA for the lease of coral block cutting machines. It was established that the lease agreements were entered into illegally and therefore payments made to EDC by CDA were

unlawful. It was revealed that the Director and beneficial owner of EDC is a bank signatory in the company and he had appointed the Managing Director CDA while he was the Minister for Regional Development Authorities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Managing Director, the Director of the company and Endebes Development Company Limited with the following offences;

(a) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Entering into an obligation that has financial implication contrary to section 196 (3) as read with section (196) (6) of the Public Finance Management Act, 2012.

(d) Unlawful acquisition of public property contrary to section 45 (1) *(a)* as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

Awaiting DPP's response.

9. EACC/MSA/FI/INQ/17/2017

Investigations into Allegations of Irregular Procurement for Extension of Bura Water Supply by Coast Water Services Board (CWSb) at a Cost of KSh. 52,020,061/= in the Financial 2017/2018

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an anonymous complaint that the Coast Water Services Board (the Board) flouted the procurement law during the procurement process in the tender CWSB/TR-EQ/W/6A/2017 for extension of Bura Water Supply (the Project). This project had been sanctioned by the Ministry of Water and Irrigation (the Ministry) and was being funded from the Equalisation Fund (the Fund).

Investigations established that the Board advertised the subject procurement on 27th June, 2017 attracting 28 bidders. Further investigations established that the Board failed to subject all the tenders to both technical and financial evaluation contrary to section 80 of the Public Procurement and Disposal Act, 2015. The contract was irregularly awarded to Misriya Company Limited.

It was further established that the Director for Misriya Company limited had made false documents being motor vehicle registration documents and submitted the same to the Coast Water Services Board.

Investigations established that the Head of Procurement at CWSB prepared misleading professional opinion hence did not offer expert advised as was required of him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Evaluation Committee, the Head of Procurement and the Director of the Misriya Company Limited together with the company with the following offences;

(a) Wilful failure to comply with the procurement law contrary to section 45 (2) *(b)* as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Fraudulent procurement practice contrary to section 66 (1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

(c) Forgery contrary to section 345 as read with section 349 of the Penal Code.

(d) Uttering a false document contrary to section 353 of the Penal Code.

(e) Knowingly misleading a person carrying out a duty contrary to section 176 (1) *(b)* as read with section 176 (2) of the Public Procurement and Asset Disposal Act, 2015.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

10. EACC/FI/INQ/20/2021

Inquiry into Allegations of Embezzlement/Missapropriation of Public Funds Amounting to KSh. 45,610,187/= by Turkana County Assembly Through Tendering and Construction of Turkana County Assembly Speaker's Residence at Kanamkemer Ward

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on allegation that public funds which were meant for construction of the speaker's residence at Kanamkemer within Turkana County amounting to KSh. 45,610,187/= was misappropriated by the public officer's employed at Turkana County.

Investigations revealed that eight companies submitted their bids for the tender. The tender was irregularly awarded to Ekoriagete Enterprises Limited and the contract was executed by the County Assembly Clerk.

Further, it was established that one of the directors of the said company is an employee of the County Government of Turkana. The work done was valued at KSh. 19,494,994.99 as compared to payments made to the contractor totaling to KSh. 54,392,735.87. There was an overpayment of KSh. 34,897,740.88.

Investigations revealed that the said company was not registered with the National Construction Authority for the period between the years 2013 to 2018. The NCA certificates submitted by Ekoriagete Enterprises Limited as part of the requirement were forgeries.

Furthermore, financial investigations conducted revealed that payments were made to the company' account. The account was established to be operated by one of the county officials who is a director in the company. Upon receipt of the funds, the county official withdrew KSh. 18,495,500/= between August and September 2018 in a clear case of conflict of interest.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Deputy Clerk of Turkana County Assembly, the Clerk, the County Works Officer and the Director of the Ekoriagete Enterprises Limited with the following offences;

(a) One count of conspiracy to commit an offence of economic crime contrary to Section 47A (3) all as read with Section 48 of ACECA.

(b) One count of fraudulent acquisition of public property contrary to section 45 (1) *(a)* as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of abuse of office contrary to section 46 as read with section 48(1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

(d) One count of fraudulently making payments from public revenues for services not rendered contrary to section 45(2) (iii) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(e) One count of fraudulent procurement practice contrary to section 66(1) and (2) as read with section 177 of the Public Procurement and Disposal Act, 2015.

(f) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(g) One count of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

On 19th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

11. EACC/NKR/INQ/FI/101/2017

Inquiry into the Allegations of Misappropriation of Public Funds And Procurement Irregularities in the Rehabilitation And Construction of Salgaa-Elburgon Road By The County Government of Nakuru At the Cost of KSh. 10,000,000/= in the Financial Year 2015/2016

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th January, 2017 on allegations that the County Government of Nakuru had misappropriated KSh. 10,000,000/= in the rehabilitation and construction of Salgaa-Elburgon road.

Investigations established that the County Government of Nakuru had planned for the construction and rehabilitation of Salga-Elburgon Road as per the roads work plan at KSh. 8,084,300/= during the financial year 2015/2016. It was established that the technical evaluation was not conducted as required by regulation 16(4) of the Public Procurement and Disposal Regulations 2013. The procurement process was therefore flawed. The award was issued to Gee El Construction Works Limited and was paid for KSh. 6,508,478.53.

It was further established that the said company was not registered with the National Construction Authority and that the certificate provided by the company was a forgery.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Tender Evaluation Committee members, the Supply Chain Management Officer, the Chief Officer for Department of Roads and Public Works and the Directors of Gee El Construction Works Limited with the following offences;

(a) One count of Fraudulent practice in the procurement proceedings contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act, 2015.

(b) One count of Fraudulent acquisition of public property contrary to section 45(1) (*a*) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45(2) (*b*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and

(d) One count of Abuse of office contrary to section 45(2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

12. EACC/MSA/FI/INQ/04/2021 (C)

Inquiry into Allegations of Conflict of Interest and Procurment Irregularities Involving the Head of Treasury at The Kwale County Government Who is Alleged to own a Company Known as Chilongola Holdings Limited, which has Been Trading with the County Government of Kwale

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 4th February, 2021 alleging conflict of interest against the Head of Treasury, Kwale County Government who was alleged to own two companies namely; Rome Investment Limited and Chilongola Limited Companies which transacted and received KSh. 9,000,000/= from the said institution during the Financial Year 2017/18 and 2018/2019.

Investigations established that the companies were awarded ten tenders to supply and deliver sanitation materials, food and ration, general office supplies, and institutional appliances. It was further established that the procurement process undertaken was flawed. Rome investment and Chilongola Limited entered into a contract with the County Government of Kwale through Local Purchase Orders for the 10 tenders despite the procurement process having been flawed.

It was established that the tender documents including purchase requisition forms, minutes of the Tender Opening Committee, letters of appointment of inspection and acceptance committee and inspection and acceptance minutes relating to the said tenders were forgeries and the same were presented at the Kwale County Government by the Accountant and the Hospital Administrator. Further investigations established that Rome Investments and Chilongola Limited were paid a sum of KSh 44,919,341 and KSh. 4,007,943, respectively.

Further investigations disclosed that the Head of Treasury at the county was the Director at Chilongola Holdings together with his brothers who were directors for Rome Investments (k) Limited. The Head of Treasury was a mandatory signatory of the said companies bank accounts held at KCB Kwale Branch.

Financial investigations revealed that the Head of Treasury was a beneficial owner of the two companies, by virtue of the withdrawals he made. The total amount received by the two companies was KSh. 44,919,341 and the same distributed to the directors of the companies.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the Head of Treasury and a Director of Chilogola Holdings Limited and Rome Investment Limited, an Accountant and Hospital Administrator of the Kwale County Government be charged as follows:

(a) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(c) Deceiving principal contrary to section 412) as read with as read with section 48(1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(d) Fraudulent practise in procurement contrary to section 66 as read with section 177 of the Public Procurement and Asset Disposal Act, 2015

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

13. EACC/BGM/PI/INQ/09/2020

Investigation into Allegations of Procurement Irregularities and Conflict of Interest in the Procurement of A Double Cabin Pick-Up and a 33 Isuzu Bus Seater by the County Assembly of Bungoma in the Financial Year 2018/2019

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on allegations of procurement irregularities in in tender number CA/BGM/PUR/205/2019-2020 for the supply of a double cabin pick-up and a 33 Isuzu bus seater by the County Assembly of Bungoma during the Financial Year 2018/2019. It was further alleged that the Accounting Officer of the County Assembly had participated in the procurement amounting to Conflict of interest.

It was established that seven bidders participated in the procurement process. The Evaluation Committee conducted the evaluation exercise and recommended Westfield Motors Limited for the award for both the bus and double cabin. However, after a professional opinion was submitted with the foregoing recommendations, the clerk disregarded the opinion and went ahead to establish a different three-member committee to conduct another evaluation which was irregular since the substantive evaluation committee had not been disbanded.

It was further established that the Procurement Officer and the Clerk of the County Assembly prepared and approved a professional opinion which was misleading. The Accounting Officer executed the contract and authorised payments of KSh. 5,870,000/= and KSh. 4,980,000/= to be made in full to Westfield Motors Limited and Kenyan Coach Industries Limited respectively while knowing that the vehicles had not been supplied.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Accounting Officer and the Head of Procurement with the following offences;

(a) Three counts of wilful failure to comply with applicable procedures and guidelines relating to procurement of services contrary to section 45 (2) (*b*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

14. EACC/EL/INQ/29(ii)/2022

Inquiry into Allegation that an Employee Falsified Academic Certificates To Secure Employment at Rural Electrification And Renewable Energy Corporation (REREC) as a Supply Chain Management Assistant

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received that the officer used a forged Bachelor's degree in purchasing and supplies Chain Management from Jomo Kenyatta University of Agriculture and Technology to gain employment at REREC as a Supply Chain Management Assistant (Procurement and Disposal).

Investigations established that the Supply Chain Management Assistant forged a Bachelor's degree certificate No. 3701 in purchasing and supplies from Jomo Kenyatta University and Technology. He uttered the certificate while making application to be employed in the position of Supply Chain Management Assistant as captured from his employment records. Investigations revealed that he also submitted fake transcripts to REREC.

It was established that he had irregularly been paid a net salary amounting to KSh. 311,974.45 since the April, 2022 to July, 2022.

On 17th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the aforesaid suspect with the following counts;

(a) One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act.

(b) Five counts of forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Five counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 19th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

15. EACC/EL/INQ/29(v) /2022

Inquiry into Allegations That an Employee used Forged Academic Documents to Secure Employment at Rural Electrification and Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint on 2nd August, 2022 that the employee used forged academic documents to apply for the position of a driver at REREC.

Investigations established that the said driver made an application following an advertisement in the local dailies on 1st December, 2020. In his application he attached several documents including, a Kenya Secondary school certificate No. 2386658 from Kimuri High School issued in the year 2008.

Investigations further established that the KCSE certificate was forged, having been subjected to authentication by the Kenya National Education Council (KNEC). He had worked with REREC from 1st April, 2022 to July, 2022 and irregularly earned a net salary of KSh. 293,240.94

On 17th October, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the suspect being a driver at REREC with the following offences;

(a) Fraudulent acquisition Contrary to section 45 (1) (*a*) all as read with section 48 of ACECA,

(b) Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 2nd January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

16. EACC/EL/INQ/29(iii)/2022

Inquiry into Allegations that an Employee used Forged Academic Documents To Get Employment at Rural Electrification And Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 2nd August, 2022 on allegations that the employee used forged academic documents to apply for the position of Supply Chain Management Assistant (Inventory and Logistics) at REREC.

It was established that the REREC advertised for various positions in the daily nation dated 1st December, 2020. One of the positions advertised was that of Supply Chain Management Assistant (Inventory and logistics). She applied for the position and in her application; she indicated that she holds a Diploma in Business Information Technology from Kenya Methodist University awarded in the year 2014

Investigations established that she did not study at the said institution and the Diploma certificate in question was therefore a forged document. It was further established that she had been working at REREC from 1st April, 2022 to 14th July, 2022. She illegally gained from the institution a net salary of KSh. 293,457.07 considering that she was not qualified for the position.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act 2003.

(b) One count of Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) One count of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Two counts of Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

17. EACC/ISL/EL/INQ/2/2020

Inquiry Into Allegations that the Ward Administrator for Marsabit Central Used Forged Academic Documents to get Employment

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received with allegations that the Ward Administrator for Marsabit Central had allegedly used forged Kenya Certificate of Secondary Education Certificate (KCSE) and diploma certificate to gain employment in Marsabit County.

Investigations established that the suspect applied for employment opportunity at the Marsabit County Government in the year 2018. He submitted his curriculum vitae, which indicated that he had a Diploma in Community Development and Social Work.

Investigations revealed that the Ward Administrator also applied for the position of Civic Education Officer and attached a KCSE Certificate serial No. 2023397 from Marsabit Secondary School. He further submitted a KNEC Certificate serial No. BTEP/D004270 for diploma in Community Development and Social work. The suspect was appointed as a Public Participation and Civic Education Officer from 28th January, 2019.

Investigations further revealed that the positions in which he was appointed into had not been advertised and therefore the appointments were irregular.

Further investigation revealed that the suspect had altered the grades in the KCSE certificate that he submitted to the Marsabit County Government and the Diploma in Community and Social Development were forgeries. It was further established that the Ward Administrator had earned a net salary from April, 2019 to September, 2023 amounting to KSh. 1,954,324.15

On 27th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Ward Administrator with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of ACECA.

(b) One count of Deceiving principal contrary to section 412) as read with as read with section 48(1) of ACECA.

(c) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(d) Two counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

18. EACC/MSA/FI/INQ/13/2023

Inquiry into Allegations Joskat Construction Company did not Follow the Bills of Quantities when Performing Contracts for Likoni CDF in erecting the Perimeter wall for Timbwani Secondary School in the Financial Year 2021-2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a contractor was not following the bill of quantities when performing contracts for Likoni NG-CDF project for erecting the 400-meter perimeter wall for Timbwani Secondary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Timbwani secondary School were followed from the initiation of the tender process until the award of contract. The contract was awarded to Joskat Construction Company Limited at a cost of KSh.. 6,394,807/=. The Project Management Committee confirmed that the progress was good and that the work was being done as per the specifications. The company completed the said construction as per the contract and as a result, payments were made to the contractor. The project has been completed but was yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

19. EACC/MSA/FI/INQ/11/2022

Inquiry into Allegations that a Company Called Sallysam Limited did not Follow The Bills of Quantities when Erecting the Perimeter Wall for Mrima Primary School in Likoni Consituency during the Financial Year 2021/2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a company namely Sallysam Ltd was not following the bill of quantities when performing contracts for Likoni NG-CDF project for construction of classes for Mrima Primary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Mrima Primary School were followed from the initiation of the tender process until the award of contract to Sallysam Limited. The construction was also completed as per the contract and as a result, payments were made to the contractor. The project has been completed and yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

20. EACC/MSA/FI/INQ/14/2023

Inquiry into Allegations that a Company Called Sallysam Enterprises did not follow the Bills of Quantities When Erecting The Perimeter Wall For Mtongwe Girls Secondary School in Likoni Constituency during The Financial Year 2021/2022

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 26th September, 2022 that a company called Sallysam Limited was not following the bill of quantities when performing contracts for Likoni NG-CDF project of erecting the perimeter wall for Mtongwe girls Secondary school during the Financial Year 2021/2022.

Investigations established that the NG-CDF Board approved a code of projects including Mtongwe Girls Secondary School with an allocated amount of KSh. 5,985,075/=. The procurement entity was Likoni Constituency Development Fund. Three companies submitted their bids and a final award issued to Sallysam Enterprises Limited. The contract was executed on 3rd May, 2022. The works were executed by the said company and it was noted that the project was going on well as per the specifications of the Bill of quantities. Investigations did not reveal any procurement irregularities in the subject project.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed with no further action.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

21. EACC/KSI/OPS/INQ/3/2022

Inquiry into Allegations of Corruption against a Court Assistant Working for the Judiciary at Migori Law Courts

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 11th April, 2022 that a Court Assistant had approached him and that he could assist him to get a favourable judgment from the Magistrate handling the criminal matter at a court in Migori. He was required to give KSh. 100,000/=.

Investigations established that there was a criminal matter at Migori Law Courts where the complainant was the accused and was coming up for judgment. The Court Assistant requested for KSh. 100,000/= in order to assist the complainant to get a favourable judgment. The Commission established that the Court Assistant had demanded and received a bribe of KSh. 20,000/= which was recovered from him upon arrest.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations that the Court Assistant be charged with two counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 (1) and (2) of the Bribery Act, 2016.

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

22. EACC/OPS/INQ/20/2023

Inquiry into Bribery Allegation of Corrupt Conduct Against a Kenya Revenue Authority Officer

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 14th March, 2023 alleging that a Waiver Processing Officer at the Kenya Revenue Authority was demanding for a benefit of KSh. 50,000/= in order to write off accrued erroneous value added tax penalty amounting to KSh. 410,000/=.

Investigations established that the Waiver Processing Officer worked at the KRA and had requested and received KSh. 40,000/= as a financial benefit.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Waiver Processing Officer at KRA with three counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 of the Bribery Act No. 47 of 2016

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

23. EACC/MCKS/OPS/INQ/2/2021

Inquiry into Allegations that the Head Teacher at Unoa Primary School was Charging Illegal Levies as Fees in Violation of Guidelines by the Ministry of Education on Free Primary Education (FPE)

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received on 14th January, 2020 that the Head teacher at Unoa Primary School was charging illegal levies as fees in violation of guidelines by the Ministry of Education on free primary education.

Investigations further established that the head teacher had been charging illegal fees in form of development fees of Kshs. 5,000/=, harambee fee of KSh. 1,000/=, Fencing fee of KSh. 1000/= and feeding programme fee of KSh. 1850/= plus other motivation and activity fee totalling to KSh. 10,000/=.

Financial Investigations established that the head teacher owned a private enterprise namely AGPHILY Enterprise that was trading with the school wherein he was the head.

Further investigations established that the head teacher purported to have made supplies to the school and he had signed a cheque of KSh. 183,500/= in his favour. The cheque was not honoured at the bank since no supporting document was provided to the bank.

On 9th November, 2023, a report was compiled and forwarded to the DPP with the recommendations to charge the head teacher, Unoa Primary school with the following offences;

(a) Conflict of interest contrary to section 42 (3) as read with Section 48 of the ACECA, 2003.

(b) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

24. EACC/OPS/INQ/36/2023

An Inquiry into Allegations of Corrupt Conduct against a Nairobi City County Revenue Officer Based at City Hall.

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received a report dated 18th May, 2023 alleging that a Nairobi City County Revenue Officer based at City Hall was demanding for a bribe of KSh. 20,000/= from him in order to write off cess arrears amounting to KSh. 47,0000/= accrued by his lorry.

Investigations established that on 27th April, 2023 the County Official informed owner of lorry that he had cess arrears of Kshs. 47,000/= . The suspect reduced the amount to KSh. 20,000/= and required the owner of the lorry to pay KSh. 10,000/= through paybill number and was given KSh. 10,000/= in cash. On a later date, the lorry owner was informed that he had cess arrears of KSh. 14,000/=.

The Commission established that he was employed as an Administrative Officer III at the Nairobi City County Government. The county official requested and received KSh. 10,000/= in order to facilitate write-off cess arrears accrued by his lorry owed to Nairobi City County Government.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Administrative Officer at Nairobi City County Government be charged with three counts of receiving a bribe contrary to section 6 (1) *(a)* as read with section 18 of the bribery Act No. 47 of 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

25. EACC/MCKS/OPS/INQ/54B/2018

An Inquiry into Allegations of Obstruction against a Suspect In ACC 636/2020 - Republic Vs. Eldah Konzolo

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 11th April, 2021 on allegations that an accused person in Anti-corruption case no. ACC 636/2020 – R vs. Eldah Konzolo had offered KSh. 17,000/= to a witness in order to change his testimony in the stated matter which was pending trial before Mavoko law courts.

Investigations established that the suspect had compromised the witness in the said matter and indeed sent KSh. 17,000/= through Mpesa to a proxy to avoid any direct link. The money was intended to persuade the witness to change his testimony in court. It was established that the said amount was sent to one of his colleague. Investigations also established that the conduct of the accused amounted to interference with a witness with an aim to obstruct justice.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the suspect, with the following offences;

(a) One count of giving a bribe contrary to section 5 of the Bribery Act, 2016.

(b) One count of interfering with witnesses contrary to section 117 (1) of the Penal Code Cap 63.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

26. EACC/OPS/INQ/44/2023

Inquiry into Allegations of Bribery against a Member of County Assembly, Hospital Ward, Kiambu County.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 24th May, 2023 to the effect that a Member of County Assembly, Hospital Ward, Kiambu County was requesting for a financial advantage of KSh. 130,000/- as an inducement to allow her proceed with the intended development activities on Parcel No. Thika Municipality Block 11/377.

Investigations established that county official requested that he be given a portion of land and Kshs. 200,000/= so that he could disregard an alleged Petition by members of the public against any development on the subject plot. They negotiated the amount downwards to KSh. 100,000/=.

It was established that the suspect is Public Officer by virtue of him being a Member of County Assembly (MCA), Kiambu County. He was acting in his official capacity as MCA and Chairperson of the Development Committee of the Assembly when he requested for the benefit.

The Commission established that the county official requested for a bribe of KSh. 130,000/= intending that, in consequence, the owner of the plot proceeds with her intended development on Parcel No. Thika Municipality Block 11/377.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge him with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

27. EACC/BGM/OPS/INQ/8/2021

Investigation into Allegations of Bribery against a Police Officer Attached to Kakamega Central Police Station.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th December,2021 with allegations that a Police Officer attached to the DCI Kakamega Central Police Station at Kakamega County, had requested for a financial advantage of KSh. 100,000/= to give to a Magistrate stationed at Kakamega Law Courts in order to influence the outcome of an inquest proceeding at the Kakamega Magistrates Court.

Investigations established that there was an inquest under Inquest No. 3 of 2020. The inquest proceedings had concluded and pending the verdict of the Principal Magistrate. The Police Officer who was at the time the investigating officer requested for a benefit in order to compromise the said magistrate to rule in favour of the deceased.

Investigations further established that the police officer was employed at the Ministry of Interior and Co-ordination of National Government (Administration Police). The Commission established that the police officer received the bribe of KSh. 40,000/= which was recovered from him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the police officer be charged with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Total No. of files forwarded to the Director of Public Prosecutions	27
No. of files recommended for prosecution	24
No. of files recommended for administrative or other action	0
No. of files recommended for closure	3
No. of files recommended for prosecution and the cases are already lodged before Court	-
No. of files where recommendation to prosecute accepted	7
No. of files where recommendation for administrative or other action accepted	-
No. of files where recommendation for closure accepted	3
No. of files returned for further investigations	14
No. of files where recommendation to prosecute not accepted	-
No. of files where recommendation for administrative or other action not accepted	-
No. of files where closure not accepted	-

No. of files where prosecution declined but administrative action recommended	-
No. of files awaiting the DPP's advice	3

Dated the 13th February, 2024.

DAVID OGINDE,
Chairperson.

TWALIB MBARAK,
Secretary/Chief Executive Officer.

PTG 1703/23-24

GAZETTE NOTICE NO. 2090

THE KENYA INFORMATION AND COMMUNICATIONS ACT

(*No.* 2 *of* 1998)

APPLICATION FOR LICENCES

NOTICE is given that the following applicants have, pursuant to the provisions of the Kenya Information and Communications Act, 1998, made applications to the Communications Authority of Kenya for grant of the licences as shown in the Table below:

Name	*Station Identity*	*Licence Category*
Darwy Afrik Photography and Safaris Limited, P.O. Box 5572–0100, Eldoret	Assis FM	Commercial Free to Air Radio Licence
Alhaajar Investment Limited, P.O. Box 98558–80100, Mombasa	Alhaajar TV	Commercial Free to Air Television Licence
AIPCA Bahati TV and Radio Limited, P.O. Box 73053–00200, Nairobi	AIPCA Bahati TV	Commercial Free to Air Television Licence
Way of Truth Media Limited, P.O. Box 3556–00200, Nairobi	Truth Wave TV	Commercial Free to Air Television Licence
Nifty Works Plus Limited, P.O. Box 21933–00505, Nairobi	NWPLUS TV	Subscription Broadcasting Service Licence
University of Eastern Africa Baraton, P.O. Box 2500–30100, Eldoret	Baraton FM	Community Free to Air Radio Licence
Go Shipping Cargo Agency Limited, P.O. Box 4689–00100, Nairobi		International Postal/ Courier Operator Licence
Samina Senders and Logistics Limited, P.O. Box 90231–80100, Mombasa		National Postal/ Courier Operator Licence
Prime Time Meru Travellers Company, P.O. Box 415–60200, Meru		National Postal/ Courier Operator Licence
Iyanat Business Solutions, P.O. Box 30068–00100, Nairobi		National Postal/ Courier Operator Licence
Samper Cabs Limited, P.O. Box 12862–00100, Nairobi		National Postal/ Courier Operator Licence
Wekkitech Limited, P.O. Box 536–20100, Nakuru		Network Facilities Provider Tier 3 (NPF-T3)
DXA Technologies Limited, P.O. Box 79450–00200, Nairobi		Network Facilities Provider Tier 2 (NPF-T2)

The licences, if granted, will enable the applicants to operate and provide the services as indicated in the Table above. The grant of these licences may affect the public and local authorities, companies, persons or bodies of persons within the country.

The Authority wishes to notify the general public that any legal or natural person, or group of individuals, who are desirous of making any representation and/or any objection to the said applications, to do so *vide* a letter addressed to: The Director-General, Communications Authority of Kenya, CA Centre, Waiyaki Way, P.O. Box 14448–00800, Nairobi, indicating the licence category on the cover enclosing it.

The said representation and/or objection must be filed on or before expiry of thirty (30) days from the date of publication of this notice and a copy of the same be forwarded to the applicants.

Dated the 13th February, 2024.

DAVID MUGONYI,
Director-General.

PTG 1685/23-24

GAZETTE NOTICE NO. 2091

THE WATER ACT, 2016

(*Sections* 70, 85, 87 *and* 139)

PUBLIC CONSULTATION MEETING ON LICENCING OF WATER SERVICE PROVIDER

THE Water Services Regulatory Board (WASREB) has received licence application from Nyeri Water and Sanitation Company Limited to provide water services within Nyeri County.

The licence application has been made pursuant to the Water Act 2016 (section 85(1)- "A person shall not provide water services except under a licence issued by the Regulatory Board, upon submission of an application and such supporting documents as the Board may require".

Therefore, in compliance to WASREB principal object under the Water Act, 2016 section 70 (1)–"protection of the interests and rights of consumers in the provision of water services", section 87(1)- "An application for a licence shall be subject to public participation" read together with the provision of section 139, we wish to advise that the public consultation meeting shall be held at the venue stated below to get stakeholders concerns on services provided, licencing conditions and proposals for services improvement going forward.

Please note that the Water Service Provider shall hold hybrid public consultation meeting (physical and virtual) as outlined below.

Water Service Provider	*County*	*Venue*		*Day Date and Time*
Nyeri Water and Sanitation Company	Nyeri	Physical meeting:	Wangari Mathai Hall, Nyeri Town	Tuesday, 5th March, 2024 10.00 a.m.
		Virtual meeting:	WSP to provide links	

Participants should be seated by 10.00 a.m. Personal identification of participants will be required. Members of the public in respective areas are invited to make oral and written submissions and ask any questions that may relate to the provision of water services in their areas.

Comments on the application shall be emailed to info@wasreb.go.ke or send in hard copy to:

The Chief Executive Officer,
Water Services Regulatory Board,
5th Floor NHIF Building,
Ngong Road,
P.O. Box 41621–00100,
Nairobi.

The closing date for receipt of comments is thirty (30) days after the publication of this notice.

Dated the 6th February, 2024.

JULIUS ITUNGA,
Ag. Chief Executive Officer,
Water Services Regulatory Board.

MR/6198975

HD/27

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, CAROLYNE KIANGECI, an adult of sound mind, disposition and a citizen of Kenya presently resident in NAIROBI hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
    3) **ADEN BARRE DUALE**
    4) **ROSELINDA SOIPAN TUIYA**
    5) **DAVIS CHIRCHIR**
    6) **SALIM MVURYA MGALA**
    7) **REBECCA KIANO**
    8) **ONESIMUS KIPCHUMBA MURKOMEN**
    9) **ALFRED NGANGA MUTUA**
    10) **JUSTIN BEDAN NJOKA MUTURI**
    11) **JOHN MBADI NG'ONGO**
    12) **JAMES OPIYO WANDAYI**
    13) **HASSAN ALI JOHO, AND**
    14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The first ten persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the first ten persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the first ten persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the **first ten** persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a** and **b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2** and **3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a** and **b), 152(1** and **2)** and **156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last **four** named persons are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party.

27. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between **2013 – 2022**. Both stood as and were elected as members of **ODM** political party.

28. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in **AUGUST 2022** as the candidates for **ODM** party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

29. The Constitution, including under **Articles 4(2), 10(2), 90, 91** and **108**, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

30. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION**. **RAILA AMOLO ODINGA,** the leader of **ODM,** was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of UGUNJA.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page 669 and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA,** former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, CAROLYNE WANGECI,
ON THIS 30th **DAY OF JULY, 2024,** AT NAIROBI, **IN THE**
PRESENCE OF _____, **COMMISSIONER OF OATHS.**

NICOLE WAMBUI GITHIRI
ADVOCATE
COMMISSIONER
FOR OATHS
P.O. Box 38410 - 00100, NAIROBI

DRAWN AND SUBMITTED BY:

CAROLYNE WANGECI

Contact address for the purpose of this statement:

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke



REPUBLIC OF KENYA

This is the exhibit marked"
reffered to in the annexed affidavit declaration
of CAROLYNE WANGECI
sworn declared before me this 20th
day of JULY 2024
Commissioner For Oaths

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

SPECIAL ISSUE

This is the exhibit marked"..."
reffered to in the annexed affidavit declaration
of CAROLYNE WANGECI
sworn declared before me this 30th
day of JULY 2024

Commissioner For Oaths

THE KENYA GAZETTE

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

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1. Along Kenyatta Avenue
   (a) KCB Bank parking lot;
   (b) Khetias Supermarket parking lot;
   (c) Bank of Baroda parking lot;
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot; and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

DANIEL MUSITA,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT

(*No.* 17 *of* 2012)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (*c*) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (*d*) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot;
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot;
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot;
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot – Junction to Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Ekero – Sabatia Road.

Dated the 9th February, 2024.

AGGREY MUSINDALO,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (*d*) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.

(h) Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliant with section 41 (3) (*a*) of the PPDA, 2015 and Regulation 22 (1) (*c*) of the PPDR, 2020.

(ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.

(iii) Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 (*a*) (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (I) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularies at the Embakasi North Constituency Amounting to KSh. 51,351,357/=.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on 21st August, 2021 on allegations of procurement irregularities and embezzlement of public funds amounting to KSh. 51,351,357 at the Embakasi North Constituency. It was further alleged that the Member of Parliament for Embakasi North Constituency used his office to award tenders to his children and close associates. The tenders were allegedly for construction of classrooms, event hosting and roadworks within Embakasi North Constituency.

Investigations established that the said constituency awarded various tenders to four companies associated with the daughter of the Member of Parliament for the constituency.

Financial investigations revealed that several payments were made to the companies for various projects allegedly undertaken with the Embakasi Constituency.

Investigations revealed that the said Member of Parliament received a total of KSh. 10,482,298/= either directly or indirectly from the companies associated with the daughter and other close associates. The MP is a signatory to bank account in one of the companies namely Ndakaini Hardware and Property Agencies.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Member of Parliament, the Fund Account Manager and directors of the four companies namely Ndakaini Enterprises Limited, Allica Investment Limited, Pride Wind Africa Limited and Ndakaini Hardware with the following offences;

(a) Two counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(b) Five counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) One count of abuse of office contrary to section 46 as read with section 48 (1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 6th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

4. EACC/PI/INQ/24/2021

Inquiry into Allegations of Irregular Tender Award and Embezzlement of Funds by Officers of Bomas of Kenya in the Award of General Insurance Cover for Financial Years 2020–2021 and 2021–2022 to CIC General Insurance Limited

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation that the Bomas of Kenya (BoK) had irregularly awarded the general property and work injury insurance cover tender to CIC General Insurance Limited during the financial year 2020-2021. Evidence obtained indicates that the tender was awarded to CIC.

Investigations established that BOK violated section 103 of the Public Procurement and Asset Disposal Act, 2015 and illegally awarded the tender to CIC. It was further established that since the tender for FY 2020-2021 was irregularly awarded. Subsequently, the renewal clause in the FY 2020-2021 tender policies could not birth a legitimate renewal in FY 2021-2022. Furthermore, no LPO was issued for the renewed tender. CIC Insurance was illegally paid KSh.9,058,916.70 for the two financial years which payments were made out of flawed procurement process.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Chief Executive Officer for Bomas of Kenya, Finance Officer, Supply Chain Management Officer, Ag. Managing Director CIC General Insurance and a Marketer at CIC, the Managing Director CIC General Insurance and CIC General Insurance Limited be charged with the following offences;

(a) Conspiracy to commit a corruption offence contrary to section 47 a (3) as read with section 48 of Anti-Corruption and Economic Crimes Act.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(d) Two counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

The Commission has in addition instituted the recovery of public property from CIC Insurance Company.

Awaiting DPP's response.

5. EACC/PI/INQ/05/2022

Investigations into Allegations of Irregular Award of Tenders and Embezzlement of Funds by Officials of Bomas of Kenya Limited During Financial Year 2020/2021 through Splitting of Tenders/Contracts to Various Companies Amounting to KSh. 8,587,831/=

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation on 3rd November, 2021. The allegation was that Bomas of Kenya (BOK) was involved in irregular award of tender for purchase of cutlery.

Investigations established that there was no budget allocated for the purchase of cutlery and crockery during the Financial Year 2020/2021 and the board did not approve any re-allocation of funds from other votes. Further investigations also established that there were several procurement irregularities including collusion between the suppliers and procurement officials in the purchase of cutlery for all the quotations at BOK. Some of the directors of the said companies denied participating in the procurement of the cutlery at BOK despite the evidence of bid documents allegedly submitted by their companies.

Financial investigations conducted revealed that after payments were made to the suppliers, they sent money to a particular supplier who would then transfer money to some of the officials of BOK.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Finance Officer, Finance Officer, Supply Chain Management Officer, former Board Chair, Directors of Arwin Gold Limited, Director for Grasonnel Limited, Directors of Bamyoung Limited and Directors of Dysema Limited together with all the four companies with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

(b) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the anti-corruption and economic crimes act, 2003.

(c) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act No. 3 of 2003.

(d) Fraudulent practice in procurement proceeding contrary to section 66 (1) as read with section 176 (1) (i) and (2) of the Public Procurement and Asset Disposal Act of 2015.

(e) One count of forgery contrary to section 345 as read with section 349 of the Penal Code.

(f) Two counts of dealing with Suspect Property contrary To section 47(2) (A) As Read with sections 47 (1) And 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(g) Four counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Awaiting DPPs response.

6. EACC/MSA/FI/INQ/7/2023

Investigations into Allegations of Corruption, Procurement Irregularities and Embezzelement of Funds at Taita Taveta County Government during the Commemoration of World War I Celebrations that Took Place Between 24th to 27th November, 2022

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 5th April, 2022, on allegations of corruption, procurement irregularities and embezzlement of funds at Taita Taveta County Government during the commemoration of World War 1 (WW1) celebrations that took place between 24th to 27th November, 2022.

Investigations established that the Government of Taita Taveta County prepared budget estimates and a consolidated procurement plan for the Financial Year 2022/2023 and the aforesaid event was not provided for in the budget.

Investigations further established that in respect to the World War One Event the Economic advisor and the Chief Officer Finance applied for imprest to facilitate the commemoration of the event. Investigation established that the Taita Taveta County utilised Kshs. 4,048,000.00 through irregular Daily Subsistence Allowance paid to officers.

It was further established that during the process of preparation for the WWI event, the public officers engaged and or directly single sourced suppliers for various services without following the laid down procedures despite the fact that the County Government had a repository of registered suppliers and service providers for the financial year 2022/2024. The suppliers that were engaged directly included Kazi Ngoma Orchestra band, Elbon Agencies, Banane North Explorer's Limited, Voi Wildlife Lodge, Kididi FM a commercial radio station, Tree Top Eatery, Pen and Paper Solutions, Gracious Tents and Sounds and Alconsup Solution Limited.

Investigations established that the receipts that were attached to the surrender documents were forgeries and were not actually issued by the purported entities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Economic Advisor to the Governor, County Secretary, County Chief Officer in charge of Trade, Tourism and Co-operatives Development with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Engaging in a project without prior planning contrary to section 45 (2) (*c*) as read together with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, 2003

(c) Six counts of uttering false documents contrary to section 353 of the Penal Code Cap 63 laws of Kenya

(d) Willful failure to comply with the applicable procedures and guidelines relating to incurring of expenditures contrary to section 45 (2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003

On 5th February, 2024, the DPP returned the inquiry file with recommendations for further investigations.

7. EACC/MSA/FI/INQ/13/2022

Investigations into Allegations of Corruption and Misappropriation of Public Funds at Taita Taveta County Assembly as a Result of Imprest Advanced to the Speaker of the County Assembly, Clerk Twenty One Members of the County Assembly and Four Other Officers for Traveling to Zanzibar for a Bonding Trip in the Financial Year 2022/2023

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 28th November, 2022 on allegation of embezzlement of public funds against staff of the County Assembly of Taita Taveta. It is alleged that the Speaker, Clerk, twenty-one (21) Members of the County Assembly (MCAs) and four (4) other officers incurred an expenditure of around Kenya Shillings Seven (7) million without following proper guidelines with regard to the edicts of the law on Public Finance at a bonding tour to Marijani Hotel in Zanzibar in November 2022 within the Financial Year 2022/2023.

Investigations established that members of the Liaison Committee and public officials of Taita Taveta County Assembly traveled to Zanzibar on an education tour. However, some delegates were paid excess per diem allowances which they were not entitled because accommodation had been provided while others were paid yet they had not travelled for various reasons.

The procurement process was not properly followed in regard to sourcing of the service provider being the World Scout Parliamentary Union (WSPUK) who would offer the catering and training facilities for the delegates. WSPUK was single sourced and directly engaged for the educational trip to Zanzibar. Investigation established that the procurement threshold was way above KSh. 500,000/= and therefore it ought to have been reported to the Public Procurement Regulatory Authority by the Accounting Officer.

Investigation further established that the Clerk of Taita Taveta County Assembly, authorised payment voucher for full daily subsistence allowance to the delegates whilst knowing that the delegates were not entitled to full daily subsistence allowance since their accommodation had been catered for.

The investigation established that the Taita Taveta County Assembly had lost KSh. 6,181,433.00 through irregular DSA paid to officers. The said County Assembly initiated recoveries from the beneficiaries by deducting their salaries and some made cash deposits to Taita Taveta County Assembly Bank Account amounting to KSh. 2,215,550.60. The outstanding amount yet to be recovered is KSh. 3,943,033.98

It was further established that the Accounting Officer during imprest surrender attached false travel clearance letters for delegates who had not travelled for various personal reasons. He further fraudulently authorised surrender of payment voucher of KSh. 8,037,599 purporting to have been fully accounted for yet it was not sufficiently supported by surrender documents.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Clerk/Accounting Officer and the Deputy Speaker of Taita Taveta County Assembly with the following offences;

(a) Three counts of Abuse of office contrary to section 46 as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering false documents contrary to section 353 of the Penal Code, Cap. 63 Laws of Kenya

(c) False accounting by a public officer contrary to section 331 (1) and (2) of the Penal Code, Cap. 63 Laws of Kenya

(d) Wilful failure to comply with the law applicable, regulations and guidelines relating to procurement, contrary to section 45 (2) (b) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Financial misconduct contrary to section 197(1) (i) as read with section 199 of the Public Finance Management Act, No. 18 of 2012.

On 1st February, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

8. EACC/MSA/FI/INQ/4/2017

Investigations into Allegations of Procurement Irregularities in the Purchase of Stone Cutting Machines by Coast Development Authority (CDA) from Endebes Development Company (EDC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report dated 22nd March, 2017 that Coast Development Authority (CDA) had purchased stone cutting machines from Endebes Development Company (EDC) without following procurement procedures.

Investigations established that CDA leased coral block cutting equipment and vehicles from EDC without following the public procurement laws and procedures i.e use of direct method instead of open tender method as required under the PPDR 2006.

Furthermore, there were no bid documents received from any bidder hence no procurement process was conducted hence the procurement process was a fraud.

EDC offered to sell the said machines to CDA at a cost of KSh. 62,000,000/=. On 10th July, 2012, CDA and EDC entered into a lease agreement for the machines. The lease was signed by the Managing Director on behalf of CDA. EDC received a total sum of KSh. 28,794,834.00 from CDA for the lease of coral block cutting machines. It was established that the lease agreements were entered into illegally and therefore payments made to EDC by CDA were

unlawful. It was revealed that the Director and beneficial owner of EDC is a bank signatory in the company and he had appointed the Managing Director CDA while he was the Minister for Regional Development Authorities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Managing Director, the Director of the company and Endebes Development Company Limited with the following offences;

(a) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Entering into an obligation that has financial implication contrary to section 196 (3) as read with section (196) (6) of the Public Finante Management Act, 2012.

(d) Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act. No. 3 of 2003.

(e) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

Awaiting DPP's response.

9. EACC/MSA/FI/INQ/17/2017

Investigations into Allegations of Irregular Procurement for Extension of Bura Water Supply by Coast Water Services Board (CWSb) at a Cost of KSh. 52,020,061/= in the Financial 2017/2018

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an anonymous complaint that the Coast Water Services Board (the Board) flouted the procurement law during the procurement process in the tender CWSB/TR-EQ/W/6A/2017 for extension of Bura Water Supply (the Project). This project had been sanctioned by the Ministry of Water and Irrigation (the Ministry) and was being funded from the Equalisation Fund (the Fund).

Investigations established that the Board advertised the subject procurement on 27th June, 2017 attracting 28 bidders. Further investigations established that the Board failed to subject all the tenders to both technical and financial evaluation contrary to section 80 of the Public Procurement and Disposal Act, 2015. The contract was irregularly awarded to Misriya Company Limited.

It was further established that the Director for Misriya Company limited had made false documents being motor vehicle registration documents and submitted the same to the Coast Water Services Board.

Investigations established that the Head of Procurement at CWSB prepared misleading professional opinion hence did not offer expert advised as was required of him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Evaluation Committee, the Head of Procurement and the Director of the Misriya Company Limited together with the company with the following offences;

(a) Wilful failure to comply with the procurement law contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Fraudulent procurement practice contrary to section 66 (1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

(c) Forgery contrary to section 345 as read with section 349 of the Penal Code.

(d) Uttering a false document contrary to section 353 of the Penal Code.

(e) Knowingly misleading a person carrying out a duty contrary to section 176 (1) (*b*) as read with section 176 (2) of the Public Procurement and Asset Disposal Act, 2015.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

10. EACC/FI/INQ/20/2021

Inquiry into Allegations of Embezzlement/Missapropriation of Public Funds Amounting to KSh. 45,610,187/= by Turkana County Assembly Through Tendering and Construction of Turkana County Assembly Speaker's Residence at Kanamkemer Ward

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on allegation that public funds which were meant for construction of the speaker's residence at Kanamkemer within Turkana County amounting to KSh. 45,610,187/= was misappropriated by the public officer's employed at Turkana County.

Investigations revealed that eight companies submitted their bids for the tender. The tender was irregularly awarded to Ekoriagete Enterprises Limited and the contract was executed by the County Assembly Clerk.

Further, it was established that one of the directors of the said company is an employee of the County Government of Turkana. The work done was valued at KSh. 19,494,994.99 as compared to payments made to the contractor totaling to KSh. 54,392,735.87. There was an overpayment of KSh. 34,897,740.88.

Investigations revealed that the said company was not registered with the National Construction Authority for the period between the years 2013 to 2018. The NCA certificates submitted by Ekoriagete Enterprises Limited as part of the requirement were forgeries.

Furthermore, financial investigations conducted revealed that payments were made to the company' account. The account was established to be operated by one of the county officials who is a director in the company. Upon receipt of the funds, the county official withdrew KSh. 18,495,500/= between August and September 2018 in a clear case of conflict of interest.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Deputy Clerk of Turkana County Assembly, the Clerk, the County Works Officer and the Director of the Ekoriagete Enterprises Limited with the following offences;

(a) One count of conspiracy to commit an offence of economic crime contrary to Section 47A (3) all as read with Section 48 of ACECA.

(b) One count of fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of abuse of office contrary to section 46 as read with section 48(1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

(d) One count of fraudulently making payments from public revenues for services not rendered contrary to section 45(2) (iii) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(e) One count of fraudulent procurement practice contrary to section 66(1) and (2) as read with section 177 of the Public Procurement and Disposal Act, 2015.

(f) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(g) One count of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

On 19th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

11. EACC/NKR/INQ/FI/101/2017

Inquiry into the Allegations of Misappropriation of Public Funds And Procurement Irregularities in the Rehabilitation And Construction of Salgaa-Elburgon Road By The County Government of Nakuru At the Cost of KSh. 10,000,000/= in the Financial Year 2015/2016

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th January, 2017 on allegations that the County Government of Nakuru had misappropriated KSh. 10,000,000/= in the rehabilitation and construction of Salgaa-Elburgon road.

Investigations established that the County Government of Nakuru had planned for the construction and rehabilitation of Salga-Elburgon Road as per the roads work plan at KSh. 8,084,300/= during the financial year 2015/2016. It was established that the technical evaluation was not conducted as required by regulation 16(4) of the Public Procurement and Disposal Regulations 2013. The procurement process was therefore flawed. The award was issued to Gee El Construction Works Limited and was paid for KSh. 6,508,478.53.

It was further established that the said company was not registered with the National Construction Authority and that the certificate provided by the company was a forgery.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Tender Evaluation Committee members, the Supply Chain Management Officer, the Chief Officer for Department of Roads and Public Works and the Directors of Gee El Construction Works Limited with the following offences;

(a) One count of Fraudulent practice in the procurement proceedings contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act, 2015.

(b) One count of Fraudulent acquisition of public property contrary to section 45(1) (*a*) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45(2) (*b*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and

(d) One count of Abuse of office contrary to section 45(2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

12. EACC/MSA/FI/INQ/04/2021 (C)

Inquiry into Allegations of Conflict of Interest and Procurment Irregularities Involving the Head of Treasury at The Kwale County Government Who is Alleged to own a Company Known as Chilongola Holdings Limited, which has Been Trading with the County Government of Kwale

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 4th February, 2021 alleging conflict of interest against the Head of Treasury, Kwale County Government who was alleged to own two companies namely; Rome Investment Limited and Chilongola Limited Companies which transacted and received KSh. 9,000,000/= from the said institution during the Financial Year 2017/18 and 2018/2019.

Investigations established that the companies were awarded ten tenders to supply and deliver sanitation materials, food and ration, general office supplies, and institutional appliances. It was further established that the procurement process undertaken was flawed. Rome investment and Chilongola Limited entered into a contract with the County Government of Kwale through Local Purchase Orders for the 10 tenders despite the procurement process having been flawed.

It was established that the tender documents including purchase requisition forms, minutes of the Tender Opening Committee, letters of appointment of inspection and acceptance committee and inspection and acceptance minutes relating to the said tenders were forgeries and the same were presented at the Kwale County Government by the Accountant and the Hospital Administrator. Further investigations established that Rome Investments and Chilongola Limited were paid a sum of KSh 44,919,341 and KSh. 4,007,943, respectively.

Further investigations disclosed that the Head of Treasury at the county was the Director at Chilongola Holdings together with his brothers who were directors for Rome Investments (k) Limited. The Head of Treasury was a mandatory signatory of the said companies bank accounts held at KCB Kwale Branch.

Financial investigations revealed that the Head of Treasury was a beneficial owner of the two companies, by virtue of the withdrawals he made. The total amount received by the two companies was KSh. 44,919,341 and the same distributed to the directors of the companies.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the Head of Treasury and a Director of Chilogola Holdings Limited and Rome Investment Limited, an Accountant and Hospital Administrator of the Kwale County Government be charged as follows:

(a) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(c) Deceiving principal contrary to section 412) as read with as read with section 48(1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(d) Fraudulent practise in procurement contrary to section 66 as read with section 177 of the Public Procurement and Asset Disposal Act, 2015

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

13. EACC/BGM/PI/INQ/09/2020

Investigation into Allegations of Procurement Irregularities and Conflict of Interest in the Procurement of A Double Cabin Pick-Up and a 33 Isuzu Bus Seater by the County Assembly of Bungoma in the Financial Year 2018/2019

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on allegations of procurement irregularities in in tender number CA/BGM/PUR/205/2019-2020 for the supply of a double cabin pick-up and a 33 Isuzu bus seater by the County Assembly of Bungoma during the Financial Year 2018/2019. It was further alleged that the Accounting Officer of the County Assembly had participated in the procurement amounting to Conflict of interest.

It was established that seven bidders participated in the procurement process. The Evaluation Committee conducted the evaluation exercise and recommended Westfield Motors Limited for the award for both the bus and double cabin. However, after a professional opinion was submitted with the foregoing recommendations, the clerk disregarded the opinion and went ahead to establish a different three-member committee to conduct another evaluation which was irregular since the substantive evaluation committee had not been disbanded.

It was further established that the Procurement Officer and the Clerk of the County Assembly prepared and approved a professional opinion which was misleading. The Accounting Officer executed the contract and authorised payments of KSh. 5,870,000/= and KSh. 4,980,000/= to be made in full to Westfield Motors Limited and Kenyan Coach Industries Limited respectively while knowing that the vehicles had not been supplied.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Accounting Officer and the Head of Procurement with the following offences;

(a) Three counts of wilful failure to comply with applicable procedures and guidelines relating to procurement of services contrary to section 45 (2) (*b*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

14. EACC/EL/INQ/29(ii)/2022

Inquiry into Allegation that an Employee Falsified Academic Certificates To Secure Employment at Rural Electrification And Renewable Energy Corporation (REREC) as a Supply Chain Management Assistant

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received that the officer used a forged Bachelor's degree in purchasing and supplies Chain Management from Jomo Kenyatta University of Agriculture and Technology to gain employment at REREC as a Supply Chain Management Assistant (Procurement and Disposal).

Ihvestigations established that thé Supply Chain Management Assistant forged a Bachelor's degree certificate No. 3701 in purchasing and supplies from Jomo Kenyatta University and Technology. He uttered the certificate while making application to be employed in the position of Supply Chain Management Assistant as captured from his employment records. Investigations revealed that he also submitted fake transcripts to REREC.

It was established that he had irregularly been paid a net salary amounting to KSh. 311,974.45 since the April, 2022 to July, 2022.

On 17th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the aforesaid suspect with the following counts;

(a) One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act.

(b) Five counts of forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Five counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 19th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

15. EACC/EL/INQ/29(v) /2022

Inquiry into Allegations That an Employee used Forged Academic Documents to Secure Employment at Rural Electrification and Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint on 2nd August, 2022 that the employee used forged academic documents to apply for the position of a driver at REREC.

Investigations established that the said driver made an application following an advertisement in the local dailies on 1st December, 2020. In his application he attached several documents including, a Kenya Secondary school certificate No. 2386658 from Kimuri High School issued in the year 2008.

Investigations further established that the KCSE certificate was forged, having been subjected to authentication by the Kenya National Education Council (KNEC). He had worked with REREC from 1st April, 2022 to July, 2022 and irregularly earned a net salary of KSh. 293,240.94

On 17th October, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the suspect being a driver at REREC with the following offences;

(a) Fraudulent acquisition Contrary to section 45 (1) (*a*) all as read with section 48 of ACECA,

(b) Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 2nd January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

16. EACC/EL/INQ/29(iii)/2022

Inquiry into Allegations that an Employee used Forged Academic Documents To Get Employment at Rural Electrification And Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 2nd August, 2022 on allegations that the employee used forged academic documents to apply for the position of Supply Chain Management Assistant (Inventory and Logistics) at REREC.

It was established that the REREC advertised for various positions in the daily nation dated 1st December, 2020. One of the positions advertised was that of Supply Chain Management Assistant (Inventory and logistics). She applied for the position and in her application; she indicated that she holds a Diploma in Business Information Technology from Kenya Methodist University awarded in the year 2014

Investigations established that she did not study at the said institution and the Diploma certificate in question was therefore a forged document. It was further established that she had been working at REREC from 1st April, 2022 to 14th July, 2022. She illegally gained from the institution a net salary of KSh. 293,457.07 considering that she was not qualified for the position.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act 2003.

(b) One count of Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) One count of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Two counts of Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

17. EACC/ISL/EL/INQ/2/2020

Inquiry Into Allegations that the Ward Administrator for Marsabit Central Used Forged Academic Documents to get Employment

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received with allegations that the Ward Administrator for Marsabit Central had allegedly used forged Kenya Certificate of Secondary Education Certificate (KCSE) and diploma certificate to gain employment in Marsabit County.

Investigations established that the suspect applied for employment opportunity at the Marsabit County Government in the year 2018. He submitted his curriculum vitae, which indicated that he had a Diploma in Community Development and Social Work.

Investigations revealed that the Ward Administrator also applied for the position of Civic Education Officer and attached a KCSE Certificate serial No. 2023397 from Marsabit Secondary School. He further submitted a KNEC Certificate serial No. BTEP/D004270 for diploma in Community Development and Social work. The suspect was appointed as a Public Participation and Civic Education Officer from 28th January, 2019.

Investigations further revealed that the positions in which he was appointed into had not been advertised and therefore the appointments were irregular.

Further investigation revealed that the suspect had altered the grades in the KCSE certificate that he submitted to the Marsabit County Government and the Diploma in Community and Social Development were forgeries. It was further established that the Ward Administrator had earned a net salary from April, 2019 to September, 2023 amounting to KSh. 1,954,324.15

On 27th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Ward Administrator with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of ACECA.

(b) One count of Deceiving principal contrary to section 412) as read with as read with section 48(1) of ACECA.

(c) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(d) Two counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

18. EACC/MSA/FI/INQ/13/2023

Inquiry into Allegations Joskat Construction Company did not Follow the Bills of Quantities when Performing Contracts for Likoni CDF in erecting the Perimeter wall for Timbwani Secondary School in the Financial Year 2021-2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a contractor was not following the bill of quantities when performing contracts for Likoni NG-CDF project for erecting the 400-meter perimeter wall for Timbwani Secondary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Timbwani secondary School were followed from the initiation of the tender process until the award of contract. The contract was awarded to Joskat Construction Company Limited at a cost of KSh.. 6,394,807/=. The Project Management Committee confirmed that the progress was good and that the work was being done as per the specifications. The company completed the said construction as per the contract and as a result, payments were made to the contractor. The project has been completed but was yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

19. EACC/MSA/FI/INQ/11/2022

Inquiry into Allegations that a Company Called Sallysam Limited did not Follow The Bills of Quantities when Erecting the Perimeter Wall for Mrima Primary School in Likoni Consituency during the Financial Year 2021/2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a company namely Sallysam Ltd was not following the bill of quantities when performing contracts for Likoni NG-CDF project for construction of classes for Mrima Primary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Mrima Primary School were followed from the initiation of the tender process until the award of contract to Sallysam Limited. The construction was also completed as per the contract and as a result, payments were made to the contractor. The project has been completed and yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

20. EACC/MSA/FI/INQ/14/2023

Inquiry into Allegations that a Company Called Sallysam Enterprises did not follow the Bills of Quantities When Erecting The Perimeter Wall For Mtongwe Girls Secondary School in Likoni Constituency during The Financial Year 2021/2022

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 26th September, 2022 that a company called Sallysam Limited was not following the bill of quantities when performing contracts for Likoni NG-CDF project of erecting the perimeter wall for Mtongwe girls Secondary school during the Financial Year 2021/2022.

Investigations established that the NG-CDF Board approved a code of projects including Mtongwe Girls Secondary School with an allocated amount of KSh. 5,985,075/=. The procurement entity was Likoni Constituency Development Fund. Three companies submitted their bids and a final award issued to Sallysam Enterprises Limited. The contract was executed on 3rd May, 2022. The works were executed by the said company and it was noted that the project was going on well as per the specifications of the Bill of quantities. Investigations did not reveal any procurement irregularities in the subject project.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed with no further action.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

21. EACC/KSI/OPS/INQ/3/2022

Inquiry into Allegations of Corruption against a Court Assistant Working for the Judiciary at Migori Law Courts

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 11th April, 2022 that a Court Assistant had approached him and that he could assist him to get a favourable judgment from the Magistrate handling the criminal matter at a court in Migori. He was required to give KSh. 100,000/=.

Investigations established that there was a criminal matter at Migori Law Courts where the complainant was the accused and was coming up for judgment. The Court Assistant requested for KSh. 100,000/= in order to assist the complainant to get a favourable judgment. The Commission established that the Court Assistant had demanded and received a bribe of KSh. 20,000/= which was recovered from him upon arrest.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations that the Court Assistant be charged with two counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 (1) and (2) of the Bribery Act, 2016.

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

22.EACC/OPS/INQ/20/2023

Inquiry into Bribery Allegation of Corrupt Conduct Against a Kenya Revenue Authority Officer

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 14th March, 2023 alleging that a Waiver Processing Officer at the Kenya Revenue Authority was demanding for a benefit of KSh. 50,000/= in order to write off accrued erroneous value added tax penalty amounting to KSh. 410,000/=.

Investigations established that the Waiver Processing Officer worked at the KRA and had requested and received KSh. 40,000/= as a financial benefit.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Waiver Processing Officer at KRA with three counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 of the Bribery Act No. 47 of 2016

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

23.EACC/MCKS/OPS/INQ/2/2021

Inquiry into Allegations that the Head Teacher at Unoa Primary School was Charging Illegal Levies as Fees in Violation of Guidelines by the Ministry of Education on Free Primary Education (FPE)

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received on 14th January, 2020 that the Head teacher at Unoa Primary School was charging illegal levies as fees in violation of guidelines by the Ministry of Education on free primary education.

Investigations further established that the head teacher had been charging illegal fees in form of development fees of Kshs. 5,000/=, harambee fee of KSh. 1,000/=, Fencing fee of KSh. 1000/= and feeding programme fee of KSh. 1850/= plus other motivation and activity fee totalling to KSh. 10,000/=.

Financial Investigations established that the head teacher owned a private enterprise namely AGPHILY Enterprise that was trading with the school wherein he was the head.

Further investigations established that the head teacher purported to have made supplies to the school and he had signed a cheque of KSh. 183,500/= in his favour. The cheque was not honoured at the bank since no supporting document was provided to the bank.

On 9th November, 2023, a report was compiled and forwarded to the DPP with the recommendations to charge the head teacher, Unoa Primary school with the following offences;

(a) Conflict of interest contrary to section 42 (3) as read with Section 48 of the ACECA, 2003.

(b) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

24. EACC/OPS/INQ/36/2023

An Inquiry into Allegations of Corrupt Conduct against a Nairobi City County Revenue Officer Based at City Hall.

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received a report dated 18th May, 2023 alleging that a Nairobi City County Revenue Officer based at City Hall was demanding for a bribe of KSh. 20,000/= from him in order to write off cess arrears amounting to KSh. 47,0000/= accrued by his lorry.

Investigations established that on 27th April, 2023 the County Official informed owner of lorry that he had cess arrears of Kshs. 47,000/= . The suspect reduced the amount to KSh. 20,000/= and required the owner of the lorry to pay KSh. 10,000/= through paybill number and was given KSh. 10,000/= in cash. On a later date, the lorry owner was informed that he had cess arrears of KSh. 14,000/=.

The Commission established that he was employed as an Administrative Officer III at the Nairobi City County Government. The county official requested and received KSh. 10,000/= in order to facilitate write-off cess arrears accrued by his lorry owed to Nairobi City County Government.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Administrative Officer at Nairobi City County Government be charged with three counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 of the bribery Act No. 47 of 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

25. EACC/MCKS/OPS/INQ/54B/2018

An Inquiry into Allegations of Obstruction against a Suspect In ACC 636/2020 - Republic Vs. Eldah Konzolo

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 11th April, 2021 on allegations that an accused person in Anti-corruption case no. ACC 636/2020 – R vs. Eldah Konzolo had offered KSh. 17,000/= to a witness in order to change his testimony in the stated matter which was pending trial before Mavoko law courts.

Investigations established that the suspect had compromised the witness in the said matter and indeed sent KSh. 17,000/= through Mpesa to a proxy to avoid any direct link. The money was intended to persuade the witness to change his testimony in court. It was established that the said amount was sent to one of his colleague. Investigations also established that the conduct of the accused amounted to interference with a witness with an aim to obstruct justice.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the suspect, with the following offences;

(a) One count of giving a bribe contrary to section 5 of the Bribery Act, 2016.

(b) One count of interfering with witnesses contrary to section 117 (1) of the Penal Code Cap 63.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

26. EACC/OPS/INQ/44/2023

Inquiry into Allegations of Bribery against a Member of County Assembly, Hospital Ward, Kiambu County.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 24th May, 2023 to the effect that a Member of County Assembly, Hospital Ward, Kiambu County was requesting for a financial advantage of KSh. 130,000/- as an inducement to allow her proceed with the intended development activities on Parcel No. Thika Municipality Block 11/377.

Investigations established that county official requested that he be given a portion of land and Kshs. 200,000/= so that he could disregard an alleged Petition by members of the public against any development on the subject plot. They negotiated the amount downwards to KSh. 100,000/=.

It was established that the suspect is Public Officer by virtue of him being a Member of County Assembly (MCA), Kiambu County. He was acting in his official capacity as MCA and Chairperson of the Development Committee of the Assembly when he requested for the benefit.

The Commission established that the county official requested for a bribe of KSh. 130,000/= intending that, in consequence, the owner of the plot proceeds with her intended development on Parcel No. Thika Municipality Block 11/377.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge him with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

27. EACC/BGM/OPS/INQ/8/2021

Investigation into Allegations of Bribery against a Police Officer Attached to Kakamega Central Police Station.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th December,2021 with allegations that a Police Officer attached to the DCI Kakamega Central Police Station at Kakamega County, had requested for a financial advantage of KSh. 100,000/= to give to a Magistrate stationed at Kakamega Law Courts in order to influence the outcome of an inquest proceeding at the Kakamega Magistrates Court.

Investigations established that there was an inquest under Inquest No. 3 of 2020. The inquest proceedings had concluded and pending the verdict of the Principal Magistrate. The Police Officer who was at the time the investigating officer requested for a benefit in order to compromise the said magistrate to rule in favour of the deceased.

Investigations further established that the police officer was employed at the Ministry of Interior and Co-ordination of National Government (Administration Police). The Commission established that the police officer received the bribe of KSh. 40,000/= which was recovered from him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the police officer be charged with two counts of receiving a bribe contrary to section (6) (1) (*a*) of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Total No. of files forwarded to the Director of Public Prosecutions	27
No. of files recommended for prosecution	24
No. of files recommended for administrative or other action	0
No. of files recommended for closure	3
No. of files recommended for prosecution and the cases are already lodged before Court	-
No. of files where recommendation to prosecute accepted	7
No. of files where recommendation for administrative or other action accepted	-
No. of files where recommendation for closure accepted	3
No. of files returned for further investigations	14
No. of files where recommendation to prosecute not accepted	-
No. of files where recommendation for administrative or other action not accepted	-
No. of files where closure not accepted	-

No. of files where prosecution declined but administrative action recommended	-
No. of files awaiting the DPP's advice	3

Dated the 13th February, 2024.

DAVID OGINDE,
Chairperson.

TWALIB MBARAK,
Secretary/Chief Executive Officer.

PTG 1703/23-24

GAZETTE NOTICE NO. 2090

THE KENYA INFORMATION AND COMMUNICATIONS ACT

(*No.* 2 *of* 1998)

APPLICATION FOR LICENCES

NOTICE is given that the following applicants have, pursuant to the provisions of the Kenya Information and Communications Act, 1998, made applications to the Communications Authority of Kenya for grant of the licences as shown in the Table below:

Name	*Station Identity*	*Licence Category*
Darwy Afrik Photography and Safaris Limited, P.O. Box 5572–0100, Eldoret	Assis FM	Commercial Free to Air Radio Licence
Alhaajar Investment Limited, P.O. Box 98558–80100, Mombasa	Alhaajar TV	Commercial Free to Air Television Licence
AIPCA Bahati TV and Radio Limited, P.O. Box 73053–00200, Nairobi	AIPCA Bahati TV	Commercial Free to Air Television Licence
Way of Truth Media Limited, P.O. Box 3556–00200, Nairobi	Truth Wave TV	Commercial Free to Air Television Licence
Nifty Works Plus Limited, P.O. Box 21933–00505, Nairobi	NWPLUS TV	Subscription Broadcasting Service Licence
University of Eastern Africa Baraton, P.O. Box 2500–30100, Eldoret	Baraton FM	Community Free to Air Radio Licence
Go Shipping Cargo Agency Limited, P.O. Box 4689–00100, Nairobi		International Postal/ Courier Operator Licence
Samina Senders and Logistics Limited, P.O. Box 90231–80100, Mombasa		National Postal/ Courier Operator Licence
Prime Time Meru Travellers Company, P.O. Box 415–60200, Meru		National Postal/ Courier Operator Licence
Iyanat Business Solutions, P.O. Box 30068–00100, Nairobi		National Postal/ Courier Operator Licence
Samper Cabs Limited, P.O. Box 12862–00100, Nairobi		National Postal/ Courier Operator Licence
Wekkitech Limited, P.O. Box 536–20100, Nakuru		Network Facilities Provider Tier 3 (NPF-T3)
DXA Technologies Limited, P.O. Box 79450–00200, Nairobi		Network Facilities Provider Tier 2 (NPF-T2)

The licences, if granted, will enable the applicants to operate and provide the services as indicated in the Table above. The grant of these licences may affect the public and local authorities, companies, persons or bodies of persons within the country.

The Authority wishes to notify the general public that any legal or natural person, or group of individuals, who are desirous of making any representation and/or any objection to the said applications, to do so *vide* a letter addressed to: The Director-General, Communications Authority of Kenya, CA Centre, Waiyaki Way, P.O. Box 14448–00800, Nairobi, indicating the licence category on the cover enclosing it.

The said representation and/or objection must be filed on or before expiry of thirty (30) days from the date of publication of this notice and a copy of the same be forwarded to the applicants.

Dated the 13th February, 2024.

DAVID MUGONYI,
Director-General.

PTG 1685/23-24

GAZETTE NOTICE NO. 2091

THE WATER ACT, 2016

(*Sections* 70, 85, 87 *and* 139)

PUBLIC CONSULTATION MEETING ON LICENCING OF WATER SERVICE PROVIDER

THE Water Services Regulatory Board (WASREB) has received licence application from Nyeri Water and Sanitation Company Limited to provide water services within Nyeri County.

The licence application has been made pursuant to the Water Act 2016 (section 85(1)- "A person shall not provide water services except under a licence issued by the Regulatory Board, upon submission of an application and such supporting documents as the Board may require".

Therefore, in compliance to WASREB principal object under the Water Act, 2016 section 70 (1)–"protection of the interests and rights of consumers in the provision of water services", section 87(1)- "An application for a licence shall be subject to public participation" read together with the provision of section 139, we wish to advise that the public consultation meeting shall be held at the venue stated below to get stakeholders concerns on services provided, licencing conditions and proposals for services improvement going forward.

Please note that the Water Service Provider shall hold hybrid public consultation meeting (physical and virtual) as outlined below.

Water Service Provider	*County*	*Venue*		*Day Date and Time*
Nyeri Water and Sanitation Company	Nyeri	Physical meeting:	Wangari Mathai Hall, Nyeri Town	Tuesday, 5th March, 2024 10.00 a.m.
		Virtual meeting:	WSP to provide links	

Participants should be seated by 10.00 a.m. Personal identification of participants will be required. Members of the public in respective areas are invited to make oral and written submissions and ask any questions that may relate to the provision of water services in their areas.

Comments on the application shall be emailed to info@wasreb.go.ke or send in hard copy to:

The Chief Executive Officer,
Water Services Regulatory Board,
5th Floor NHIF Building,
Ngong Road,
P.O. Box 41621–00100,
Nairobi.

The closing date for receipt of comments is thirty (30) days after the publication of this notice.

Dated the 6th February, 2024.

JULIUS ITUNGA,
Ag. Chief Executive Officer,
Water Services Regulatory Board.

MR/6198975

/684

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO. AND

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P. O. Box 41842, NAIROBI

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA

NAIROBI.

I, PURITY NYAWIRA WANJOHI, an adult of sound mind, disposition and a citizen of Kenya presently resident in KAMPALA, UGANDA hereby solemnly makes oath and states THAT:

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, namely:

    1) PROF. KITHURE KINDIKI
    2) ALICE WAHOME
    3) ADEN BARRE DUALE
    4) ROSELINDA SOIPAN TUIYA
    5) DAVIS CHIRCHIR
    6) SALIM MVURYA MGALA
    7) REBECCA KIANO
    8) ONESIMUS KIPCHUMBA MURKOMEN
    9) ALFRED NGANGA MUTUA
    10) JUSTIN BEDAN NJOKA MUTURI
    11) JOHN MBADI NG'ONGO
    12) JAMES OPIYO WANDAYI
    13) HASSAN ALI JOHO, AND
    14) WYCLIFFE AMBETSA OPARANYA.

2. My grounds for contesting the nomination of the first ten nominees named above are that:

3. In a statement dated 11.07.2024 issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs

4. The first ten persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the first ten persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the first ten persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide EXECUTIVE ORDER NO. 6 OF 2024 dated 11.07.2024 and published as Kenya Gazette Notice No. 8440/2024 on 12.07.2024.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. These persons, (including the ten named above) remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated 11.07.2024 and in the EXECUTIVE ORDER NO. 6 OF 2024, which the dismissed persons, including the first ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet including the above named first ten persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a and b), 152(2) and 156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2 and 3(b)), 10, 73, 75, 129, 130, 131, 232 and 259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a and b), 152(1 and 2) and 156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic

26. It is a matter of public record and notoriety that the last four named persons are members of and or affiliated with the ORANGE DEMOCRATIC MOVEMENT (ODM) political party.

27. HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of ODM political party.

28. JOHN MBADI NG'ONGO and JAMES OPIYO WANDAYI are currently members of the National Assembly, having been nominated and elected at the general election in AUGUST 2022 as the candidates for ODM party. JOHN OPIYO WANDAYI is, in fact, currently Leader of the Minority Party in the National Assembly as provided by Article 108 of the Constitution.

29. The Constitution, including under Articles 4(2), 10(2), 90, 91 and 108, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under Article 38, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by Article 4(2) of the Constitution.

30. Further and in addition, under Article 1(3) of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION**. **RAILA AMOLO ODINGA**, the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last four persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to Article 152(3) of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of UGUNJA.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the Finance Bill, 2024. Members of the National Assembly accepted the reservations on 25.07.2024, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for FY 2024/2025 to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of Kshs. 63,166,846.00 from the budget of IEBC for FY 2024/2025. This reduction will be borne in the management of electoral processes' functions of IEBC.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately Kshs. 344B for the current financial that was to be raised vide the expunged Finance Bill, 2024, I contest the constitutional validity of H.E., the President, and JAMES OPIYO WANDAYI, to cause unnecessary expenditure of scare public resources in the ensuing by-election for UGUNJA upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b) and 259(1) of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of WYCLIFFE AMBETSA OPARANYA to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the Anti-Corruption and Economic Crimes Act, 2003 and Anti-Money Laundering Act, 2009.

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2 and 4)** and **95(1, 2 and 5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, these being:

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on 11.07.2024, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the first ten persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of EXECUTIVE ORDER NO. 6 OF 2024 dated 11.07.2024 and published as Kenya Gazette No. 8440/2024 of 12.07.2024. The Order confirmed dismissal of all members of the national executive of the Republic, (including the first ten persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated 23.02.2024 in which EACC, (vide Gazette Notice No. 2089 at page 669 and case reference No. EACC/FI/INQ/18/2023), notified of investigations against WYCLIFFE AMBETSA OPARANYA, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on 18.12.2023, concurred with the Commission's recommendations for prosecution of WYCLIFFE AMBETSA OPARANYA for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and [illegible]@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND SIGNED BY THE SAID, PURITY NYAWIRA WANJOHI :

ON THIS 30 DAY OF JULY, 2024, AT KAMPALA, UGANDA, IN THE

PRESENCE OF HARIMWOMUGASHO FRANCIS, COMMISSIONER OF OATHS.

HARIMWOMUGASHO FRANCIS
Notary Public, Commissioner for Oaths & Advocate
Email: hmugasho@gmail.com
Phone: +256-782-094-272
My commission expires on 31st Dec. 20..

DRAWN AND SUBMITTED BY:

Purity NYAWIRA WANJOHI

Contact address for the purpose of this statement:
+254707403903
nyawirawanjohi@gmail.com

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

1636

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P. O Box 41842, NAIROBI

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, Peter Chiira Maina, an adult of sound mind, disposition and a citizen of Kenya presently resident in Nairobi hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
    3) **ADEN BARRE DUALE**
    4) **ROSELINDA SOIPAN TUIYA**
    5) **DAVIS CHIRCHIR**
    6) **SALIM MVURYA MGALA**
    7) **REBECCA KIANO**
    8) **ONESIMUS KIPCHUMBA MURKOMEN**
    9) **ALFRED NGANGA MUTUA**
    10) **JUSTIN BEDAN NJOKA MUTURI**
    11) **JOHN MBADI NG'ONGO**
    12) **JAMES OPIYO WANDAYI**
    13) **HASSAN ALI JOHO, AND**
    14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The **first ten** persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the **first ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the **first ten** persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a** and **b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2** and **3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a** and **b), 152(1** and **2)** and **156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last **four** named persons are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party.

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28. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in **AUGUST 2022** as the candidates for **ODM** party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

29. The Constitution, including under **Articles 4(2), 10(2), 90, 91** and **108**, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

30. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

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36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75.** I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

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40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009**.

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2 and 4) and 95(1, 2 and 5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024,** advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

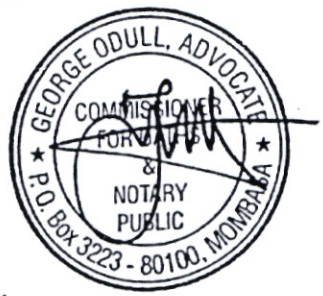
2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC,** (vide **Gazette Notice No. 2089** at page **669** and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA,** former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023,** concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, Peter Chiira Maina,
ON THIS 29th **DAY OF JULY, 2024**, AT Nairobi, **IN THE**
PRESENCE OF GEORGE ODULL, **COMMISSIONER OF OATHS.**



DRAWN AND SUBMITTED BY:

Contact address for the purpose of this statement:

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

EML/637

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA MIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND
14. WYCLIFFE AMBESTA OPARANYA.

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, STEPHEN MAHUGU THAIKU, an adult of sound mind, disposition and a citizen of Kenya presently resident in SAGANA, KIRINYAGA COUNTY hereby solemnly makes oath and states THAT:

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, namely:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
    3) **ADEN BARRE DUALE**
    4) **ROSELINDA SOIPAN TUIYA**
    5) **DAVIS CHIRCHIR**
    6) **SALIM MVURYA MGALA**
    7) **REBECCA MIANO**
    8) **ONESIMUS KIPCHUMBA MURKOMEN**
    9) **ALFRED NGANGA MUTUA**
    10) **JUSTIN BEDAN NJOKA MUTURI**
    11) **JOHN MBADI NG'ONGO**
    12) **JAMES OPIYO WANDAYI**
    13) **HASSAN ALI JOHO, AND**
    14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The **first ten** persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the **first ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognized the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognizant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the **first ten** persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a and b), 152(2) and 156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2 and 3(b)), 10, 73, 75, 129, 130, 131, 232 and 259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a and b), 152(1 and 2) and 156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last four named persons are members of and/or affiliated with the ORANGE DEMOCRATIC MOVEMENT (ODM) political party.

27. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between **2013 – 2022**. Both stood as and were elected as members of **ODM** political party.

28. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in **AUGUST 2022** as the candidates for **ODM** party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

29. The Constitution, including under **Articles 4(2), 10(2), 90, 91** and **108**, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

30. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA,** the leader of **ODM,** was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION,** as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI,** one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152.**

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75.** I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcasses of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI,** an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of an elected Member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega County under their case reference No. **EACC/FI/INQ/18/2023.**

45. On **18.12.2023,** EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024.**

47. Further and in addition, the personal integrity of **HASSAN ALI JOHO** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is in doubt based on the serious allegations of forgery of academic credentials. It has been officially documented vide a letter from Kenya National Examinations Council (KNEC) to the Director of Criminal Investigation, referenced CID/SEC/4/4/3 and dated 25th January 2027 that Mr. Joho used a forged Kenya Certificate of Secondary Education (KCSE) certificate to register as a degree student at the University of Nairobi, the Kampala International University in Uganda and later at the Gretsa University in Thika. The forged KCSE certificate indicated that Mr. Joho attended Serani Secondary School and scored a C+ in the 1991 KCSE examination. Instead, the Kenya National Examinations Council (KNEC) records indicated that he sat for the exam in 1993 and obtained a mean grade of D-. Forgery is an offence against Section 354 of the Penal Code, Cap 63 of the Laws of Kenya.

48. It is my belief that the grade D- Mr. Joho scored in the 1993 KCSE examination disqualifies him from university admission to any degree programme in Kenya. Consequently, any bachelor's degree(s) Mr. Joho purports to hold were obtained using fraudulent KCSE results, and are therefore invalid. Without any legitimate post-secondary education, Mr. Joho is unqualified and unsuitable for nomination and confirmation to the cabinet of the Republic of Kenya.

49. Under the Constitution, including **Articles** 3(1), 4(2), **10**, 73, 74, 75, 94(2 and 4) and 95(**1**, 2 and 5), and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

50. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

51. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalize rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

52. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

53. In support of this statement, I submit the following documents as evidence, these being:

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and Published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page **669** and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega County, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

54. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

55. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND SIGNED BY THE } .....

.....

SAID, STEPHEN MUHUGU THAIKU , ON }

THIS 27 DAY OF JULY, 2024, AT }

NAIROBI ,

IN THE PRESENCE OF _____ COMMISSIONER OF OATHS.

WAMBUGU WANJOHI
ADVOCATE &
COMMISSIONER FOR OATHS
P. O. Box 12444 - 00100,
NAIROBI

DRAWN AND SUBMITTED BY:

P.O BOX 284, KUTUS

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

EML/254

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

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1. PROF. KITHURE KINDIKI
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7. REBECCA KIANO
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9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, Agnes Wanjiru Njoroge ID No: 29647156, an adult of sound mind, disposition and a citizen of Kenya presently resident in **Nairobi** hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
    3) **ADEN BARRE DUALE**
    4) **ROSELINDA SOIPAN TUIYA**
    5) **DAVIS CHIRCHIR**
    6) **SALIM MVURYA MGALA**
    7) **REBECCA KIANO**
    8) **ONESIMUS KIPCHUMBA MURKOMEN**
    9) **ALFRED NGANGA MUTUA**
    10) **JUSTIN BEDAN NJOKA MUTURI**
    11) **JOHN MBADI NG'ONGO**
    12) **JAMES OPIYO WANDAYI**
    13) **HASSAN ALI JOHO, AND**
    14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The **first ten** persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the **first ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the **first ten** persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a** and **b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2** and **3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a** and **b), 152(1** and **2)** and **156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last **four** named persons are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party.

27. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between **2013 – 2022**. Both stood as and were elected as members of **ODM** political party.

28. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in **AUGUST 2022** as the candidates for **ODM** party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

29. The Constitution, including under **Articles 4(2), 10(2), 90, 91** and **108**, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

30. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA**, the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega County under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page **669** and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, Agnes Wanjiru Njoroge , ON THIS 29 **DAY OF JULY, 2024,** AT Nairobi , **IN THE PRESENCE OF Antony Kinyanjui Waringa, COMMISSIONER OF OATHS.**

ANTONY KINYANJUI WARINGA
ADVOCATE &
COMMISSIONER FOR OATHS
P. O. Box 19750 – 00100, NAIROBI

DRAWN AND SUBMITTED BY:

Agnes Wanjiru Njoroge

P.O BOX 791- 00502

Nairobi

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke.

SPECIAL ISSUE

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance;

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

EML/E451

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, BRENDA CINDY WEDUBE ONALO, an adult of sound mind, disposition and a citizen of Kenya presently resident in Thome, Nairobi hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
    3) **ADEN BARRE DUALE**
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    5) **DAVIS CHIRCHIR**
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    12) **JAMES OPIYO WANDAYI**
    13) **HASSAN ALI JOHO, AND**
    14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The **first ten** persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

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7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the **first ten** persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a and b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2 and 3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a and b), 152(1 and 2)** and **156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last **four** named persons are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party.

27. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between **2013 – 2022**. Both stood as and were elected as members of **ODM** political party.

28. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in **AUGUST 2022** as the candidates for **ODM** party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

29. The Constitution, including under **Articles 4(2), 10(2), 90, 91** and **108,** decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38,** have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

30. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA,** the leader of **ODM,** was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION,** as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI,** one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152.**

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75.** I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI,** an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2 and 4) and 95(1, 2 and 5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, these being:

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide Gazette **Notice No. 2089** at page **669** and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND SIGNED BY THE SAID, Brenda Cindy Wedube Onalo ,
ON THIS 30TH DAY OF JULY, 2024, AT NAIROBI , IN THE
PRESENCE OF Kibaara Murithi Kibaara , COMMISSIONER OF OATHS.

KIBAARA M. KIBAARA
COMMISSIONER FOR OATHS
P.O. Box 64 - 00517, NAIROBI

DRAWN AND SUBMITTED BY: BRENDA CINDY WEDUBE ONALO

Brenda Cindy Wedube Onalo

Contact address for the purpose of this statement: cindyonalo@gmail.com

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA.

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA

NAIROBI.

I, Lionel Wangwa Gathuku, an adult of sound mind, disposition and a citizen of Kenya presently resident in Nairobi hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

   1) **PROF. KITHURE KINDIKI**
   2) **ALICE WAHOME**
   3) **ADEN BARRE DUALE**
   4) **ROSELINDA SOIPAN TUIYA**
   5) **DAVIS CHIRCHIR**
   6) **SALIM MVURYA MGALA**
   7) **REBECCA KIANO**
   8) **ONESIMUS KIPCHUMBA MURKOMEN**
   9) **ALFRED NGANGA MUTUA**
   10) **JUSTIN BEDAN NJOKA MUTURI**
   11) **JOHN MBADI NG'ONGO**
   12) **JAMES OPIYO WANDAYI**
   13) **HASSAN ALI JOHO, AND**
   14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The **first ten** persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the **first ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the first ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a and b), 152(2) and 156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2 and 3(b)), 10, 73, 75, 129, 130, 131, 232 and 259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a and b), 152(1 and 2) and 156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last **four** named persons are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party.

27. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of **ODM** political party.

28. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in **AUGUST 2022** as the candidates for ODM party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

29. The Constitution, including under **Articles 4(2), 10(2), 90, 91 and 108**, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by **Article 4(2)** of the Constitution.

30. Further and in addition, under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION**. **RAILA AMOLO ODINGA**, the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of UGUNJA.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of IEBC.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for UGUNJA upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which EACC, (vide **Gazette Notice No. 2089** at page 669 and case reference No. **EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

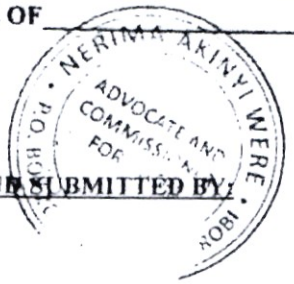
52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**. _____

ON THIS _____ DAY OF JULY, 2024, AT _____, IN THE

PRESENCE OF _____, **COMMISSIONER OF OATHS.**



DRAWN AND SUBMITTED BY:

Contact address for the purpose of this statement:

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

This is the Exhibit marked "LWG 1"
Referred to in the annexed Affidavit/Declaration
of Liner Wangira
Sworn/Declared before me this
Day of July 2024 at
Commissioner for oaths

NERIMA AKINYI WERE
ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX ... NAIROBI

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

This is the Exhibit marked "LWG 2"
Referred to in the annexed Affidavit/Declaration
of ...
Sworn/Declared before me this ...
Day of ...
Commissioner for Oaths
NERIMA AKINYI WERE
ADVOCATE AND COMMISSIONER FOR OATHS
P.O. BOX 20956-00202, NAIROBI

SPECIAL ISSUE

THE KENYA GAZETTE

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President

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1. Along Kenyatta Avenue.
   (a) KCB Bank parking lot;
   (b) Khetias Supermarket parking lot.
   (c) Bank of Baroda parking lot.
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot, and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road .
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024

DANIEL MUSITA,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT

(*No. 17 of* 2012)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (c) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (d) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot,
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot,
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot,
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot - Junction to Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega-Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Ekero - Sabatia Road.

Dated the 9th February, 2024.

AGGREY MUSINDALO,
MR/6208579 *Municipal Manager, Kakamega Municipality*

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (d) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA)

Section 36 of ACECA provides that

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawada/048/2021-2022 By Tanathi Water Works Development Agency (Tawada) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWTDA) in the tender for the Construction of Kimanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh 800,000,000

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWTDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 800,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh 925,000/ from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) *(b)* as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act

(h) Fraudulent acquisition of public property contrary to section 45 (1) *(a)* as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 *(a)* as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliant with section 41 (2) (a) of the PPAD Act, 2015 and Regulation 22 (1) (c) of the PPAD Regs, 2020;

(ii) Institute civil proceedings for the recovery of KSh. 297,230,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited

(iii) Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations

On 31st January, 2024 the DPP returned the inquiry file with recommendations for further investigations.

2 EACC/PI/INQ/136/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2023 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2017/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFRA Construction Company Limited, Western Cross Express limited, Subema International Limited and Scola Investments Limited

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2024 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 *(a)* (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (1) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularies at the Embakasi North Constituency Amounting to KSh 51,351,357/=

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on 21st August, 2021 on allegations of procurement irregularities and embezzlement of public funds amounting to KSh 51,351,357 at the Embakasi North Constituency. It was further alleged that the Member of Parliament for Embakasi North Constituency used his office to award tenders to his children and close associates. The tenders were allegedly for construction of classrooms, event hosting and roadworks within Embakasi North Constituency.

Investigations established that the said constituency awarded various tenders to four companies associated with the daughter of the Member of Parliament for the constituency.

Financial investigations revealed that several payments were made to the companies for various projects allegedly undertaken with the Embakasi Constituency.

Investigations revealed that the said Member of Parliament received a total of KSh. 10,482,298/= either directly or indirectly from the companies associated with the daughter and other close associates. The MP is a signatory to bank account in one of the companies namely Ndakaini Hardware and Property Agencies.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Member of Parliament, the Fund Account Manager and directors of the four companies namely Ndakaini Enterprises Limited, Allica Investment Limited, Pride Wind Africa Limited and Ndakaini Hardware with the following offences:

(a) Two counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Five counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) One count of abuse of office contrary to section 46 as read with section 48 (1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 6th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

4. EACC/PI/INQ/24/2021

Inquiry into Allegations of Irregular Tender Award and Embezzlement of Funds by Officers of Bomas of Kenya in the Award of General Insurance Cover for Financial Years 2020–2021 and 2021–2022 to CIC General Insurance Limited

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation that the Bomas of Kenya (BoK) had irregularly awarded the general property and work injury insurance cover tender to CIC General Insurance Limited during the financial year 2020-2021. Evidence obtained indicates that the tender was awarded to CIC.

Investigations established that BOK violated section 103 of the Public Procurement and Asset Disposal Act, 2015 and illegally awarded the tender to CIC. It was further established that since the tender for FY 2020-2021 was irregularly awarded. Subsequently, the renewal clause in the FY 2020-2021 tender policies could not birth a legitimate renewal in FY 2021-2022. Furthermore, no LPO was issued for the renewed tender. CIC Insurance was illegally paid KSh.9,058,916.70 for the two financial years which payments were made out of flawed procurement process.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Chief Executive Officer for Bomas of Kenya, Finance Officer, Supply Chain Management Officer, Ag. Managing Director CIC General Insurance and a Marketer at CIC, the Managing Director CIC General Insurance and CIC General Insurance Limited be charged with the following offences;

(a) Conspiracy to commit a corruption offence contrary to section 47 a (3) as read with section 48 of Anti-Corruption and Economic Crimes Act.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read together with section 48 of the Anti Corruption and Economic Crimes Act, 2003.

(d) Two counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

The Commission has in addition instituted the recovery of public property from CIC Insurance Company.

Awaiting DPP's response.

5. EACC/PI/INQ/05/2022

Investigations into Allegations of Irregular Award of Tenders and Embezzlement of Funds by Officials of Bomas of Kenya Limited During Financial Year 2020/2021 through Splitting of Tenders/Contracts to Various Companies Amounting to KSh 8,587,831/=

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation on 3rd November, 2021. The allegation was that Bomas of Kenya (BOK) was involved in irregular award of tender for purchase of cutlery.

Investigations established that there was no budget allocated for the purchase of cutlery and crockery during the Financial Year 2020/2021 and the board did not approve any re-allocation of funds from other votes. Further investigations also established that there were several procurement irregularities including collusion between the suppliers and procurement officials in the purchase of cutlery for all the quotations at BOK. Some of the directors of the said companies denied participating in the procurement of the cutlery at BOK despite the evidence of bid documents allegedly submitted by their companies.

Financial investigations conducted revealed that after payments were made to the suppliers, they sent money to a particular supplier who would then transfer money to some of the officials of BOK.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Finance Officer, Finance Officer, Supply Chain Management Officer, former Board Chair, Directors of Arwin Gold Limited, Director for Grasonnel Limited, Directors of Bamyoung Limited and Directors of Dysema Limited together with all the four companies with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

(b) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the anti-corruption and economic crimes act, 2003.

(c) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act No. 3 of 2003.

(d) Fraudulent practice in procurement proceeding contrary to section 66 (1) as read with section 176 (1) (i) and (2) of the Public Procurement and Asset Disposal Act of 2015.

(e) One count of forgery contrary to section 345 as read with section 349 of the Penal Code.

(f) Two counts of dealing with Suspect Property contrary To section 47(2) (A) As Read with sections 47 (1) And 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(g) Four counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Awaiting DPPs response.

6. EACC/MSA/PI/INQ/7/2023

Investigations into Allegations of Corruption, Procurement Irregularities and Embezzelement of Funds at Taita Taveta County Government during the Commemoration of World War I Celebrations that Took Place Between 24th to 27th November, 2022

The Ethics and Anti Corruption Commission (EACC) commenced investigation after receiving a complaint on 5th April, 2022, on allegations of corruption, procurement irregularities and embezzlement of funds at Taita Taveta County Government during the commemoration of World War I (WWI) celebrations that took place between 24th to 27th November, 2022.

Investigations established that the Government of Taita Taveta County prepared budget estimates and a consolidated procurement plan for the Financial Year 2022/2023 and the aforesaid event was not provided for in the budget

Investigations further established that in respect to the World War One Event the Economic advisor and the Chief Officer Finance applied for imprest to facilitate the commemoration of the event Investigation established that the Taita Taveta County utilised Kshs. 4,048,000.00 through irregular Daily Subsistence Allowance paid to officers.

It was further established that during the process of preparation for the WWI event, the public officers engaged and or directly single sourced suppliers for various services without following the laid down procedures despite the fact that the County Government had a repository of registered suppliers and service providers for the financial year 2022/2024. The suppliers that were engaged directly included Kazi Ngoma Orchestra band, Elbon Agencies, Banane North Explorer's Limited, Voi Wildlife Lodge, Kididi FM a commercial radio station, Tree Top Eatery, Pen and Paper Solutions, Gracious Tents and Sounds and Alconsup Solution Limited.

Investigations established that the receipts that were attached to the surrender documents were forgeries and were not actually issued by the purported entities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Economic Advisor to the Governor, County Secretary, County Chief Officer in charge of Trade, Tourism and Co-operatives Development with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Engaging in a project without prior planning contrary to section 45 (2) (*c*) as read together with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, 2003

(c) Six counts of uttering false documents contrary to section 353 of the Penal Code Cap 63 laws of Kenya

(d) Willful failure to comply with the applicable procedures and guidelines relating to incurring of expenditures contrary to section 45 (2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003

On 5th February, 2024, the DPP returned the inquiry file with recommendations for further investigations.

7. EACC/MSA/FI/INQ/13/2022

Investigations into Allegations of Corruption and Misappropriation of Public Funds at Taita Taveta County Assembly as a Result of Imprest Advanced to the Speaker of the County Assembly, Clerk Twenty One Members of the County Assembly and Four Other Officers for Traveling to Zanzibar for a Bonding Trip in the Financial Year 2022/2023

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 28th November, 2022 on allegation of embezzlement of public funds against staff of the County Assembly of Taita Taveta. It is alleged that the Speaker, Clerk, twenty-one (21) Members of the County Assembly (MCAs) and four (4) other officers incurred an expenditure of around Kenya Shillings Seven (7) million without following proper guidelines with regard to the edicts of the law on Public Finance at a bonding tour to Marijani Hotel in Zanzibar in November 2022 within the Financial Year 2022/2023.

Investigations established that members of the Liaison Committee and public officials of Taita Taveta County Assembly traveled to Zanzibar on an education tour. However, some delegates were paid excess per diem allowances which they were not entitled because accommodation had been provided while others were paid yet they had not travelled for various reasons.

The procurement process was not properly followed in regard to sourcing of the service provider being the World Scout Parliamentary Union (WSPUK) who would offer the catering and training facilities for the delegates WSPUK was single sourced and directly engaged for the educational trip to Zanzibar Investigation established that the procurement threshold was way above KSh 500,000/= and therefore it ought to have been reported to the Public Procurement Regulatory Authority by the Accounting Officer

Investigation further established that the Clerk of Taita Taveta County Assembly, authorised payment voucher for full daily subsistence allowance to the delegates whilst knowing that the delegates were not entitled to full daily subsistence allowance since their accommodation had been catered for

The investigation established that the Taita Taveta County Assembly had lost KSh 6,181,433.00 through irregular DSA paid to officers. The said County Assembly initiated recoveries from the beneficiaries by deducting their salaries and some made cash deposits to Taita Taveta County Assembly Bank Account amounting to KSh 2,215,550.60. The outstanding amount yet to be recovered is KSh 3,943,033.98

It was further established that the Accounting Officer during imprest surrender attached false travel clearance letters for delegates who had not travelled for various personal reasons He further fraudulently authorised surrender of payment voucher of KSh 8,037,599 purporting to have been fully accounted for yet it was not sufficiently supported by surrender documents

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Clerk/Accounting Officer and the Deputy Speaker of Taita Taveta County Assembly with the following offences;

(a) Three counts of Abuse of office contrary to section 46 as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering false documents contrary to section 353 of the Penal Code, Cap. 63 Laws of Kenya

(c) False accounting by a public officer contrary to section 331 (1) and (2) of the Penal Code, Cap. 63 Laws of Kenya

(d) Wilful failure to comply with the law applicable, regulations and guidelines relating to procurement, contrary to section 45 (2) (b) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Financial misconduct contrary to section 197(1) (i) as read with section 199 of the Public Finance Management Act, No. 18 of 2012.

On 1st February, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution

8. EACC/MSA/FI/INQ/4/2017

Investigations into Allegations of Procurement Irregularities in the Purchase of Stone Cutting Machines by Coast Development Authority (CDA) from Endebes Development Company (EDC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report dated 22nd March, 2017 that Coast Development Authority (CDA) had purchased stone cutting machines from Endebes Development Company (EDC) without following procurement procedures.

Investigations established that CDA leased coral block cutting equipment and vehicles from EDC without following the public procurement laws and procedures i.e use of direct method instead of open tender method as required under the PPDR 2006.

Furthermore, there were no bid documents received from any bidder hence no procurement process was conducted hence the procurement process was a fraud.

EDC offered to sell the said machines to CDA at a cost of KSh 62,000,000/=. On 10th July, 2012, CDA and EDC entered into a lease agreement for the machines. The lease was signed by the Managing Director on behalf of CDA. EDC received a total sum of KSh 28,794,834.00 from CDA for the lease of coral block cutting machines. It was established that the lease agreements were entered into illegally and therefore payments made to EDC by CDA were

unlawful. It was revealed that the Director and beneficial owner of EDC is a bank signatory in the company and he had appointed the Managing Director CDA while he was the Minister for Regional Development Authorities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Managing Director, the Director of the company and Endebes Development Company Limited with the following offences:

(a) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Entering into an obligation that has financial implication contrary to section 196 (3) as read with section (196) (6) of the Public Finance Management Act, 2012.

(d) Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

Awaiting DPP's response.

9. EACC/MSA/FI/INQ/17/2017

Investigations into Allegations of Irregular Procurement for Extension of Bura Water Supply by Coast Water Services Board (CWSb) at a Cost of KSh. 52,020,061/= in the Financial 2017/2018

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an anonymous complaint that the Coast Water Services Board (the Board) flouted the procurement law during the procurement process in the tender CWSB/TR-EQ/W/6A/2017 for extension of Bura Water Supply (the Project). This project had been sanctioned by the Ministry of Water and Irrigation (the Ministry) and was being funded from the Equalisation Fund (the Fund).

Investigations established that the Board advertised the subject procurement on 27th June, 2017 attracting 28 bidders. Further investigations established that the Board failed to subject all the tenders to both technical and financial evaluation contrary to section 80 of the Public Procurement and Disposal Act, 2015. The contract was irregularly awarded to Misriya Company Limited.

It was further established that the Director for Misriya Company limited had made false documents being motor vehicle registration documents and submitted the same to the Coast Water Services Board.

Investigations established that the Head of Procurement at CWSB prepared misleading professional opinion hence did not offer expert advised as was required of him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Evaluation Committee, the Head of Procurement and the Director of the Misriya Company Limited together with the company with the following offences;

(a) Wilful failure to comply with the procurement law contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Fraudulent procurement practice contrary to section 66 (1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

(c) Forgery contrary to section 345 as read with section 349 of the Penal Code.

(d) Uttering a false document contrary to section 353 of the Penal Code.

(e) Knowingly misleading a person carrying out a duty contrary to section 176 (1) (*b*) as read with section 176 (2) of the Public Procurement and Asset Disposal Act, 2015.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

10.EACC/FI/INQ/20/2021

Inquiry into Allegations of Embezzlement/Misappropriation of Public Funds Amounting to KSh. 45,610,187/= by Turkana County Assembly Through Tendering and Construction of Turkana County Assembly Speaker's Residence at Kanamkemer Ward

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on allegation that public funds which were meant for construction of the speaker's residence at Kanamkemer within Turkana County amounting to KSh. 45,610,187/= was misappropriated by the public officer's employed at Turkana County.

Investigations revealed that eight companies submitted their bids for the tender. The tender was irregularly awarded to Ekoriagete Enterprises Limited and the contract was executed by the County Assembly Clerk.

Further, it was established that one of the directors of the said company is an employee of the County Government of Turkana. The work done was valued at KSh. 19,494,994.99 as compared to payments made to the contractor totaling to KSh. 54,392,735.87 There was an overpayment of KSh. 34,897,740.88.

Investigations revealed that the said company was not registered with the National Construction Authority for the period between the years 2013 to 2018. The NCA certificates submitted by Ekoriagete Enterprises Limited as part of the requirement were forgeries.

Furthermore, financial investigations conducted revealed that payments were made to the company' account. The account was established to be operated by one of the county officials who is a director in the company. Upon receipt of the funds, the county official withdrew KSh. 18,495,500/= between August and September 2018 in a clear case of conflict of interest.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Deputy Clerk of Turkana County Assembly, the Clerk, the County Works Officer and the Director of the Ekoriagete Enterprises Limited with the following offences:

(a) One count of conspiracy to commit an offence of economic crime contrary to Section 47A (3) all as read with Section 48 of ACECA.

(b) One count of fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of abuse of office contrary to section 46 as read with section 48(1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

(d) One count of fraudulently making payments from public revenues for services not rendered contrary to section 45(2) (iii) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(e) One count of fraudulent procurement practice contrary to section 66(1) and (2) as read with section 177 of the Public Procurement and Disposal Act, 2015.

(f) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(g) One count of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

On 19th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

11. EACC/NKR/INQ/FI/101/2017

Inquiry into the Allegations of Misappropriation of Public Funds And Procurement Irregularities in the Rehabilitation And Construction of Salgaa-Elburgon Road By The County Government of Nakuru At the Cost of KSh. 10,000,000/= in the Financial Year 2015/2016

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th January, 2017 on allegations that the County Government of Nakuru had misappropriated KSh 10,000,000/= in the rehabilitation and construction of Salgaa-Elburgon road.

Investigations established that the County Government of Nakuru had planned for the construction and rehabilitation of Salga Elburgon Road as per the roads work plan at KSh 8,084,300/= during the financial year 2015/2016. It was established that the technical evaluation was not conducted as required by regulation 16(4) of the Public Procurement and Disposal Regulations 2013. The procurement process was therefore flawed. The award was issued to Gee El Construction Works Limited and was paid for KSh 6,508,478.53.

It was further established that the said company was not registered with the National Construction Authority and that the certificate provided by the company was a forgery.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Tender Evaluation Committee members, the Supply Chain Management Officer, the Chief Officer for Department of Roads and Public Works and the Directors of Gee El Construction Works Limited with the following offences;

(a) One count of Fraudulent practice in the procurement proceedings contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act, 2015.

(b) One count of Fraudulent acquisition of public property contrary to section 45(1) *(a)* as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45(2) *(b)* as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and

(d) One count of Abuse of office contrary to section 45(2) *(b)* as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

12. EACC/MSA/FI/INQ/04/2021 (C)

Inquiry into Allegations of Conflict of Interest and Procurment Irregularities Involving the Head of Treasury at The Kwale County Government Who is Alleged to own a Company Known as Chilongola Holdings Limited, which has Been Trading with the County Government of Kwale

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 4th February, 2021 alleging conflict of interest against the Head of Treasury, Kwale County Government who was alleged to own two companies namely; Rome Investment Limited and Chilongola Limited Companies which transacted and received KSh. 9,000,000/= from the said institution during the Financial Year 2017/18 and 2018/2019.

Investigations established that the companies were awarded ten tenders to supply and deliver sanitation materials, food and ration, general office supplies, and institutional appliances. It was further established that the procurement process undertaken was flawed. Rome investment and Chilongola Limited entered into a contract with the County Government of Kwale through Local Purchase Orders for the 10 tenders despite the procurement process having been flawed.

It was established that the tender documents including purchase requisition forms, minutes of the Tender Opening Committee, letters of appointment of inspection and acceptance committee and inspection and acceptance minutes relating to the said tenders were forgeries and the same were presented at the Kwale County Government by the Accountant and the Hospital Administrator. Further investigations established that Rome Investments and Chilongola Limited were paid a sum of KSh 44,919,341 and KSh. 4,007,943, respectively.

Further investigations disclosed that the Head of Treasury at the county was the Director at Chilongola Holdings together with his brothers who were directors for Rome Investments (k) Limited. The Head of Treasury was a mandatory signatory of the said companies bank accounts held at KCB Kwale Branch.

Financial investigations revealed that the Head of Treasury was a beneficial owner of the two companies by virtue of the cheques made. The total amount received by the two companies was KSh 44,919,341 and the same distributed to the directors of the companies.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations that the Head of Treasury and a Director of Chilongola Holdings Limited and Rome Investment Limited, an Accountant and Hospital Administrator of the Kwale County Government be charged as follows;

(a) Conflict of interest contrary to section 42(1) as read with section 48 of the Anti corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(c) Deceiving principal contrary to section 412) as read with as read with section 48(1) of Anti corruption and Economic Crimes Act, No. 3 of 2003.

(d) Fraudulent practise in procurement contrary to section 66 as read with section 177 of the Public Procurement and Asset Disposal Act, 2015.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

13. EACC/BGM/PI/INQ/09/2020

Investigation into Allegations of Procurement Irregularities and Conflict of Interest in the Procurement of A Double Cabin Pick-Up and a 33 Isuzu Bus Seater by the County Assembly of Bungoma in the Financial Year 2018/2019

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on allegations of procurement irregularities in in tender number CA/BGM/PUR/205/2019-2020 for the supply of a double cabin pick-up and a 33 Isuzu bus seater by the County Assembly of Bungoma during the Financial Year 2018/2019. It was further alleged that the Accounting Officer of the County Assembly had participated in the procurement amounting to Conflict of interest.

It was established that seven bidders participated in the procurement process. The Evaluation Committee conducted the evaluation exercise and recommended Westfield Motors Limited for the award for both the bus and double cabin. However, after a professional opinion was submitted with the foregoing recommendations, the clerk disregarded the opinion and went ahead to establish a different three-member committee to conduct another evaluation which was irregular since the substantive evaluation committee had not been disbanded.

It was further established that the Procurement Officer and the Clerk of the County Assembly prepared and approved a professional opinion which was misleading. The Accounting Officer executed the contract and authorised payments of KSh. 5,870,000/= and KSh. 4,980,000/= to be made in full to Westfield Motors Limited and Kenyan Coach Industries Limited respectively while knowing that the vehicles had not been supplied.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Accounting Officer and the Head of Procurement with the following offences;

(a) Three counts of wilful failure to comply with applicable procedures and guidelines relating to procurement of services contrary to section 45 (2) *(b)* as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

14. EACC/EL/INQ/29(ii)/2022

Inquiry into Allegation that an Employee Falsified Academic Certificates To Secure Employment at Rural Electrification And Renewable Energy Corporation (REREC) as a Supply Chain Management Assistant

The Ethics and Anti-Corruption Commission (EACC) commenced an investigation following a complaint received that the officer used a forged Bachelor's degree in procurement supplies Chain Management from Jomo Kenyatta University of Agriculture and Technology to gain employment at RERFC as a Supply Chain Management Assistant (Procurement and Disposal).

Investigations established that the Supply Chain Management Assistant forged a Bachelor's degree certificate No. 3701 in procurement and supplies from Jomo Kenyatta University and Technology. He attached the certificate while making application to be employed in the position of Supply Chain Management Assistant as captured from his employment records. Investigations revealed that he also submitted fake transcripts to RERFC.

It was established that he had irregularly been paid a net salary amounting to KSh. 311,974.45 since the April 2022 to July, 2022.

On 17th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the aforesaid suspect with the following counts

(a) One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti Corruption and Economic Crimes Act

(b) Five counts of forgery contrary to section 345 as read with section 349 of the Penal code

(c) Five counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code

On 19th November, 2023 the DPP returned the inquiry file with recommendations for further investigations

15. EACC/EL/INQ/29(c)/2022

Inquiry into Allegations That an Employee used Forged Academic Documents to Secure Employment at Rural Electrification and Renewable Energy Corporation (RERFC)

The Ethics and Anti Corruption Commission (EACC) commenced investigation following a complaint on 2nd August, 2022 that the employee used forged academic documents to apply for the position of a driver at RERFC

Investigations established that the said driver made an application following an advertisement in the local dailies on 1st December, 2020. In his application he attached several documents including, a Kenya Secondary school certificate No. 23866658 from Kimuri High School issued in the year 2008.

Investigations further established that the KCSE certificate was forged, having been subjected to authentication by the Kenya National Education Council (KNEC). He had worked with RERFC from 1st April, 2022 to July, 2022 and irregularly earned a net salary of KSh. 293,240.94

On 17th October, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the suspect being a driver at RERFC with the following offences;

(a) Fraudulent acquisition Contrary to section 45 (1) (a) all as read with section 48 of ACECA.

(b) Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Giving false information to a person employed in the public service contrary to section 129 (a) of the Penal Code.

On 2nd January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

16. EACC/EL/INQ/29(m)/2022

Inquiry into Allegations that an Employee used Forged Academic Documents To Get Employment at Rural Electrification And Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 2nd August, 2022 on allegations that the employee used forged academic documents to apply for the position of Supply Chain Management Assistant (Inventory and Logistics) at REREC.

It was established that the RERFC advertised for various positions in the local dailies dated 1st December, 2020. One of the positions advertised was that of Supply Chain Management Assistant (Inventory and Logistics). The applicant for the position and in her application she indicated that she holds a Diploma in Business Information Technology from Kenya Methodist University awarded in the year 2014.

Investigations established that she did not study at the said institution and the Diploma certificate in question was therefore a forged document. It was further established that she had been working at RERFC from 1st April, 2022 to 13th July, 2022. She thus she gained from the institution a net salary of KSh. 203,457.20 considering that she was not qualified for the position.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge with the following offences

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1)(a) as read with section 48 of the Anti Corruption and Economic Crimes Act 2003

(b) One count of Forgery contrary to section 345 as read with section 349 of the Penal code

(c) One count of uttering a false document contrary to section 353 as read with section 349 of the Penal Code

(d) Two counts of Giving false information to a person employed in the public service contrary to section 129 (a) of the Penal Code

On 30th November, 2023 the DPP returned the inquiry file with recommendations for further investigations

17. EACC/ISL/EL/INQ/2/2020

Inquiry Into Allegations that the Ward Administrator for Marsabit Central Used Forged Academic Documents to get Employment

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received with allegations that the Ward Administrator for Marsabit Central had allegedly used forged Kenya Certificate of Secondary Education Certificate (KCSE) and diploma certificate to gain employment in Marsabit County

Investigations established that the suspect applied for employment opportunity at the Marsabit County Government in the year 2018. He submitted his curriculum vitae, which indicated that he had a Diploma in Community Development and Social Work

Investigations revealed that the Ward Administrator also applied for the position of Civic Education Officer and attached a KCSE Certificate serial No. 2023397 from Marsabit Secondary School. He further submitted a KNEC Certificate serial No. BTEP/D004270 for diploma in Community Development and Social Work. The suspect was appointed as a Public Participation and Civic Education Officer from 28th January, 2019.

Investigations further revealed that the positions in which he was appointed into had not been advertised and therefore the appointments were irregular.

Further investigation revealed that the suspect had altered the grades in the KCSE certificate that he submitted to the Marsabit County Government and the Diploma in Community and Social Development were forgeries. It was further established that the Ward Administrator had earned a net salary from April, 2019 to September, 2023 amounting to KSh. 1,954,324.15

On 27th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Ward Administrator with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48(1) of ACECA

(b) One count of Deceiving principal contrary to section 412) as read with as read with section 48(1) of ACECA

(c) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code

(d) Two counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution

18 EACC/MSA/FI/INQ/13/2023

Inquiry into Allegations Joskat Construction Company did not Follow the Bills of Quantities when Performing Contracts for Likoni CDF in erecting the Perimeter wall for Timbwani Secondary School in the Financial Year 2021-2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a contractor was not following the bill of quantities when performing contracts for Likoni NG-CDF project for erecting the 400 meter perimeter wall for Timbwani Secondary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Timbwani secondary School were followed from the initiation of the tender process until the award of contract. The contract was awarded to Joskat Construction Company Limited at a cost of KSh.. 6,394,807/=. The Project Management Committee confirmed that the progress was good and that the work was being done as per the specifications. The company completed the said construction as per the contract and as a result, payments were made to the contractor. The project has been completed but was yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

19. EACC/MSA/FI/INQ/11/2022

Inquiry into Allegations that a Company Called Sallysam Limited did not Follow The Bills of Quantities when Erecting the Perimeter Wall for Mrima Primary School in Likoni Consituency during the Financial Year 2021/2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a company namely Sallysam Ltd was not following the bill of quantities when performing contracts for Likoni NG-CDF project for construction of classes for Mrima Primary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Mrima Primary School were followed from the initiation of the tender process until the award of contract to Sallysam Limited. The construction was also completed as per the contract and as a result, payments were made to the contractor. The project has been completed and yet to be handed over, once the defect-liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

20. EACC/MSA/FI/INQ/14/2023

Inquiry into Allegations that a Company Called Sallysam Enterprises did not follow the Bills of Quantities When Erecting The Perimeter Wall For Mtongwe Girls Secondary School in Likoni Constituency during The Financial Year 2021/2022

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 26th September, 2022 that a company called Sallysam Limited was not following the bill of quantities when performing contracts for Likoni NG-CDF project of erecting the perimeter wall for Mtongwe girls Secondary school during the Financial Year 2021/2022.

Investigations established that the NG-CDF Board approved a code of projects including Mtongwe Girls Secondary School with an allocated amount of KSh. 5,985,075/=. The procurement entity was Likoni Constituency Development Fund. Three companies submitted their bids and a final award issued to Sallysam Enterprises Limited. The contract was executed on 3rd May, 2022. The works were executed by the said company and it was noted that the project was going on well as per the specifications of the Bill of quantities. Investigations did not reveal any procurement irregularities in the subject project.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed with no further action.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure

21. EACC/KSI/OPS/INQ/1/2022

Inquiry into Allegations of Corruption against a Court Assistant Working for the Judiciary at Migori Law Courts

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 11th April, 2022 that a Court Assistant had approached him and that he could assist him to get a favourable judgment from the Magistrate handling the criminal matter at a court in Migori. He was required to give KSh. 100,000/=.

Investigations established that there was a criminal matter at Migori Law Courts where the complainant was the accused and was coming up for judgment. The Court Assistant requested for KSh. 100,000/= in order to assist the complainant to get a favourable judgment. The Commission established that the Court Assistant had demanded and received a bribe of KSh. 20,000/= which was recovered from him upon arrest.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations that the Court Assistant be charged with two counts of receiving a bribe contrary to section 6 (1) *(a)* as read with section 18 (1) and (2) of the Bribery Act, 2016

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

22. EACC/OPS/INQ/20/2023

Inquiry into Bribery Allegation of Corrupt Conduct Against a Kenya Revenue Authority Officer

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 14th March, 2023 alleging that a Waiver Processing Officer at the Kenya Revenue Authority was demanding for a benefit of KSh. 50,000/= in order to write off accrued erroneous value added tax penalty amounting to KSh. 410,000/=.

Investigations established that the Waiver Processing Officer worked at the KRA and had requested and received KSh. 40,000/= as a financial benefit.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Waiver Processing Officer at KRA with three counts of receiving a bribe contrary to section 6 (1) *(a)* as read with section 18 of the Bribery Act No. 47 of 2016

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

23. EACC/MCKS/OPS/INQ/2/2021

Inquiry into Allegations that the Head Teacher at Unoa Primary School was Charging Illegal Levies as Fees in Violation of Guidelines by the Ministry of Education on Free Primary Education (FPE)

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received on 14th January, 2020 that the Head teacher at Unoa Primary School was charging illegal levies as fees in violation of guidelines by the Ministry of Education on free primary education.

Investigations further established that the head teacher had been charging illegal fees in form of development fees of Kshs. 5,000/=, harambee fee of KSh. 1,000/=, Fencing fee of KSh. 1000/= and feeding programme fee of KSh. 1850/= plus other motivation and activity fee totalling to KSh. 10,000/=.

Financial Investigations established that the head teacher owned a private enterprise namely AGPHILY Enterprise that was trading with the school wherein he was the head.

Further investigations established that the head teacher purported to have made supplies to the school and he had signed a cheque of KSh. 183,500/= in his favour. The cheque was not honoured at the bank since no supporting document was provided to the bank.

On 9th November, 2023, a report was compiled and forwarded to the DPP with the recommendations to charge the head teacher, Opisa Primary school with the following offences;

(a) Conflict of interest contrary to section 42 (1) as read with Section 48 of the ACECA, 2003

(b) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution

24. EACC/OPS/INQ/36/2023

An Inquiry into Allegations of Corrupt Conduct against a Nairobi City County Revenue Officer Based at City Hall

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received a report dated 18th May, 2023 alleging that a Nairobi City County Revenue Officer based at City Hall was demanding for a bribe of KSh 20,000/= from him in order to write off cess arrears amounting to KSh. 47,0000/= accrued by his lorry

Investigations established that on 27th April, 2023 the County Official informed owner of lorry that he had cess arrears of Kshs. 47,000/= . The suspect reduced the amount to KSh. 20,000/= and required the owner of the lorry to pay KSh 10,000/= through paybill number and was given KSh. 10,000/= in cash. On a later date, the lorry owner was informed that he had cess arrears of KSh. 14,000/=.

The Commission established that he was employed as an Administrative Officer III at the Nairobi City County Government. The county official requested and received KSh. 10,000/= in order to facilitate write-off cess arrears accrued by his lorry owed to Nairobi City County Government.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Administrative Officer at Nairobi City County Government be charged with three counts of receiving a bribe contrary to section 6 (1) *(a)* as read with section 18 of the bribery Act No. 47 of 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

25. EACC/MCKS/OPS/INQ/54B/2018

An Inquiry into Allegations of Obstruction against a Suspect In ACC 636/2020 - Republic Vs. Eldah Konzolo

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 11th April, 2021 on allegations that an accused person in Anti-corruption case no. ACC 636/2020 – R vs. Eldah Konzolo had offered KSh. 17,000/= to a witness in order to change his testimony in the stated matter which was pending trial before Mavoko law courts.

Investigations established that the suspect had compromised the witness in the said matter and indeed sent KSh. 17,000/= through Mpesa to a proxy to avoid any direct link. The money was intended to persuade the witness to change his testimony in court. It was established that the said amount was sent to one of his colleague. Investigations also established that the conduct of the accused amounted to interference with a witness with an aim to obstruct justice.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the suspect, with the following offences;

(a) One count of giving a bribe contrary to section 5 of the Bribery Act, 2016.

(b) One count of interfering with witnesses contrary to section 117 (1) of the Penal Code Cap 63.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

26. EACC/OPS/INQ/44/2023

Inquiry into Allegations of Bribery against a Member of County Assembly, Hospital Ward, Kiambu County.

The Ethics and Anti-Corruption Commission (EACC) conducted investigation following a complaint received on 19th May, 2023 to the effect that a Member of County Assembly, Hospital Ward, Kiambu County was requesting for a financial advantage of KSh 190,000/= as an inducement to allow her proceed with the intended development activities on Parcel No. Thika Municipality Block 11/377.

Investigations established that county official requested that he be given a portion of land and KSh. 80,000/= so that he could dissipate an alleged Petition by members of the public against any development on the subject plot. They negotiated the amount downwards to KSh 100,000/=.

It was established that the suspect is Public Officer by virtue of him being a Member of County Assembly (MCA), Kiambu County. He was acting in his official capacity as MCA and Chairperson of the Development Committee of the Assembly also he requested for the benefit.

The Commission established that the county official requested for a bribe of KSh 190,000/= intending that, in consequence, the owner of the plot proceeds with her intended development on Parcel No. Thika Municipality Block 11/377.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge him with two counts of receiving a bribe contrary to section 6(1) (a) of the Bribery Act 2016.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

27. EACC/BGM/OPS/INQ/8/2023

Investigation into Allegations of Bribery against a Police Officer Attached to Kakamega Central Police Station

The Ethics and Anti Corruption Commission (EACC) commenced investigation following a complaint received on 5th December, 2023 with allegations that a Police Officer attached to the DCI Kakamega Central Police Station at Kakamega County, had requested for a financial advantage of KSh 100,000/= to give to a Magistrate stationed at Kakamega Law Courts in order to influence the outcome of an inquest proceeding at the Kakamega Magistrates Court.

Investigations established that there was an inquest under Inquest No. 3 of 2020. The inquest proceedings had concluded and pending the verdict of the Principal Magistrate. The Police Officer who was at the time the investigating officer requested for a benefit in order to compromise the said magistrate to rule in favour of the deceased.

Investigations further established that the police officer was employed at the Ministry of Interior and Co ordination of National Government (Administration Police). The Commission established that the police officer received the bribe of KSh 40,000/= which was recovered from him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the police officer be charged with two counts of receiving a bribe contrary to section 6(1) (a) of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Total No of files forwarded to the Director of Public Prosecutions	27
No. of files recommended for prosecution	24
No. of files recommended for administrative or other action	0
No. of files recommended for closure	3
No. of files recommended for prosecution and the cases are already lodged before Court	-
No. of files where recommendation to prosecute accepted	7
No. of files where recommendation for administrative or other action accepted	-
No. of files where recommendation for closure accepted	3
No. of files returned for further investigations	14
No. of files where recommendation to prosecute not accepted	-
No of files where recommendation for administrative or other action not accepted	-
No. of files where closure not accepted	-

No. of files where prosecution declined but administrative action recommended	
No. of files awaiting the DPP's advice	3

Dated the 13th February, 2024

DAVID OGINDE,
Chairperson.

TWALIB MBARAK,
Secretary/Chief Executive Officer.

PTG 1703/23-24

GAZETTE NOTICE NO. 2090

THE KENYA INFORMATION AND COMMUNICATIONS ACT

(No. 2 of 1998)

APPLICATION FOR LICENCES

NOTICE is given that the following applicants have, pursuant to the provisions of the Kenya Information and Communications Act, 1998, made applications to the Communications Authority of Kenya for grant of the licences as shown in the Table below:

Name	*Station Identity*	*Licence Category*
Darwy Afrik Photography and Safaris Limited, P.O. Box 5572–0100, Eldoret	Assis FM	Commercial Free to Air Radio Licence
Alhaajar Investment Limited, P.O. Box 98558–80100, Mombasa	Alhaajar TV	Commercial Free to Air Television Licence
AIPCA Bahati TV and Radio Limited, P.O. Box 73053–00200, Nairobi	AIPCA Bahati TV	Commercial Free to Air Television Licence
Way of Truth Media Limited, P.O. Box 3556–00200, Nairobi	Truth Wave TV	Commercial Free to Air Television Licence
Nifty Works Plus Limited, P.O. Box 21933–00505, Nairobi	NWPLUS TV	Subscription Broadcasting Service Licence
University of Eastern Africa Baraton, P.O. Box 2500–30100, Eldoret	Baraton FM	Community Free to Air Radio Licence
Go Shipping Cargo Agency Limited, P.O. Box 4689–00100, Nairobi		International Postal/ Courier Operator Licence
Samina Senders and Logistics Limited, P.O. Box 90231–80100, Mombasa		National Postal/ Courier Operator Licence
Prime Time Meru Travellers Company, P.O. Box 415–60200, Meru		National Postal/ Courier Operator Licence
Iyanat Business Solutions, P.O. Box 30068–00100, Nairobi		National Postal/ Courier Operator Licence
Samper Cabs Limited, P.O. Box 12862–00100, Nairobi		National Postal/ Courier Operator Licence
Wekkitech Limited, P.O. Box 536–20100, Nakuru		Network Facilities Provider Tier 3 (NPF-T3)
DXA Technologies Limited, P.O. Box 79450–00200, Nairobi		Network Facilities Provider Tier 2 (NPF-T2)

The licences, if granted, will enable the applicants to operate and provide the services as indicated in the Table above. The grant of these licences may affect the public and local authorities, companies, persons or bodies of persons within the country.

The Authority wishes to notify the general public that any legal or natural person, or group of individuals, who are desirous of making any representation and/or any objection to the said applications, to do so *vide* a letter addressed to: The Director-General, Communications Authority of Kenya, CA Centre, Waiyaki Way, P.O. Box 14448–00800, Nairobi, indicating the licence category on the cover enclosing it.

The said representation and/or objection must be filed on or before expiry of thirty (30) days from the date of publication of this notice and a copy of the same be forwarded to the applicants.

Dated the 13th February, 2024.

DAVID MUGONYI,
Director-General.

PTG 1685/23-24

GAZETTE NOTICE NO. 2091

THE WATER ACT, 2016

(Sections 70, 85, 87 and 139)

PUBLIC CONSULTATION MEETING ON LICENCING OF WATER SERVICE PROVIDER

THE Water Services Regulatory Board (WASREB) has received licence application from Nyeri Water and Sanitation Company Limited to provide water services within Nyeri County.

The licence application has been made pursuant to the Water Act 2016 (section 85(1)- "A person shall not provide water services except under a licence issued by the Regulatory Board, upon submission of an application and such supporting documents as the Board may require".

Therefore, in compliance to WASREB principal object under the Water Act, 2016 section 70 (1)-"protection of the interests and rights of consumers in the provision of water services", section 87(1)- "An application for a licence shall be subject to public participation" read together with the provision of section 139, we wish to advise that the public consultation meeting shall be held at the venue stated below to get stakeholders concerns on services provided, licencing conditions and proposals for services improvement going forward.

Please note that the Water Service Provider shall hold hybrid public consultation meeting (physical and virtual) as outlined below:

Water Service Provider	*County*	*Venue*		*Day Date and Time*
Nyeri Water and Sanitation Company	Nyeri	Physical meeting:	Wangari Mathai Hall, Nyeri Town	Tuesday, 5th March, 2024 10.00 a.m.
		Virtual meeting:	WSP to provide links	

Participants should be seated by 10.00 a.m. Personal identification of participants will be required. Members of the public in respective areas are invited to make oral and written submissions and ask any questions that may relate to the provision of water services in their areas.

Comments on the application shall be emailed to info@wasreb.go.ke or send in hard copy to:

The Chief Executive Officer,
Water Services Regulatory Board,
5th Floor NHIF Building,
Ngong Road,
P.O. Box 41621–00100,
Nairobi.

The closing date for receipt of comments is thirty (30) days after the publication of this notice.

Dated the 6th February, 2024.

JULIUS ITUNGA,
Ag. Chief Executive Officer,
Water Services Regulatory Board.

MR/6198975

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND
14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, Diane Gaciku Meria an adult of sound mind, disposition and a citizen of Kenya presently resident in Nairobi hereby solemnly makes oath and states

THAT:

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, namely:-

    1) PROF. KITHURE KINDIKI
    2) ALICE WAHOME
    3) ADEN BARRE DUALE
    4) ROSELINDA SOIPAN TUIYA
    5) DAVIS CHIRCHIR
    6) SALIM MVURYA MGALA
    7) REBECCA KIANO
    8) ONESIMUS KIPCHUMBA MURKOMEN
    9) ALFRED NGANGA MUTUA
    10) JUSTIN BEDAN NJOKA MUTURI
    11) JOHN MBADI NG'ONGO
    12) JAMES OPIYO WANDAYI
    13) HASSAN ALI JOHO, AND
    14) WYCLIFFE AMBETSA OPARANYA.

2. I contest the nomination of the **first ten** nominees cited on the following requisite grounds, that:

3. The Presidential Communique dated 11th July 2024, dismissed the entire National Government Cabinet Nairobi inclusive of the Attorney-General, save for the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs. The same was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

4. The **first ten** persons cited in the subject hereof were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the communique.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

7. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

8. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein as is imposed by the relevant provisions under the Constitution of Kenya (2010).

9. H.E., the President, stated that, cognisant of the imperative to better equip and orientate the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya.

10. It was by dint of this recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance of its functions, he had decided to dismiss all members of his Cabinet, save the two positions highlighted above of the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by the following grounds inter alia:

    i. Commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery;
    ii. commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic; and
    iii. embed operational enhancements and foster responsive governance

12. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

13. By his own admission and actions on **11.07.2024** and, in, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously appointed as members of his Cabinet, to continue holding that office.

14. I submit that the net effect of the H.E., the President's action meant that the now dismissed Cabinet Secretaries did not meet the tenets of the Chapter VI of the Constitution of Kenya, 2010.

15. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

16. The requisite constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the **first ten** persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

17. To this extent , I humbly submit that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to

him by the people of Kenya, already determined to be unsuitable to hold State offices.

18. **Articles 132(2) (a and b), 152(2) and 156(2)** of the Constitution grants the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

19. **Articles 1(1, 2 and 3(b)), 10, 73, 75, 129, 130, 131, 232 and 259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a and b), 152(1 and 2) and 156(2).**

20. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

21. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

22. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

23. It is a matter of public record and notoriety that the last **four** named persons are members of and/or affiliated with the **ORANGE DEMOCRATIC MOVEMENT (ODM)** political party. I shall proceed to evidence the same as hereunder:

24. **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** served as governors of Mombasa and Kakamega counties, respectively, between **2013 – 2022**. Both stood as and were elected as members of **ODM** political party. ***(We direct this Honourable Assembly to the relevant information within Public Records and Gazetted Notices alike)***

25. **JOHN MBADI NG'ONGO** and **JAMES OPIYO WANDAYI** are currently members of the National Assembly, having been nominated and elected at the general election in **AUGUST 2022** as the candidates for **ODM** party. **JOHN OPIYO WANDAYI** is, in fact, currently Leader of the Minority Party in the National Assembly as provided by **Article 108** of the Constitution.

26. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION**. **RAILA AMOLO ODINGA**, the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

27. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

28. The Constitution, including under **Articles 4(2), 10(2), 90, 91** and **108**, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under **Article 38**, have a genuine and credible choice between different political parties, ideologies and independent candidates.

29. Distinct political and ideological stances are requisites expressly provided under Article 4(2) of the Constitution of Kenya in order to achieve a multi-party democratic State.

30. It is instructive that in keeping with the Constitution as the supreme law of the Republic of Kenya, I pose it to you as follows:

Under **Article 1(3)** of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, under the strict purview and authority of the Constitution, to achieve for the people of Kenya as is envisaged by Article 1(1) which provides:

"All sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution."

31. To this extent, it is my humble submission that H.E., the President, then cannot purport to lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. I humbly submit that the above shows evidence beyond peradventure, that H.E. the President, will be acting *ultra vires* of his express Constitution mandate, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

33. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

34. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

35. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National

Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA.**

36. It is a matter of record that the country's public finances are under great stress. In view of the expected pressure on public finances, I contest the constitutional validity of H.E., the President, and JAMES OPIYO WANDAYI, to cause unnecessary expenditure of scare public resources in the ensuing by-election for UGUNJA upon approval and appointment of the nominee as hoped.

37. I wish to humbly direct this Honourable Assembly to the questionable and personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act**, 2003 and **Anti-Money Laundering Act**, 2009. *(I direct the Assembly to the EACC prosecution case under the reference No. **EACC/FI/INQ/18/2023.**)*

38. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024.**

39. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers. I give the example of Hassan Joho, who appeared before the County Public Accounts and Investments Committee chaired by Migori Senator, Ochilo Ayacko to shed light on audit queries originating from the Auditor General's report for the financial year 2018/19.

40. In support of this statement, I submit the following documents as evidence, **these being**:

a) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs; (Annexed hereto as exhibit marked as **"NCS 1"**)

b) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs; *(Annexed hereto as exhibit marked "**NCS 2**")*

c) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page **669** and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences. *(Annexed hereto as the bundle of exhibit marked "**NCS 3**"); and*

d) The Annexed Link attached on the audit inquiry into ALI HASSAN JOHO annexed at Paragraph 39 herein as exhibit marked "**NCS 4**")

41. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses - clerk@parliament.go.ke and cna@parliament.go.ke.

42. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

SWORN at NAIROBI by the said)
)
)
this 29th day of JULY 2024)
)
BEFORE ME NOELEMA KHAFAFA)
)
COMMISSIONER FOR OATHS)

NANCY NOELEMA KHAFAFA
ADVOCATE
&
COMMISSIONER FOR OATHS
P.O. Box 57107 - 00200 NAIROBI

.....
DEPONENT

EML/643

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA.

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARE DUALE
4. ROSELINDA SOIPAN TUYA
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALLA
7. REBECCA MIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND
14. WYCLIFFE AMBETSA OPARANYA.

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P.O. Box 41842

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, Michelle Khisa , an adult of sound mind, disposition and a citizen of Kenya presently resident of Nairobi hereby solemnly makes oath and states THAT:

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, namely:

    1) PROF. KITHURE KINDIKI
    2) ALICE WAHOME
    3) ADEN BARRE DUALE
    4) ROSELINDA SOIPAN TUIYA
    5) DAVIS CHIRCHIR
    6) SALIM MVURYA MGALA
    7) REBECCA KIANO
    8) ONESIMUS KIPCHUMBA MURKOMEN
    9) ALFRED NGANGA MUTUA
    10) JUSTIN BEDAN NJOKA MUTURI
    11) JOHN MBADI NG'ONGO
    12) JAMES OPIYO WANDAYI
    13) HASSAN ALI JOHO, AND
    14) WYCLIFFE AMBETSA OPARANYA.

2. My grounds for contesting the nomination of the first ten nominees named above are that:

3. In a statement dated 11.07.2024 issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The first ten persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the first ten persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the first ten persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as Kenya Gazette Notice No. 8440/2024 on 12.07.2024.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the first ten persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the first ten persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first** ten persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first** ten individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members

of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated 11.07.2024 and in the EXECUTIVE ORDER NO. 6 OF 2024, which the dismissed persons, including the first ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named first ten persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. Articles 132(2)(a and b), 152(2) and 156(2) of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the first ten persons named above was, as stated in the EXECUTIVE ORDER, based on Article 152(5)(b) of the Constitution.

22. Articles 1(1, 2 and 3(b)), 10, 73, 75, 129, 130, 131, 232 and 259 of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under Articles 130(1), 132(2)(a and b), 152(1 and 2) and 156(2).

23. Having determined, on 11.07.2024, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of 11.07.2024 and EXECUTIVE ORDER NO. 6 OF 2024 of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named first ten persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first ten (10) persons named above, I also contest the nomination, for approval by the National Assembly, of the last four (4) persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last four named persons are members of and/or affiliated with the ORANGE DEMOCRATIC MOVEMENT (ODM) political party.

27. HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of ODM political party.

28. JOHN MBADI NG'ONGO and JAMES OPIYO WANDAYI are currently members of the National Assembly, having been nominated and elected at the general election in AUGUST 2022 as the candidates for ODM party. JOHN OPIYO WANDAYI is, in fact, currently Leader of the Minority Party in the National Assembly as provided by Article 108 of the Constitution.

29. The Constitution, including under Articles 4(2), 10(2), 90, 91 and 108, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under Article 38, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by Article 4(2) of the Constitution.

30. Further and in addition, under Article 1(3) of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, UNITED DEMOCRATIC ALLIANCE (UDA) and its coalition partners in KENYA KWANZA ALLIANCE (KKA) are political rivals to the ODM party and its coalition

partners, AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA, the leader of ODM, was a rival presidential candidate in the elections held on 09.08.2022 in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that JOHN MBADI NG'ONGO is the chairperson of ODM party while HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, UDA/KENYA KWANZA ALLIANCE and ODM/AZIMIO LA UMOJA ONE KENYA COALITION, as distinct entities under the Constitution, is reinforced by the fact that JAMES OPIYO WANDAYI, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to Article 108 of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last four persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132 and 152.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including Articles 73, 74 and 75. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in Article 10 of the Constitution.

37. Further and in addition, nomination of JAMES OPIYO WANDAYI, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to Article 201 of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to Article 152(3) of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of UGUNJA.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for FY 2024/2025. This reduction will be borne in the management of electoral processes' functions of IEBC.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega County under their case reference No. **EACC/FI/INQ/18/2023**.

45. On 18.12.2023, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that WYCLIFFE AMBETSA OPARANYA should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, WYCLIFFE AMBETSA OPARANYA is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in *Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)*, that WYCLIFFE AMBETSA OPARANYA is currently unqualified for the nomination as notified on 24.07.2024.

47. Under the Constitution, including Articles 3(1), 4(2), 10, 73, 74, 75, 94(2 and 4) and 95(1, 2 and 5), and for the reasons given above, the National Assembly has a duty to reject the nomination of the all the persons named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last four persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in Article 10 of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, these being:

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on 11.07.2024, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the first ten persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the first ten persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide Gazette Notice No. 2089 at page 669 and case reference No. **EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

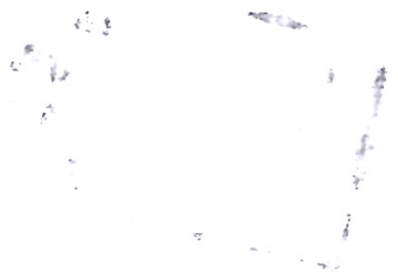
MADE UNDER OATH AND **SIGNED** BY THE **SAID**, **Michelle Khisa,** ON THIS **29th DAY OF JULY, 2024,** AT **1410 hrs** , IN THE PRESENCE OF **Ohero**, COMMISSIONER OF OATHS.

Janet A. Ohero
Advocate & Commissioner for Oaths
P. O. Box 314 - 00517
NAIROBI

DRAWN AND SUBMITTED BY:

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke



HD/124

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, MBUGUA MAUREEN, an adult of sound mind, disposition and a citizen of Kenya presently resident in NAIROBI COUNTY hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
    3) **ADEN BARRE DUALE**
    4) **ROSELINDA SOIPAN TUIYA**
    5) **DAVIS CHIRCHIR**
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    12) **JAMES OPIYO WANDAYI**
    13) **HASSAN ALI JOHO, AND**
    14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The **first ten** persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first ten** persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the **first ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated 11.07.2024 and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the **first ten** persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a and b), 152(2) and 156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2 and 3(b)), 10, 73, 75, 129, 130, 131, 232 and 259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a and b), 152(1 and 2) and 156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last four named persons are members of and/or affiliated with the ORANGE DEMOCRATIC MOVEMENT (ODM) political party.

27. HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of ODM political party.

28. JOHN MBADI NG'ONGO and JAMES OPIYO WANDAYI are currently members of the National Assembly, having been nominated and elected at the general election in AUGUST 2022 as the candidates for ODM party. JOHN OPIYO WANDAYI is, in fact, currently Leader of the Minority Party in the National Assembly as provided by Article 108 of the Constitution.

29. The Constitution, including under Articles 4(2), 10(2), 90, 91 and 108, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under Article 38, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by Article 4(2) of the Constitution.

30. Further and in addition, under Article 1(3) of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION. RAILA AMOLO ODINGA,** the leader of **ODM**, was a rival presidential candidate in the elections held on 09.08.2022 in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10,.90, 91, 97, 108, 129, 130, 132** and **152.**

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75.** I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009**.

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. EACC/FI/INQ/18/2023.

45. On 18.12.2023, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in *Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)*, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2 and 4) and 95(1, 2 and 5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page 669 and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and c...a@parliament.go...e.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND SIGNED BY THE SAID, _____;

ON THIS 30th DAY OF JULY, 2024, AT NAIROBI, IN THE PRESENCE OF _____, COMMISSIONER OF OATHS.

NICOLE WAMBUI GITHIRI
ADVOCATE
COMMISSIONER FOR OATHS
P.O. Box 38410 - 00100, NAIROBI

DRAWN AND SUBMITTED BY:

Contact address for the purpose of this statement:

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

HD/34

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

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TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, PAUL K. CHEMONGES, an adult of sound mind, disposition and a citizen of Kenya presently resident in KIAMBU hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
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2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The **first ten** persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the **first** ten persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the **first ten** persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

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9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

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of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the **first** ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

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18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

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of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a** and **b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2** and **3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a** and **b), 152(1** and **2)** and **156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last four named persons are members of and/or affiliated with the ORANGE DEMOCRATIC MOVEMENT (ODM) political party.

27. HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of ODM political party.

28. JOHN MBADI NG'ONGO and JAMES OPIYO WANDAYI are currently members of the National Assembly, having been nominated and elected at the general election in AUGUST 2022 as the candidates for ODM party. JOHN OPIYO WANDAYI is, in fact, currently Leader of the Minority Party in the National Assembly as provided by Article 108 of the Constitution.

29. The Constitution, including under Articles 4(2), 10(2), 90, 91 and 108, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under Article 38, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by Article 4(2) of the Constitution.

30. Further and in addition, under Article 1(3) of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION**. **RAILA AMOLO ODINGA,** the leader of **ODM,** was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first ten** persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page 669 and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

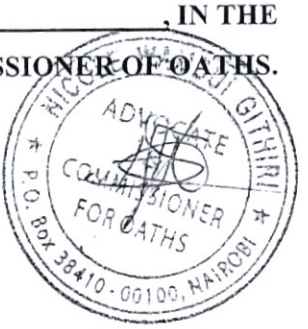
52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, PAUL KIPLAGAT CHEMONGES .

ON THIS 30th **DAY OF JULY, 2024,** AT NAIROBI **, IN THE**

PRESENCE OF _____**, COMMISSIONER OF OATHS.**



DRAWN AND SUBMITTED BY:

PAUL KIPLAGAT CHEMONGES

Contact address for the purpose of this statement:

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke



This is the exhibit marked "....."
referred to in the annexed affidavit declaration
of PAUL KIPLAGAT CHEMONGES
sworn declared before me this 30th
of JULY 2024

Commissioner For Oaths

HARAMBEE

REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.



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SPECIAL ISSUE

THE KENYA GAZETTE

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT, pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

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13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

1. Along Kenyatta Avenue
   (a) KCB Bank parking lot;
   (b) Khetias Supermarket parking lot;
   (c) Bank of Baroda parking lot;
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot; and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

DANIEL MUSITA,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT

(*No.* 17 *of* 2012)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (*c*) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (*d*) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot;
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot;
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot;
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot opposite Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Kakamega – Sabatia Road.

This is the exhibit marked "..." reffered to in the annexed affidavit declaration of PAUL KIPLAGAT CHEMONG'E sworn declared before me this 30th day of JULY 2024

Commissioner For Oaths

Dated the 9th February, 2024.

AGGREY MUSINDALO,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (*d*) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager, Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.

(h) Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliant with section 41 (3) (*a*) of the PPDA, 2015 and Regulation 22 (1) (*c*) of the PPDR, 2020.

(ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.

(iii) Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 (*a*) (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (1) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularies at the Embakasi North Constituency Amounting to KSh. 51,351,357/=.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on 21st August, 2021 on allegations of procurement irregularities and embezzlement of public funds amounting to KSh. 51,351,357 at the Embakasi North Constituency. It was further alleged that the Member of Parliament for Embakasi North Constituency used his office to award tenders to his children and close associates. The tenders were allegedly for construction of classrooms, event hosting and roadworks within Embakasi North Constituency.

Investigations established that the said constituency awarded various tenders to four companies associated with the daughter of the Member of Parliament for the constituency.

Financial investigations revealed that several payments were made to the companies for various projects allegedly undertaken with the Embakasi Constituency.

Investigations revealed that the said Member of Parliament received a total of KSh. 10,482,298/= either directly or indirectly from the companies associated with the daughter and other close associates. The MP is a signatory to bank account in one of the companies namely Ndakaini Hardware and Property Agencies.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Member of Parliament, the Fund Account Manager and directors of the four companies namely Ndakaini Enterprises Limited, Allica Investment Limited, Pride Wind Africa Limited and Ndakaini Hardware with the following offences;

(a) Two counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(b) Five counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) One count of abuse of office contrary to section 46 as read with section 48 (1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 6th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

4. EACC/PI/INQ/24/2021

Inquiry into Allegations of Irregular Tender Award and Embezzlement of Funds by Officers of Bomas of Kenya in the Award of General Insurance Cover for Financial Years 2020–2021 and 2021–2022 to CIC General Insurance Limited

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation that the Bomas of Kenya (BoK) had irregularly awarded the general property and work injury insurance cover tender to CIC General Insurance Limited during the financial year 2020-2021. Evidence obtained indicates that the tender was awarded to CIC.

Investigations established that BOK violated section 103 of the Public Procurement and Asset Disposal Act, 2015 and illegally awarded the tender to CIC. It was further established that since the tender for FY 2020-2021 was irregularly awarded. Subsequently, the renewal clause in the FY 2020-2021 tender policies could not birth a legitimate renewal in FY 2021-2022. Furthermore, no LPO was issued for the renewed tender. CIC Insurance was illegally paid KSh.9,058,916.70 for the two financial years which payments were made out of flawed procurement process.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Chief Executive Officer for Bomas of Kenya, Finance Officer, Supply Chain Management Officer, Ag. Managing Director CIC General Insurance and a Marketer at CIC, the Managing Director CIC General Insurance and CIC General Insurance Limited be charged with the following offences;

(a) Conspiracy to commit a corruption offence contrary to section 47 a (3) as read with section 48 of Anti-Corruption and Economic Crimes Act.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(d) Two counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

The Commission has in addition instituted the recovery of public property from CIC Insurance Company.

Awaiting DPP's response.

5. EACC/PI/INQ/05/2022

Investigations into Allegations of Irregular Award of Tenders and Embezzlement of Funds by Officials of Bomas of Kenya Limited During Financial Year 2020/2021 through Splitting of Tenders/Contracts to Various Companies Amounting to KSh. 8,587,831/=

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation on 3rd November, 2021. The allegation was that Bomas of Kenya (BOK) was involved in irregular award of tender for purchase of cutlery.

Investigations established that there was no budget allocated for the purchase of cutlery and crockery during the Financial Year 2020/2021 and the board did not approve any re-allocation of funds from other votes. Further investigations also established that there were several procurement irregularities including collusion between the suppliers and procurement officials in the purchase of cutlery for all the quotations at BOK. Some of the directors of the said companies denied participating in the procurement of the cutlery at BOK despite the evidence of bid documents allegedly submitted by their companies.

Financial investigations conducted revealed that after payments were made to the suppliers, they sent money to a particular supplier who would then transfer money to some of the officials of BOK.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Finance Officer, Finance Officer, Supply Chain Management Officer, former Board Chair, Directors of Arwin Gold Limited, Director for Grasonnel Limited, Directors of Bamyoung Limited and Directors of Dysema Limited together with all the four companies with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

(b) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the anti-corruption and economic crimes act, 2003.

(c) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act No. 3 of 2003.

(d) Fraudulent practice in procurement proceeding contrary to section 66 (1) as read with section 176 (1) (i) and (2) of the Public Procurement and Asset Disposal Act of 2015.

(e) One count of forgery contrary to section 345 as read with section 349 of the Penal Code.

(f) Two counts of dealing with Suspect Property contrary To section 47(2) (A) As Read with sections 47 (1) And 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(g) Four counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Awaiting DPPs response.

6. EACC/MSA/FI/INQ/7/2023

Investigations into Allegations of Corruption, Procurement Irregularities and Embezzelement of Funds at Taita Taveta County Government during the Commemoration of World War 1 Celebrations that Took Place Between 24th to 27th November, 2022

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 5th April, 2022, on allegations of corruption, procurement irregularities and embezzlement of funds at Taita Taveta County Government during the commemoration of World War 1 (WW1) celebrations that took place between 24th to 27th November, 2022.

Investigations established that the Government of Taita Taveta County prepared budget estimates and a consolidated procurement plan for the Financial Year 2022/2023 and the aforesaid event was not provided for in the budget.

Investigations further established that in respect to the World War One Event the Economic advisor and the Chief Officer Finance applied for imprest to facilitate the commemoration of the event. Investigation established that the Taita Taveta County utilised Kshs. 4,048,000.00 through irregular Daily Subsistence Allowance paid to officers.

It was further established that during the process of preparation for the WWI event, the public officers engaged and or directly single sourced suppliers for various services without following the laid down procedures despite the fact that the County Government had a repository of registered suppliers and service providers for the financial year 2022/2024. The suppliers that were engaged directly included Kazi Ngoma Orchestra band, Elbon Agencies, Banane North Explorer's Limited, Voi Wildlife Lodge, Kididi FM a commercial radio station, Tree Top Eatery, Pen and Paper Solutions. Gracious Tents and Sounds and Alconsup Solution Limited.

Investigations established that the receipts that were attached to the surrender documents were forgeries and were not actually issued by the purported entities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Economic Advisor to the Governor, County Secretary, County Chief Officer in charge of Trade, Tourism and Co-operatives Development with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Engaging in a project without prior planning contrary to section 45 (2) (*c*) as read together with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, 2003

(c) Six counts of uttering false documents contrary to section 353 of the Penal Code Cap 63 laws of Kenya

(d) Willful failure to comply with the applicable procedures and guidelines relating to incurring of expenditures contrary to section 45 (2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003

On 5th February, 2024, the DPP returned the inquiry file with recommendations for further investigations.

7. EACC/MSA/FI/INQ/13/2022

Investigations into Allegations of Corruption and Misappropriation of Public Funds at Taita Taveta County Assembly as a Result of Imprest Advanced to the Speaker of the County Assembly, Clerk Twenty One Members of the County Assembly and Four Other Officers for Traveling to Zanzibar for a Bonding Trip in the Financial Year 2022/2023

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 28th November, 2022 on allegation of embezzlement of public funds against staff of the County Assembly of Taita Taveta. It is alleged that the Speaker, Clerk, twenty-one (21) Members of the County Assembly (MCAs) and four (4) other officers incurred an expenditure of around Kenya Shillings Seven (7) million without following proper guidelines with regard to the edicts of the law on Public Finance at a bonding tour to Marijani Hotel in Zanzibar in November 2022 within the Financial Year 2022/2023.

Investigations established that members of the Liaison Committee and public officials of Taita Taveta County Assembly traveled to Zanzibar on an education tour. However, some delegates were paid excess per diem allowances which they were not entitled because accommodation had been provided while others were paid yet they had not travelled for various reasons.

The procurement process was not properly followed in regard to sourcing of the service provider being the World Scout Parliamentary Union (WSPUK) who would offer the catering and training facilities for the delegates. WSPUK was single sourced and directly engaged for the educational trip to Zanzibar. Investigation established that the procurement threshold was way above KSh. 500,000/= and therefore it ought to have been reported to the Public Procurement Regulatory Authority by the Accounting Officer.

Investigation further established that the Clerk of Taita Taveta County Assembly, authorised payment voucher for full daily subsistence allowance to the delegates whilst knowing that the delegates were not entitled to full daily subsistence allowance since their accommodation had been catered for.

The investigation established that the Taita Taveta County Assembly had lost KSh. 6,181,433.00 through irregular DSA paid to officers. The said County Assembly initiated recoveries from the beneficiaries by deducting their salaries and some made cash deposits to Taita Taveta County Assembly Bank Account amounting to KSh. 2,215,550.60. The outstanding amount yet to be recovered is KSh. 3,943,033.98

It was further established that the Accounting Officer during imprest surrender attached false travel clearance letters for delegates who had not travelled for various personal reasons. He further fraudulently authorised surrender of payment voucher of KSh. 8,037,599 purporting to have been fully accounted for yet it was not sufficiently supported by surrender documents.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Clerk/Accounting Officer and the Deputy Speaker of Taita Taveta County Assembly with the following offences;

(a) Three counts of Abuse of office contrary to section 46 as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering false documents contrary to section 353 of the Penal Code, Cap. 63 Laws of Kenya

(c) False accounting by a public officer contrary to section 331. (1) and (2) of the Penal Code, Cap. 63 Laws of Kenya

(d) Wilful failure to comply with the law applicable, regulations and guidelines relating to procurement, contrary to section 45 (2) (b) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Financial misconduct contrary to section 197(1) (i) as read with section 199 of the Public Finance Management Act, No. 18 of 2012.

On 1st February, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

8. EACC/MSA/FI/INQ/4/2017

Investigations into Allegations of Procurement Irregularities in the Purchase of Stone Cutting Machines by Coast Development Authority (CDA) from Endebes Development Company (EDC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report dated 22nd March, 2017 that Coast Development Authority (CDA) had purchased stone cutting machines from Endebes Development Company (EDC) without following procurement procedures.

Investigations established that CDA leased coral block cutting equipment and vehicles from EDC without following the public procurement laws and procedures i.e use of direct method instead of open tender method as required under the PPDR 2006.

Furthermore, there were no bid documents received from any bidder hence no procurement process was conducted hence the procurement process was a fraud.

EDC offered to sell the said machines to CDA at a cost of KSh. 62,000,000/=. On 10th July, 2012, CDA and EDC entered into a lease agreement for the machines. The lease was signed by the Managing Director on behalf of CDA. EDC received a total sum of KSh. 28,794,834.00 from CDA for the lease of coral block cutting machines. It was established that the lease agreements were entered into illegally and therefore payments made to EDC by CDA were

unlawful. It was revealed that the Director and beneficial owner of EDC is a bank signatory in the company and he had appointed the Managing Director CDA while he was the Minister for Regional Development Authorities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Managing Director, the Director of the company and Endebes Development Company Limited with the following offences;

(a) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Entering into an obligation that has financial implication contrary to section 196 (3) as read with section (196) (6) of the Public Finance Management Act, 2012.

(d) Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

Awaiting DPP's response.

9. EACC/MSA/FI/INQ/17/2017

Investigations into Allegations of Irregular Procurement for Extension of Bura Water Supply by Coast Water Services Board (CWSb) at a Cost of KSh. 52,020,061/= in the Financial 2017/2018

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an anonymous complaint that the Coast Water Services Board (the Board) flouted the procurement law during the procurement process in the tender CWSB/TR-EQ/W/6A/2017 for extension of Bura Water Supply (the Project). This project had been sanctioned by the Ministry of Water and Irrigation (the Ministry) and was being funded from the Equalisation Fund (the Fund).

Investigations established that the Board advertised the subject procurement on 27th June, 2017 attracting 28 bidders. Further investigations established that the Board failed to subject all the tenders to both technical and financial evaluation contrary to section 80 of the Public Procurement and Disposal Act, 2015. The contract was irregularly awarded to Misriya Company Limited.

It was further established that the Director for Misriya Company limited had made false documents being motor vehicle registration documents and submitted the same to the Coast Water Services Board.

Investigations established that the Head of Procurement at CWSB prepared misleading professional opinion hence did not offer expert advised as was required of him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Evaluation Committee, the Head of Procurement and the Director of the Misriya Company Limited together with the company with the following offences;

(a) Wilful failure to comply with the procurement law contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Fraudulent procurement practice contrary to section 66 (1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

(c) Forgery contrary to section 345 as read with section 349 of the Penal Code.

(d) Uttering a false document contrary to section 353 of the Penal Code.

(e) Knowingly misleading a person carrying out a duty contrary to section 176 (1) (*b*) as read with section 176 (2) of the Public Procurement and Asset Disposal Act, 2015.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

10. EACC/FI/INQ/20/2021

Inquiry into Allegations of Embezzlement/Missapropriation of Public Funds Amounting to KSh. 45,610,187/= by Turkana County Assembly Through Tendering and Construction of Turkana County Assembly Speaker's Residence at Kanamkemer Ward

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on allegation that public funds which were meant for construction of the speaker's residence at Kanamkemer within Turkana County amounting to KSh. 45,610,187/= was misappropriated by the public officer's employed at Turkana County.

Investigations revealed that eight companies submitted their bids for the tender. The tender was irregularly awarded to Ekoriagete Enterprises Limited and the contract was executed by the County Assembly Clerk.

Further, it was established that one of the directors of the said company is an employee of the County Government of Turkana. The work done was valued at KSh. 19,494,994.99 as compared to payments made to the contractor totaling to KSh. 54,392,735.87. There was an overpayment of KSh. 34,897,740.88.

Investigations revealed that the said company was not registered with the National Construction Authority for the period between the years 2013 to 2018. The NCA certificates submitted by Ekoriagete Enterprises Limited as part of the requirement were forgeries.

Furthermore, financial investigations conducted revealed that payments were made to the company' account. The account was established to be operated by one of the county officials who is a director in the company. Upon receipt of the funds, the county official withdrew KSh. 18,495,500/= between August and September 2018 in a clear case of conflict of interest.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Deputy Clerk of Turkana County Assembly, the Clerk, the County Works Officer and the Director of the Ekoriagete Enterprises Limited with the following offences;

(a) One count of conspiracy to commit an offence of economic crime contrary to Section 47A (3) all as read with Section 48 of ACECA.

(b) One count of fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of abuse of office contrary to section 46 as read with section 48(1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

(d) One count of fraudulently making payments from public revenues for services not rendered contrary to section 45(2) (iii) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(e) One count of fraudulent procurement practice contrary to section 66(1) and (2) as read with section 177 of the Public Procurement and Disposal Act, 2015.

(f) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(g) One count of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

On 19th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

11. EACC/NKR/INQ/FI/101/2017

Inquiry into the Allegations of Misappropriation of Public Funds And Procurement Irregularities in the Rehabilitation And Construction of Salgaa-Elburgon Road By The County Government of Nakuru At the Cost of KSh. 10,000,000/= in the Financial Year 2015/2016

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th January, 2017 on allegations that the County Government of Nakuru had misappropriated KSh. 10,000,000/= in the rehabilitation and construction of Salgaa-Elburgon road.

Investigations established that the County Government of Nakuru had planned for the construction and rehabilitation of Salga-Elburgon Road as per the roads work plan at KSh. 8,084,300/= during the financial year 2015/2016. It was established that the technical evaluation was not conducted as required by regulation 16(4) of the Public Procurement and Disposal Regulations 2013. The procurement process was therefore flawed. The award was issued to Gee El Construction Works Limited and was paid for KSh. 6,508,478.53.

It was further established that the said company was not registered with the National Construction Authority and that the certificate provided by the company was a forgery.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Tender Evaluation Committee members, the Supply Chain Management Officer, the Chief Officer for Department of Roads and Public Works and the Directors of Gee El Construction Works Limited with the following offences;

(a) One count of Fraudulent practice in the procurement proceedings contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act, 2015.

(b) One count of Fraudulent acquisition of public property contrary to section 45(1) (*a*) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45(2) (*b*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and

(d) One count of Abuse of office contrary to section 45(2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

12. EACC/MSA/FI/INQ/04/2021 (C)

Inquiry into Allegations of Conflict of Interest and Procurment Irregularities Involving the Head of Treasury at The Kwale County Government Who is Alleged to own a Company Known as Chilongola Holdings Limited, which has Been Trading with the County Government of Kwale

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 4th February, 2021 alleging conflict of interest against the Head of Treasury, Kwale County Government who was alleged to own two companies namely; Rome Investment Limited and Chilongola Limited Companies which transacted and received KSh. 9,000,000/= from the said institution during the Financial Year 2017/18 and 2018/2019.

Investigations established that the companies were awarded ten tenders to supply and deliver sanitation materials, food and ration, general office supplies, and institutional appliances. It was further established that the procurement process undertaken was flawed. Rome investment and Chilongola Limited entered into a contract with the County Government of Kwale through Local Purchase Orders for the 10 tenders despite the procurement process having been flawed.

It was established that the tender documents including purchase requisition forms, minutes of the Tender Opening Committee, letters of appointment of inspection and acceptance committee and inspection and acceptance minutes relating to the said tenders were forgeries and the same were presented at the Kwale County Government by the Accountant and the Hospital Administrator. Further investigations established that Rome Investments and Chilongola Limited were paid a sum of KSh 44,919,341 and KSh. 4,007,943, respectively.

Further investigations disclosed that the Head of Treasury at the county was the Director at Chilongola Holdings together with his brothers who were directors for Rome Investments (k) Limited. The Head of Treasury was a mandatory signatory of the said companies bank accounts held at KCB Kwale Branch.

Financial investigations revealed that the Head of Treasury was a beneficial owner of the two companies, by virtue of the withdrawals he made. The total amount received by the two companies was KSh. 44,919,341 and the same distributed to the directors of the companies.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the Head of Treasury and a Director of Chilogola Holdings Limited and Rome Investment Limited, an Accountant and Hospital Administrator of the Kwale County Government be charged as follows:

(a) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(c) Deceiving principal contrary to section 412) as read with as read with section 48(1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003 .

(d) Fraudulent practise in procurement contrary to section 66 as read with section 177 of the Public Procurement and Asset Disposal Act, 2015

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

13. EACC/BGM/PI/INQ/09/2020

Investigation into Allegations of Procurement Irregularities and Conflict of Interest in the Procurement of A Double Cabin Pick-Up and a 33 Isuzu Bus Seater by the County Assembly of Bungoma in the Financial Year 2018/2019

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on allegations of procurement irregularities in in tender number CA/BGM/PUR/205/2019-2020 for the supply of a double cabin pick-up and a 33 Isuzu bus seater by the County Assembly of Bungoma during the Financial Year 2018/2019. It was further alleged that the Accounting Officer of the County Assembly had participated in the procurement amounting to Conflict of interest.

It was established that seven bidders participated in the procurement process. The Evaluation Committee conducted the evaluation exercise and recommended Westfield Motors Limited for the award for both the bus and double cabin. However, after a professional opinion was submitted with the foregoing recommendations, the clerk disregarded the opinion and went ahead to establish a different three-member committee to conduct another evaluation which was irregular since the substantive evaluation committee had not been disbanded.

It was further established that the Procurement Officer and the Clerk of the County Assembly prepared and approved a professional opinion which was misleading. The Accounting Officer executed the contract and authorised payments of KSh. 5,870,000/= and KSh. 4,980,000/= to be made in full to Westfield Motors Limited and Kenyan Coach Industries Limited respectively while knowing that the vehicles had not been supplied.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Accounting Officer and the Head of Procurement with the following offences;

(a) Three counts of wilful failure to comply with applicable procedures and guidelines relating to procurement of services contrary to section 45 (2) (*b*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

14. EACC/EL/INQ/29(ii)/2022

Inquiry into Allegation that an Employee Falsified Academic Certificates To Secure Employment at Rural Electrification And Renewable Energy Corporation (REREC) as a Supply Chain Management Assistant

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received that the officer used a forged Bachelor's degree in purchasing and supplies Chain Management from Jomo Kenyatta University of Agriculture and Technology to gain employment at REREC as a Supply Chain Management Assistant (Procurement and Disposal).

Investigations established that the Supply Chain Management Assistant forged a Bachelor's degree certificate No. 3701 in purchasing and supplies from Jomo Kenyatta University and Technology. He uttered the certificate while making application to be employed in the position of Supply Chain Management Assistant as captured from his employment records. Investigations revealed that he also submitted fake transcripts to REREC.

It was established that he had irregularly been paid a net salary amounting to KSh. 311,974.45 since the April, 2022 to July, 2022.

On 17th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the aforesaid suspect with the following counts;

(a) One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act.

(b) Five counts of forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Five counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 19th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

15. EACC/EL/INQ/29(v) /2022

Inquiry into Allegations That an Employee used Forged Academic Documents to Secure Employment at Rural Electrification and Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint on 2nd August, 2022 that the employee used forged academic documents to apply for the position of a driver at REREC.

Investigations established that the said driver made an application following an advertisement in the local dailies on 1st December, 2020. In his application he attached several documents including, a Kenya Secondary school certificate No. 2386658 from Kimuri High School issued in the year 2008.

Investigations further established that the KCSE certificate was forged, having been subjected to authentication by the Kenya National Education Council (KNEC). He had worked with REREC from 1st April, 2022 to July, 2022 and irregularly earned a net salary of KSh. 293,240.94

On 17th October, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the suspect being a driver at REREC with the following offences;

(a) Fraudulent acquisition Contrary to section 45 (1) (*a*) all as read with section 48 of ACECA.

(b) Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 2nd January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

16. EACC/EL/INQ/29(iii)/2022

Inquiry into Allegations that an Employee used Forged Academic Documents To Get Employment at Rural Electrification And Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 2nd August, 2022 on allegations that the employee used forged academic documents to apply for the position of Supply Chain Management Assistant (Inventory and Logistics) at REREC.

It was established that the REREC advertised for various positions in the daily nation dated 1st December, 2020. One of the positions advertised was that of Supply Chain Management Assistant (Inventory and logistics). She applied for the position and in her application; she indicated that she holds a Diploma in Business Information Technology from Kenya Methodist University awarded in the year 2014

Investigations established that she did not study at the said institution and the Diploma certificate in question was therefore a forged document. It was further established that she had been working at REREC from 1st April, 2022 to 14th July, 2022. She illegally gained from the institution a net salary of KSh. 293,457.07 considering that she was not qualified for the position.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act 2003.

(b) One count of Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) One count of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Two counts of Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

17. EACC/ISL/EL/INQ/2/2020

Inquiry Into Allegations that the Ward Administrator for Marsabit Central Used Forged Academic Documents to get Employment

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received with allegations that the Ward Administrator for Marsabit Central had allegedly used forged Kenya Certificate of Secondary Education Certificate (KCSE) and diploma certificate to gain employment in Marsabit County.

Investigations established that the suspect applied for employment opportunity at the Marsabit County Government in the year 2018. He submitted his curriculum vitae, which indicated that he had a Diploma in Community Development and Social Work.

Investigations revealed that the Ward Administrator also applied for the position of Civic Education Officer and attached a KCSE Certificate serial No. 2023397 from Marsabit Secondary School. He further submitted a KNEC Certificate serial No. BTEP/D004270 for diploma in Community Development and Social work. The suspect was appointed as a Public Participation and Civic Education Officer from 28th January, 2019.

Investigations further revealed that the positions in which he was appointed into had not been advertised and therefore the appointments were irregular.

Further investigation revealed that the suspect had altered the grades in the KCSE certificate that he submitted to the Marsabit County Government and the Diploma in Community and Social Development were forgeries. It was further established that the Ward Administrator had earned a net salary from April, 2019 to September, 2023 amounting to KSh. 1,954,324.15

On 27th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Ward Administrator with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of ACECA.

(b) One count of Deceiving principal contrary to section 412) as read with as read with section 48(1) of ACECA.

(c) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(d) Two counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

18. EACC/MSA/FI/INQ/13/2023

Inquiry into Allegations Joskat Construction Company did not Follow the Bills of Quantities when Performing Contracts for Likoni CDF in erecting the Perimeter wall for Timbwani Secondary School in the Financial Year 2021-2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a contractor was not following the bill of quantities when performing contracts for Likoni NG-CDF project for erecting the 400-meter perimeter wall for Timbwani Secondary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Timbwani secondary School were followed from the initiation of the tender process until the award of contract. The contract was awarded to Joskat Construction Company Limited at a cost of KSh.. 6,394,807/=. The Project Management Committee confirmed that the progress was good and that the work was being done as per the specifications. The company completed the said construction as per the contract and as a result, payments were made to the contractor. The project has been completed but was yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

19. EACC/MSA/FI/INQ/11/2022

Inquiry into Allegations that a Company Called Sallysam Limited did not Follow The Bills of Quantities when Erecting the Perimeter Wall for Mrima Primary School in Likoni Consituency during the Financial Year 2021/2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a company namely Sallysam Ltd was not following the bill of quantities when performing contracts for Likoni NG-CDF project for construction of classes for Mrima Primary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Mrima Primary School were followed from the initiation of the tender process until the award of contract to Sallysam Limited. The construction was also completed as per the contract and as a result, payments were made to the contractor. The project has been completed and yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

20. EACC/MSA/FI/INQ/14/2023

Inquiry into Allegations that a Company Called Sallysam Enterprises did not follow the Bills of Quantities When Erecting The Perimeter Wall For Mtongwe Girls Secondary School in Likoni Constituency during The Financial Year 2021/2022

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 26th September, 2022 that a company called Sallysam Limited was not following the bill of quantities when performing contracts for Likoni NG-CDF project of erecting the perimeter wall for Mtongwe girls Secondary school during the Financial Year 2021/2022.

Investigations established that the NG-CDF Board approved a code of projects including Mtongwe Girls Secondary School with an allocated amount of KSh. 5,985,075/=. The procurement entity was Likoni Constituency Development Fund. Three companies submitted their bids and a final award issued to Sallysam Enterprises Limited. The contract was executed on 3rd May, 2022. The works were executed by the said company and it was noted that the project was going on well as per the specifications of the Bill of quantities. Investigations did not reveal any procurement irregularities in the subject project.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed with no further action.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

21. EACC/KSI/OPS/INQ/3/2022

Inquiry into Allegations of Corruption against a Court Assistant Working for the Judiciary at Migori Law Courts

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 11th April, 2022 that a Court Assistant had approached him and that he could assist him to get a favourable judgment from the Magistrate handling the criminal matter at a court in Migori. He was required to give KSh. 100,000/=.

Investigations established that there was a criminal matter at Migori Law Courts where the complainant was the accused and was coming up for judgment. The Court Assistant requested for KSh. 100,000/= in order to assist the complainant to get a favourable judgment. The Commission established that the Court Assistant had demanded and received a bribe of KSh. 20,000/= which was recovered from him upon arrest.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations that the Court Assistant be charged with two counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 (1) and (2) of the Bribery Act, 2016.

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

22. EACC/OPS/INQ/20/2023

Inquiry into Bribery Allegation of Corrupt Conduct Against a Kenya Revenue Authority Officer

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 14th March, 2023 alleging that a Waiver Processing Officer at the Kenya Revenue Authority was demanding for a benefit of KSh. 50,000/= in order to write off accrued erroneous value added tax. penalty amounting to KSh. 410,000/=.

Investigations established that the Waiver Processing Officer worked at the KRA and had requested and received KSh. 40,000/= as a financial benefit.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Waiver Processing Officer at KRA with three counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 of the Bribery Act No. 47 of 2016

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

23. EACC/MCKS/OPS/INQ/2/2021

Inquiry into Allegations that the Head Teacher at Unoa Primary School was Charging Illegal Levies as Fees in Violation of Guidelines by the Ministry of Education on Free Primary Education (FPE)

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received on 14th January, 2020 that the Head teacher at Unoa Primary School was charging illegal levies as fees in violation of guidelines by the Ministry of Education on free primary education.

Investigations further established that the head teacher had been charging illegal fees in form of development fees of Kshs. 5,000/=, harambee fee of KSh. 1,000/=, Fencing fee of KSh. 1000/= and feeding programme fee of KSh. 1850/= plus other motivation and activity fee totalling to KSh. 10,000/=.

Financial Investigations established that the head teacher owned a private enterprise namely AGPHILY Enterprise that was trading with the school wherein he was the head.

Further investigations established that the head teacher purported to have made supplies to the school and he had signed a cheque of KSh. 183,500/= in his favour. The cheque was not honoured at the bank since no supporting document was provided to the bank.

On 9th November, 2023, a report was compiled and forwarded to the DPP with the recommendations to charge the head teacher, Unoa Primary school with the following offences:

(a) Conflict of interest contrary to section 42 (3) as read with Section 48 of the ACECA, 2003.

(b) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

24. EACC/OPS/INQ/36/2023

An Inquiry into Allegations of Corrupt Conduct against a Nairobi City County Revenue Officer Based at City Hall.

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received a report dated 18th May, 2023 alleging that a Nairobi City County Revenue Officer based at City Hall was demanding for a bribe of KSh. 20,000/= from him in order to write off cess arrears amounting to KSh. 47,0000/= accrued by his lorry.

Investigations established that on 27th April, 2023 the County Official informed owner of lorry that he had cess arrears of Kshs. 47,000/= . The suspect reduced the amount to KSh. 20,000/= and required the owner of the lorry to pay KSh. 10,000/= through paybill number and was given KSh. 10,000/= in cash. On a later date, the lorry owner was informed that he had cess arrears of KSh. 14,000/=.

The Commission established that he was employed as an Administrative Officer III at the Nairobi City County Government. The county official requested and received KSh. 10,000/= in order to facilitate write-off cess arrears accrued by his lorry owed to Nairobi City County Government.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Administrative Officer at Nairobi City County Government be charged with three counts of receiving a bribe contrary to section 6 (1) *(a)* as read with section 18 of the bribery Act No. 47 of 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

25. EACC/MCKS/OPS/INQ/54B/2018

An Inquiry into Allegations of Obstruction against a Suspect In ACC 636/2020 - Republic Vs. Eldah Konzolo

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 11th April, 2021 on allegations that an accused person in Anti-corruption case no. ACC 636/2020 – R vs. Eldah Konzolo had offered KSh. 17,000/= to a witness in order to change his testimony in the stated matter which was pending trial before Mavoko law courts.

Investigations established that the suspect had compromised the witness in the said matter and indeed sent KSh. 17,000/= through Mpesa to a proxy to avoid any direct link. The money was intended to persuade the witness to change his testimony in court. It was established that the said amount was sent to one of his colleague. Investigations also established that the conduct of the accused amounted to interference with a witness with an aim to obstruct justice.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the suspect, with the following offences;

(a) One count of giving a bribe contrary to section 5 of the Bribery Act, 2016.

(b) One count of interfering with witnesses contrary to section 117 (1) of the Penal Code Cap 63.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

26. EACC/OPS/INQ/44/2023

Inquiry into Allegations of Bribery against a Member of County Assembly, Hospital Ward, Kiambu County.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 24th May, 2023 to the effect that a Member of County Assembly, Hospital Ward, Kiambu County was requesting for a financial advantage of KSh. 130,000/- as an inducement to allow her proceed with the intended development activities on Parcel No. Thika Municipality Block 11/377.

Investigations established that county official requested that he be given a portion of land and Kshs. 200,000/= so that he could disregard an alleged Petition by members of the public against any development on the subject plot. They negotiated the amount downwards to KSh. 100,000/=.

It was established that the suspect is Public Officer by virtue of him being a Member of County Assembly (MCA), Kiambu County. He was acting in his official capacity as MCA and Chairperson of the Development Committee of the Assembly when he requested for the benefit.

The Commission established that the county official requested for a bribe of KSh. 130,000/= intending that, in consequence, the owner of the plot proceeds with her intended development on Parcel No. Thika Municipality Block 11/377.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge him with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

27. EACC/BGM/OPS/INQ/8/2021

Investigation into Allegations of Bribery against a Police Officer Attached to Kakamega Central Police Station.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th December,2021 with allegations that a Police Officer attached to the DCI Kakamega Central Police Station at Kakamega County, had requested for a financial advantage of KSh. 100,000/= to give to a Magistrate stationed at Kakamega Law Courts in order to influence the outcome of an inquest proceeding at the Kakamega Magistrates Court.

Investigations established that there was an inquest under Inquest No. 3 of 2020. The inquest proceedings had concluded and pending the verdict of the Principal Magistrate. The Police Officer who was at the time the investigating officer requested for a benefit in order to compromise the said magistrate to rule in favour of the deceased.

Investigations further established that the police officer was employed at the Ministry of Interior and Co-ordination of National Government (Administration Police). The Commission established that the police officer received the bribe of KSh. 40,000/= which was recovered from him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the police officer be charged with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Total No. of files forwarded to the Director of Public Prosecutions	27
No. of files recommended for prosecution	24
No. of files recommended for administrative or other action	0
No. of files recommended for closure	3
No. of files recommended for prosecution and the cases are already lodged before Court	-
No. of files where recommendation to prosecute accepted	7
No. of files where recommendation for administrative or other action accepted	-
No. of files where recommendation for closure accepted	3
No. of files returned for further investigations	14
No. of files where recommendation to prosecute not accepted	-
No. of files where recommendation for administrative or other action not accepted	-
No. of files where closure not accepted	-

No. of files where prosecution declined but administrative action recommended	-
No. of files awaiting the DPP's advice	3

Dated the 13th February, 2024.

DAVID OGINDE,
Chairperson.

TWALIB MBARAK,
Secretary/Chief Executive Officer.

PTG 1703/23-24

GAZETTE NOTICE NO. 2090

THE KENYA INFORMATION AND COMMUNICATIONS ACT

(*No.* 2 *of* 1998)

APPLICATION FOR LICENCES

NOTICE is given that the following applicants have, pursuant to the provisions of the Kenya Information and Communications Act, 1998, made applications to the Communications Authority of Kenya for grant of the licences as shown in the Table below:

Name	*Station Identity*	*Licence Category*
Darwy Afrik Photography and Safaris Limited, P.O. Box 5572–0100, Eldoret	Assis FM	Commercial Free to Air Radio Licence
Alhaajar Investment Limited, P.O. Box 98558–80100, Mombasa	Alhaajar TV	Commercial Free to Air Television Licence
AIPCA Bahati TV and Radio Limited, P.O. Box 73053–00200, Nairobi	AIPCA Bahati TV	Commercial Free to Air Television Licence
Way of Truth Media Limited, P.O. Box 3556–00200, Nairobi	Truth Wave TV	Commercial Free to Air Television Licence
Nifty Works Plus Limited, P.O. Box 21933–00505, Nairobi	NWPLUS TV	Subscription Broadcasting Service Licence
University of Eastern Africa Baraton, P.O. Box 2500–30100, Eldoret	Baraton FM	Community Free to Air Radio Licence
Go Shipping Cargo Agency Limited, P.O. Box 4689–00100, Nairobi		International Postal/ Courier Operator Licence
Samina Senders and Logistics Limited, P.O. Box 90231–80100, Mombasa		National Postal/ Courier Operator Licence
Prime Time Meru Travellers Company, P.O. Box 415–60200, Meru		National Postal/ Courier Operator Licence
Iyanat Business Solutions, P.O. Box 30068–00100, Nairobi		National Postal/ Courier Operator Licence
Samper Cabs Limited, P.O. Box 12862–00100, Nairobi		National Postal/ Courier Operator Licence
Wekkitech Limited, P.O. Box 536–20100, Nakuru		Network Facilities Provider Tier 3 (NPF-T3)
DXA Technologies Limited, P.O. Box 79450–00200, Nairobi		Network Facilities Provider Tier 2 (NPF-T2)

The licences, if granted, will enable the applicants to operate and provide the services as indicated in the Table above. The grant of these licences may affect the public and local authorities, companies, persons or bodies of persons within the country.

The Authority wishes to notify the general public that any legal or natural person, or group of individuals, who are desirous of making any representation and/or any objection to the said applications, to do so *vide* a letter addressed to: The Director-General, Communications Authority of Kenya, CA Centre, Waiyaki Way, P.O. Box 14448–00800, Nairobi, indicating the licence category on the cover enclosing it.

The said representation and/or objection must be filed on or before expiry of thirty (30) days from the date of publication of this notice and a copy of the same be forwarded to the applicants.

Dated the 13th February, 2024.

DAVID MUGONYI,
Director-General.

PTG 1685/23-24

GAZETTE NOTICE NO. 2091

THE WATER ACT, 2016

(*Sections* 70, 85, 87 *and* 139)

PUBLIC CONSULTATION MEETING ON LICENCING OF WATER SERVICE PROVIDER

THE Water Services Regulatory Board (WASREB) has received licence application from Nyeri Water and Sanitation Company Limited to provide water services within Nyeri County.

The licence application has been made pursuant to the Water Act 2016 (section 85(1)- "A person shall not provide water services except under a licence issued by the Regulatory Board, upon submission of an application and such supporting documents as the Board may require".

Therefore, in compliance to WASREB principal object under the Water Act, 2016 section 70 (1)–"protection of the interests and rights of consumers in the provision of water services", section 87(1)- "An application for a licence shall be subject to public participation" read together with the provision of section 139, we wish to advise that the public consultation meeting shall be held at the venue stated below to get stakeholders concerns on services provided, licencing conditions and proposals for services improvement going forward.

Please note that the Water Service Provider shall hold hybrid public consultation meeting (physical and virtual) as outlined below.

Water Service Provider	*County*	*Venue*		*Day Date and Time*
Nyeri Water and Sanitation Company	Nyeri	Physical meeting:	Wangari Mathai Hall, Nyeri Town	Tuesday, 5th March, 2024 10.00 a.m.
		Virtual meeting:	WSP to provide links	

Participants should be seated by 10.00 a.m. Personal identification of participants will be required. Members of the public in respective areas are invited to make oral and written submissions and ask any questions that may relate to the provision of water services in their areas.

Comments on the application shall be emailed to info@wasreb.go.ke or send in hard copy to:

The Chief Executive Officer,
Water Services Regulatory Board,
5th Floor NHIF Building,
Ngong Road,
P.O. Box 41621–00100,
Nairobi.

The closing date for receipt of comments is thirty (30) days after the publication of this notice.

Dated the 6th February, 2024.

JULIUS ITUNGA,
Ag. Chief Executive Officer,
Water Services Regulatory Board.

MR/6198975

HD/070

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA

NAIROBI.

I, GILBERT CALIST CHIARI, an adult of sound mind, disposition and a citizen of Kenya presently resident in_____hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
    3) **ADEN BARRE DUALE**
    4) **ROSELINDA SOIPAN TUIYA**
    5) **DAVIS CHIRCHIR**
    6) **SALIM MVURYA MGALA**
    7) **REBECCA KIANO**
    8) **ONESIMUS KIPCHUMBA MURKOMEN**
    9) **ALFRED NGANGA MUTUA**
    10) **JUSTIN BEDAN NJOKA MUTURI**
    11) **JOHN MBADI NG'ONGO**
    12) **JAMES OPIYO WANDAYI**
    13) **HASSAN ALI JOHO, AND**
    14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The first ten persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the first ten persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the first ten persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the first ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a** and **b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2** and **3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a** and **b), 152(1** and **2)** and **156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last four named persons are members of and/or affiliated with the ORANGE DEMOCRATIC MOVEMENT (ODM) political party.

27. HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of ODM political party.

28. JOHN MBADI NG'ONGO and JAMES OPIYO WANDAYI are currently members of the National Assembly, having been nominated and elected at the general election in AUGUST 2022 as the candidates for ODM party. JOHN OPIYO WANDAYI is, in fact, currently Leader of the Minority Party in the National Assembly as provided by Article 108 of the Constitution.

29. The Constitution, including under Articles 4(2), 10(2), 90, 91 and 108, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under Article 38, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by Article 4(2) of the Constitution.

30. Further and in addition, under Article 1(3) of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION**. **RAILA AMOLO ODINGA,** the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first** ten persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first** ten persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which EACC, (vide **Gazette Notice No. 2089** at page 669 and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA**, former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, FILBERT CASTI CHAMI.
ON THIS 30th **DAY OF JULY, 2024,** AT NAIROBI **, IN THE**
PRESENCE OF _____**, COMMISSIONER OF OATHS.**

NICOLE WAMBUI GITHIRI
ADVOCATE
COMMISSIONER FOR OATHS
P.O. Box 76410 - 00508, NAIROBI

DRAWN AND SUBMITTED BY:

Contact address for the purpose of this statement:

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke



This is the exhibit marked".....
reffered to in the annexed affidavit declaration
of...GILBERT CHETI CHAMI
sworn declared before me this...30th.....
day of...JULY 2024.....
.....
Commissioner For Oaths

REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

SPECIAL ISSUE

This is the exhibit marked "..." reffered to in the annexed affidavit declaration of... sworn declared before me this... day of... Commissioner For Oaths

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

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1. Along Kenyatta Avenue
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   (b) Khetias Supermarket parking lot;
   (c) Bank of Baroda parking lot;
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot; and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

DANIEL MUSITA,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT

(*No.* 17 *of* 2012)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (*c*) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (*d*) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot;
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot;
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot;
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot – Junction to Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Ekero – Sabatia Road.

Dated the 9th February, 2024.

AGGREY MUSINDALO,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (*d*) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.

(h) Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliant with section 41 (3) (*a*) of the PPDA, 2015 and Regulation 22 (1) (*c*) of the PPDR, 2020.

(ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.

(iii) Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 (*a*) (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (I) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularies at the Embakasi North Constituency Amounting to KSh. 51,351,357/=.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on 21st August, 2021 on allegations of procurement irregularities and embezzlement of public funds amounting to KSh. 51,351,357 at the Embakasi North Constituency. It was further alleged that the Member of Parliament for Embakasi North Constituency used his office to award tenders to his children and close associates. The tenders were allegedly for construction of classrooms, event hosting and roadworks within Embakasi North Constituency.

Investigations established that the said constituency awarded various tenders to four companies associated with the daughter of the Member of Parliament for the constituency.

Financial investigations revealed that several payments were made to the companies for various projects allegedly undertaken with the Embakasi Constituency.

Investigations revealed that the said Member of Parliament received a total of KSh. 10,482,298/= either directly or indirectly from the companies associated with the daughter and other close associates. The MP is a signatory to bank account in one of the companies namely Ndakaini Hardware and Property Agencies.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Member of Parliament, the Fund Account Manager and directors of the four companies namely Ndakaini Enterprises Limited, Allica Investment Limited, Pride Wind Africa Limited and Ndakaini Hardware with the following offences;

(a) Two counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(b) Five counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) One count of abuse of office contrary to section 46 as read with section 48 (1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 6th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

4. EACC/PI/INQ/24/2021

Inquiry into Allegations of Irregular Tender Award and Embezzlement of Funds by Officers of Bomas of Kenya in the Award of General Insurance Cover for Financial Years 2020–2021 and 2021–2022 to CIC General Insurance Limited

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation that the Bomas of Kenya (BoK) had irregularly awarded the general property and work injury insurance cover tender to CIC General Insurance Limited during the financial year 2020-2021. Evidence obtained indicates that the tender was awarded to CIC.

Investigations established that BOK violated section 103 of the Public Procurement and Asset Disposal Act, 2015 and illegally awarded the tender to CIC. It was further established that since the tender for FY 2020-2021 was irregularly awarded. Subsequently, the renewal clause in the FY 2020-2021 tender policies could not birth a legitimate renewal in FY 2021-2022. Furthermore, no LPO was issued for the renewed tender. CIC Insurance was illegally paid KSh.9,058,916.70 for the two financial years which payments were made out of flawed procurement process.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Chief Executive Officer for Bomas of Kenya, Finance Officer, Supply Chain Management Officer, Ag. Managing Director CIC General Insurance and a Marketer at CIC, the Managing Director CIC General Insurance and CIC General Insurance Limited be charged with the following offences;

(a) Conspiracy to commit a corruption offence contrary to section 47 a (3) as read with section 48 of Anti-Corruption and Economic Crimes Act.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(d) Two counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

The Commission has in addition instituted the recovery of public property from CIC Insurance Company.

Awaiting DPP's response.

5. EACC/PI/INQ/05/2022

Investigations into Allegations of Irregular Award of Tenders and Embezzlement of Funds by Officials of Bomas of Kenya Limited During Financial Year 2020/2021 through Splitting of Tenders/Contracts to Various Companies Amounting to KSh. 8,587,831/=

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation on 3rd November, 2021. The allegation was that Bomas of Kenya (BOK) was involved in irregular award of tender for purchase of cutlery.

Investigations established that there was no budget allocated for the purchase of cutlery and crockery during the Financial Year 2020/2021 and the board did not approve any re-allocation of funds from other votes. Further investigations also established that there were several procurement irregularities including collusion between the suppliers and procurement officials in the purchase of cutlery for all the quotations at BOK. Some of the directors of the said companies denied participating in the procurement of the cutlery at BOK despite the evidence of bid documents allegedly submitted by their companies.

Financial investigations conducted revealed that after payments were made to the suppliers, they sent money to a particular supplier who would then transfer money to some of the officials of BOK.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Finance Officer, Finance Officer, Supply Chain Management Officer, former Board Chair, Directors of Arwin Gold Limited, Director for Grasonnel Limited, Directors of Bamyoung Limited and Directors of Dysema Limited together with all the four companies with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

(b) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the anti-corruption and economic crimes act, 2003.

(c) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act No. 3 of 2003.

(d) Fraudulent practice in procurement proceeding contrary to section 66 (1) as read with section 176 (1) (i) and (2) of the Public Procurement and Asset Disposal Act of 2015.

(e) One count of forgery contrary to section 345 as read with section 349 of the Penal Code.

(f) Two counts of dealing with Suspect Property contrary To section 47(2) (A) As Read with sections 47 (1) And 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(g) Four counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Awaiting DPPs response.

6. EACC/MSA/FI/INQ/7/2023

Investigations into Allegations of Corruption, Procurement Irregularities and Embezzelement of Funds at Taita Taveta County Government during the Commemoration of World War I Celebrations that Took Place Between 24th to 27th November, 2022

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 5th April, 2022, on allegations of corruption, procurement irregularities and embezzlement of funds at Taita Taveta County Government during the commemoration of World War 1 (WW1) celebrations that took place between 24th to 27th November, 2022.

Investigations established that the Government of Taita Taveta County prepared budget estimates and a consolidated procurement plan for the Financial Year 2022/2023 and the aforesaid event was not provided for in the budget.

Investigations further established that in respect to the World War One Event the Economic advisor and the Chief Officer Finance applied for imprest to facilitate the commemoration of the event. Investigation established that the Taita Taveta County utilised Kshs. 4,048,000.00 through irregular Daily Subsistence Allowance paid to officers.

It was further established that during the process of preparation for the WWI event, the public officers engaged and or directly single sourced suppliers for various services without following the laid down procedures despite the fact that the County Government had a repository of registered suppliers and service providers for the financial year 2022/2024. The suppliers that were engaged directly included Kazi Ngoma Orchestra band, Elbon Agencies, Banane North Explorer's Limited, Voi Wildlife Lodge, Kididi FM a commercial radio station, Tree Top Eatery, Pen and Paper Solutions, Gracious Tents and Sounds and Alconsup Solution Limited.

Investigations established that the receipts that were attached to the surrender documents were forgeries and were not actually issued by the purported entities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Economic Advisor to the Governor, County Secretary, County Chief Officer in charge of Trade, Tourism and Co-operatives Development with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Engaging in a project without prior planning contrary to section 45 (2) (*c*) as read together with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, 2003

(c) Six counts of uttering false documents contrary to section 353 of the Penal Code Cap 63 laws of Kenya

(d) Willful failure to comply with the applicable procedures and guidelines relating to incurring of expenditures contrary to section 45 (2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003

On 5th February, 2024, the DPP returned the inquiry file with recommendations for further investigations.

7. EACC/MSA/FI/INQ/13/2022

Investigations into Allegations of Corruption and Misappropriation of Public Funds at Taita Taveta County Assembly as a Result of Imprest Advanced to the Speaker of the County Assembly, Clerk Twenty One Members of the County Assembly and Four Other Officers for Traveling to Zanzibar for a Bonding Trip in the Financial Year 2022/2023

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 28th November, 2022 on allegation of embezzlement of public funds against staff of the County Assembly of Taita Taveta. It is alleged that the Speaker, Clerk, twenty-one (21) Members of the County Assembly (MCAs) and four (4) other officers incurred an expenditure of around Kenya Shillings Seven (7) million without following proper guidelines with regard to the edicts of the law on Public Finance at a bonding tour to Marijani Hotel in Zanzibar in November 2022 within the Financial Year 2022/2023.

Investigations established that members of the Liaison Committee and public officials of Taita Taveta County Assembly traveled to Zanzibar on an education tour. However, some delegates were paid excess per diem allowances which they were not entitled because accommodation had been provided while others were paid yet they had not travelled for various reasons.

The procurement process was not properly followed in regard to sourcing of the service provider being the World Scout Parliamentary Union (WSPUK) who would offer the catering and training facilities for the delegates. WSPUK was single sourced and directly engaged for the educational trip to Zanzibar. Investigation established that the procurement threshold was way above KSh. 500,000/= and therefore it ought to have been reported to the Public Procurement Regulatory Authority by the Accounting Officer.

Investigation further established that the Clerk of Taita Taveta County Assembly, authorised payment voucher for full daily subsistence allowance to the delegates whilst knowing that the delegates were not entitled to full daily subsistence allowance since their accommodation had been catered for.

The investigation established that the Taita Taveta County Assembly had lost KSh. 6,181,433.00 through irregular DSA paid to officers. The said County Assembly initiated recoveries from the beneficiaries by deducting their salaries and some made cash deposits to Taita Taveta County Assembly Bank Account amounting to KSh. 2,215,550.60. The outstanding amount yet to be recovered is KSh. 3,943,033.98

It was further established that the Accounting Officer during imprest surrender attached false travel clearance letters for delegates who had not travelled for various personal reasons. He further fraudulently authorised surrender of payment voucher of KSh. 8,037,599 purporting to have been fully accounted for yet it was not sufficiently supported by surrender documents.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Clerk/Accounting Officer and the Deputy Speaker of Taita Taveta County Assembly with the following offences;

(a) Three counts of Abuse of office contrary to section 46 as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering false documents contrary to section 353 of the Penal Code, Cap. 63 Laws of Kenya

(c) False accounting by a public officer contrary to section 331 (1) and (2) of the Penal Code, Cap. 63 Laws of Kenya

(d) Wilful failure to comply with the law applicable, regulations and guidelines relating to procurement, contrary to section 45 (2) (b) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Financial misconduct contrary to section 197(1) (i) as read with section 199 of the Public Finance Management Act, No. 18 of 2012.

On 1st February, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

8. EACC/MSA/FI/INQ/4/2017

Investigations into Allegations of Procurement Irregularities in the Purchase of Stone Cutting Machines by Coast Development Authority (CDA) from Endebes Development Company (EDC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report dated 22nd March, 2017 that Coast Development Authority (CDA) had purchased stone cutting machines from Endebes Development Company (EDC) without following procurement procedures.

Investigations established that CDA leased coral block cutting equipment and vehicles from EDC without following the public procurement laws and procedures i.e use of direct method instead of open tender method as required under the PPDR 2006.

Furthermore, there were no bid documents received from any bidder hence no procurement process was conducted hence the procurement process was a fraud.

EDC offered to sell the said machines to CDA at a cost of KSh. 62,000,000/=. On 10th July, 2012, CDA and EDC entered into a lease agreement for the machines. The lease was signed by the Managing Director on behalf of CDA. EDC received a total sum of KSh. 28,794,834.00 from CDA for the lease of coral block cutting machines. It was established that the lease agreements were entered into illegally and therefore payments made to EDC by CDA were

unlawful. It was revealed that the Director and beneficial owner of EDC is a bank signatory in the company and he had appointed the Managing Director CDA while he was the Minister for Regional Development Authorities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Managing Director, the Director of the company and Endebes Development Company Limited with the following offences;

(a) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Entering into an obligation that has financial implication contrary to section 196 (3) as read with section (196) (6) of the Public Finance Management Act, 2012.

(d) Unlawful acquisition of public property contrary to section 45 (1) *(a)* as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

Awaiting DPP's response.

9. EACC/MSA/FI/INQ/17/2017

Investigations into Allegations of Irregular Procurement for Extension of Bura Water Supply by Coast Water Services Board (CWSb) at a Cost of KSh. 52,020,061/= in the Financial 2017/2018

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an anonymous complaint that the Coast Water Services Board (the Board) flouted the procurement law during the procurement process in the tender CWSB/TR-EQ/W/6A/2017 for extension of Bura Water Supply (the Project). This project had been sanctioned by the Ministry of Water and Irrigation (the Ministry) and was being funded from the Equalisation Fund (the Fund).

Investigations established that the Board advertised the subject procurement on 27th June, 2017 attracting 28 bidders. Further investigations established that the Board failed to subject all the tenders to both technical and financial evaluation contrary to section 80 of the Public Procurement and Disposal Act, 2015. The contract was irregularly awarded to Misriya Company Limited.

It was further established that the Director for Misriya Company limited had made false documents being motor vehicle registration documents and submitted the same to the Coast Water Services Board.

Investigations established that the Head of Procurement at CWSB prepared misleading professional opinion hence did not offer expert advised as was required of him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Evaluation Committee, the Head of Procurement and the Director of the Misriya Company Limited together with the company with the following offences;

(a) Wilful failure to comply with the procurement law contrary to section 45 (2) *(b)* as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Fraudulent procurement practice contrary to section 66 (1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

(c) Forgery contrary to section 345 as read with section 349 of the Penal Code.

(d) Uttering a false document contrary to section 353 of the Penal Code.

(e) Knowingly misleading a person carrying out a duty contrary to section 176 (1) *(b)* as read with section 176 (2) of the Public Procurement and Asset Disposal Act, 2015.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

10.EACC/FI/INQ/20/2021

Inquiry into Allegations of Embezzlement/Missapropriation of Public Funds Amounting to KSh. 45,610,187/= by Turkana County Assembly Through Tendering and Construction of Turkana' County Assembly Speaker's Residence at Kanamkemer Ward

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on allegation that public funds which were meant for construction of the speaker's residence at Kanamkemer within Turkana County amounting to KSh. 45,610.187/= was misappropriated by the public officer's employed at Turkana County.

Investigations revealed that eight companies submitted their bids for the tender. The tender was irregularly awarded to Ekoriagete Enterprises Limited and the contract was executed by the County Assembly Clerk.

Further, it was established that one of the directors of the said company is an employee of the County Government of Turkana. The work done was valued at KSh. 19,494,994.99 as compared to payments made to the contractor totaling to KSh. 54,392,735.87. There was an overpayment of KSh. 34,897,740.88.

Investigations revealed that the said company was not registered with the National Construction Authority for the period between the years 2013 to 2018. The NCA certificates submitted by Ekoriagete Enterprises Limited as part of the requirement were forgeries.

Furthermore, financial investigations conducted revealed that payments were made to the company' account. The account was established to be operated by one of the county officials who is a director in the company. Upon receipt of the funds, the county official withdrew KSh. 18,495,500/= between August and September 2018 in a clear case of conflict of interest.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Deputy Clerk of Turkana County Assembly, the Clerk, the County Works Officer and the Director of the Ekoriagete Enterprises Limited with the following offences;

(a) One count of conspiracy to commit an offence of economic crime contrary to Section 47A (3) all as read with Section 48 of ACECA.

(b) One count of fraudulent acquisition of public property contrary to section 45 (1) *(a)* as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of abuse of office contrary to section 46 as read with section 48(1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

(d) One count of fraudulently making payments from public revenues for services not rendered contrary to section 45(2) (iii) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(e) One count of fraudulent procurement practice contrary to section 66(1) and (2) as read with section 177 of the Public Procurement and Disposal Act, 2015.

(f) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(g) One count of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

On 19th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

11. EACC/NKR/INQ/FI/101/2017

Inquiry into the Allegations of Misappropriation of Public Funds And Procurement Irregularities in the Rehabilitation And Construction of Salgaa-Elburgon Road By The County Government of Nakuru At the Cost of KSh. 10,000,000/= in the Financial Year 2015/2016

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th January, 2017 on allegations that the County Government of Nakuru had misappropriated KSh. 10,000,000/= in the rehabilitation and construction of Salgaa-Elburgon road.

Investigations established that the County Government of Nakuru had planned for the construction and rehabilitation of Salga-Elburgon Road as per the roads work plan at KSh. 8,084,300/= during the financial year 2015/2016. It was established that the technical evaluation was not conducted as required by regulation 16(4) of the Public Procurement and Disposal Regulations 2013. The procurement process was therefore flawed. The award was issued to Gee El Construction Works Limited and was paid for KSh. 6,508,478.53.

It was further established that the said company was not registered with the National Construction Authority and that the certificate provided by the company was a forgery.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Tender Evaluation Committee members, the Supply Chain Management Officer, the Chief Officer for Department of Roads and Public Works and the Directors of Gee El Construction Works Limited with the following offences;

(a) One count of Fraudulent practice in the procurement proceedings contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act, 2015.

(b) One count of Fraudulent acquisition of public property contrary to section 45(1) (*a*) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45(2) (*b*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and

(d) One count of Abuse of office contrary to section 45(2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

12. EACC/MSA/FI/INQ/04/2021 (C)

Inquiry into Allegations of Conflict of Interest and Procurment Irregularities Involving the Head of Treasury at The Kwale County Government Who is Alleged to own a Company Known as Chilongola Holdings Limited, which has Been Trading with the County Government of Kwale

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 4th February, 2021 alleging conflict of interest against the Head of Treasury, Kwale County Government who was alleged to own two companies namely; Rome Investment Limited and Chilongola Limited Companies which transacted and received KSh. 9,000,000/= from the said institution during the Financial Year 2017/18 and 2018/2019.

Investigations established that the companies were awarded ten tenders to supply and deliver sanitation materials, food and ration, general office supplies, and institutional appliances. It was further established that the procurement process undertaken was flawed. Rome investment and Chilongola Limited entered into a contract with the County Government of Kwale through Local Purchase Orders for the 10 tenders despite the procurement process having been flawed.

It was established that the tender documents including purchase requisition forms, minutes of the Tender Opening Committee, letters of appointment of inspection and acceptance committee and inspection and acceptance minutes relating to the said tenders were forgeries and the same were presented at the Kwale County Government by the Accountant and the Hospital Administrator. Further investigations established that Rome Investments and Chilongola Limited were paid a sum of KSh 44,919,341 and KSh. 4,007,943, respectively.

Further investigations disclosed that the Head of Treasury at the county was the Director at Chilongola Holdings together with his brothers who were directors for Rome Investments (k) Limited. The Head of Treasury was a mandatory signatory of the said companies bank accounts held at KCB Kwale Branch.

Financial investigations revealed that the Head of Treasury was a beneficial owner of the two companies, by virtue of the withdrawals he made. The total amount received by the two companies was KSh. 44,919,341 and the same distributed to the directors of the companies.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the Head of Treasury and a Director of Chilogola Holdings Limited and Rome Investment Limited, an Accountant and Hospital Administrator of the Kwale County Government be charged as follows:

(a) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(c) Deceiving principal contrary to section 412) as read with as read with section 48(1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(d) Fraudulent practise in procurement contrary to section 66 as read with section 177 of the Public Procurement and Asset Disposal Act, 2015

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

13. EACC/BGM/PI/INQ/09/2020

Investigation into Allegations of Procurement Irregularities and Conflict of Interest in the Procurement of A Double Cabin Pick-Up and a 33 Isuzu Bus Seater by the County Assembly of Bungoma in the Financial Year 2018/2019

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on allegations of procurement irregularities in in tender number CA/BGM/PUR/205/2019-2020 for the supply of a double cabin pick-up and a 33 Isuzu bus seater by the County Assembly of Bungoma during the Financial Year 2018/2019. It was further alleged that the Accounting Officer of the County Assembly had participated in the procurement amounting to Conflict of interest.

It was established that seven bidders participated in the procurement process. The Evaluation Committee conducted the evaluation exercise and recommended Westfield Motors Limited for the award for both the bus and double cabin. However, after a professional opinion was submitted with the foregoing recommendations, the clerk disregarded the opinion and went ahead to establish a different three-member committee to conduct another evaluation which was irregular since the substantive evaluation committee had not been disbanded.

It was further established that the Procurement Officer and the Clerk of the County Assembly prepared and approved a professional opinion which was misleading. The Accounting Officer executed the contract and authorised payments of KSh. 5,870,000/= and KSh. 4,980,000/= to be made in full to Westfield Motors Limited and Kenyan Coach Industries Limited respectively while knowing that the vehicles had not been supplied.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Accounting Officer and the Head of Procurement with the following offences;

(a) Three counts of wilful failure to comply with applicable procedures and guidelines relating to procurement of services contrary to section 45 (2) (*b*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

14. EACC/EL/INQ/29(ii)/2022

Inquiry into Allegation that an Employee Falsified Academic Certificates To Secure Employment at Rural Electrification And Renewable Energy Corporation (REREC) as a Supply Chain Management Assistant

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received that the officer used a forged Bachelor's degree in purchasing and supplies Chain Management from Jomo Kenyatta University of Agriculture and Technology to gain employment at REREC as a Supply Chain Management Assistant (Procurement and Disposal).

Investigations established that the Supply Chain Management Assistant forged a Bachelor's degree certificate No. 3701 in purchasing and supplies from Jomo Kenyatta University and Technology. He uttered the certificate while making application to be employed in the position of Supply Chain Management Assistant as captured from his employment records. Investigations revealed that he also submitted fake transcripts to REREC.

It was established that he had irregularly been paid a net salary amounting to KSh. 311,974.45 since the April, 2022 to July, 2022.

On 17th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the aforesaid suspect with the following counts;

(a) One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act.

(b) Five counts of forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Five counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 19th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

15. EACC/EL/INQ/29(v) /2022

Inquiry into Allegations That an Employee used Forged Academic Documents to Secure Employment at Rural Electrification and Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint on 2nd August, 2022 that the employee used forged academic documents to apply for the position of a driver at REREC.

Investigations established that the said driver made an application following an advertisement in the local dailies on 1st December, 2020. In his application he attached several documents including, a Kenya Secondary school certificate No. 2386658 from Kimuri High School issued in the year 2008.

Investigations further established that the KCSE certificate was forged, having been subjected to authentication by the Kenya National Education Council (KNEC). He had worked with REREC from 1st April, 2022 to July, 2022 and irregularly earned a net salary of KSh. 293,240.94

On 17th October, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the suspect being a driver at REREC with the following offences;

(a) Fraudulent acquisition Contrary to section 45 (1) (*a*) all as read with section 48 of ACECA,

(b) Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 2nd January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

16. EACC/EL/INQ/29(iii)/2022

Inquiry into Allegations that an Employee used Forged Academic Documents To Get Employment at Rural Electrification And Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 2nd August, 2022 on allegations that the employee used forged academic documents to apply for the position of Supply Chain Management Assistant (Inventory and Logistics) at REREC.

It was established that the REREC advertised for various positions in the daily nation dated 1st December, 2020. One of the positions advertised was that of Supply Chain Management Assistant (Inventory and logistics). She applied for the position and in her application; she indicated that she holds a Diploma in Business Information Technology from Kenya Methodist University awarded in the year 2014

Investigations established that she did not study at the said institution and the Diploma certificate in question was therefore a forged document. It was further established that she had been working at REREC from 1st April, 2022 to 14th July, 2022. She illegally gained from the institution a net salary of KSh. 293,457.07 considering that she was not qualified for the position.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act 2003.

(b) One count of Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) One count of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Two counts of Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

17. EACC/ISL/EL/INQ/2/2020

Inquiry Into Allegations that the Ward Administrator for Marsabit Central Used Forged Academic Documents to get Employment

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received with allegations that the Ward Administrator for Marsabit Central had allegedly used forged Kenya Certificate of Secondary Education Certificate (KCSE) and diploma certificate to gain employment in Marsabit County.

Investigations established that the suspect applied for employment opportunity at the Marsabit County Government in the year 2018. He submitted his curriculum vitae, which indicated that he had a Diploma in Community Development and Social Work.

Investigations revealed that the Ward Administrator also applied for the position of Civic Education Officer and attached a KCSE Certificate serial No. 2023397 from Marsabit Secondary School. He further submitted a KNEC Certificate serial No. BTEP/D004270 for diploma in Community Development and Social work. The suspect was appointed as a Public Participation and Civic Education Officer from 28th January, 2019.

Investigations further revealed that the positions in which he was appointed into had not been advertised and therefore the appointments were irregular.

Further investigation revealed that the suspect had altered the grades in the KCSE certificate that he submitted to the Marsabit County Government and the Diploma in Community and Social Development were forgeries. It was further established that the Ward Administrator had earned a net salary from April, 2019 to September, 2023 amounting to KSh. 1,954,324.15

On 27th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Ward Administrator with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of ACECA.

(b) One count of Deceiving principal contrary to section 412) as read with as read with section 48(1) of ACECA.

(c) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(d) Two counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

18. EACC/MSA/FI/INQ/13/2023

Inquiry into Allegations Joskat Construction Company did not Follow the Bills of Quantities when Performing Contracts for Likoni CDF in erecting the Perimeter wall for Timbwani Secondary School in the Financial Year 2021-2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a contractor was not following the bill of quantities when performing contracts for Likoni NG-CDF project for erecting the 400-meter perimeter wall for Timbwani Secondary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Timbwani secondary School were followed from the initiation of the tender process until the award of contract. The contract was awarded to Joskat Construction Company Limited at a cost of KSh.. 6,394,807/=. The Project Management Committee confirmed that the progress was good and that the work was being done as per the specifications. The company completed the said construction as per the contract and as a result, payments were made to the contractor. The project has been completed but was yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

19. EACC/MSA/FI/INQ/11/2022

Inquiry into Allegations that a Company Called Sallysam Limited did not Follow The Bills of Quantities when Erecting the Perimeter Wall for Mrima Primary School in Likoni Consituency during the Financial Year 2021/2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a company namely Sallysam Ltd was not following the bill of quantities when performing contracts for Likoni NG-CDF project for construction of classes for Mrima Primary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Mrima Primary School were followed from the initiation of the tender process until the award of contract to Sallysam Limited. The construction was also completed as per the contract and as a result, payments were made to the contractor. The project has been completed and yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

20. EACC/MSA/FI/INQ/14/2023

Inquiry into Allegations that a Company Called Sallysam Enterprises did not follow the Bills of Quantities When Erecting The Perimeter Wall For Mtongwe Girls Secondary School in Likoni Constituency during The Financial Year 2021/2022

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 26th September, 2022 that a company called Sallysam Limited was not following the bill of quantities when performing contracts for Likoni NG-CDF project of erecting the perimeter wall for Mtongwe girls Secondary school during the Financial Year 2021/2022.

Investigations established that the NG-CDF Board approved a code of projects including Mtongwe Girls Secondary School with an allocated amount of KSh. 5,985,075/=. The procurement entity was Likoni Constituency Development Fund. Three companies submitted their bids and a final award issued to Sallysam Enterprises Limited. The contract was executed on 3rd May, 2022. The works were executed by the said company and it was noted that the project was going on well as per the specifications of the Bill of quantities. Investigations did not reveal any procurement irregularities in the subject project.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed with no further action.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

21. EACC/KSI/OPS/INQ/3/2022

Inquiry into Allegations of Corruption against a Court Assistant Working for the Judiciary at Migori Law Courts

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 11th April, 2022 that a Court Assistant had approached him and that he could assist him to get a favourable judgment from the Magistrate handling the criminal matter at a court in Migori. He was required to give KSh. 100,000/=.

Investigations established that there was a criminal matter at Migori Law Courts where the complainant was the accused and was coming up for judgment. The Court Assistant requested for KSh. 100,000/= in order to assist the complainant to get a favourable judgment. The Commission established that the Court Assistant had demanded and received a bribe of KSh. 20,000/= which was recovered from him upon arrest.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations that the Court Assistant be charged with two counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 (1) and (2) of the Bribery Act, 2016.

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

22. EACC/OPS/INQ/20/2023

Inquiry into Bribery Allegation of Corrupt Conduct Against a Kenya Revenue Authority Officer

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 14th March, 2023 alleging that a Waiver Processing Officer at the Kenya Revenue Authority was demanding for a benefit of KSh. 50,000/= in order to write off accrued erroneous value added tax penalty amounting to KSh. 410,000/=.

Investigations established that the Waiver Processing Officer worked at the KRA and had requested and received KSh. 40,000/= as a financial benefit.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Waiver Processing Officer at KRA with three counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 of the Bribery Act No. 47 of 2016

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

23. EACC/MCKS/OPS/INQ/2/2021

Inquiry into Allegations that the Head Teacher at Unoa Primary School was Charging Illegal Levies as Fees in Violation of Guidelines by the Ministry of Education on Free Primary Education (FPE)

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received on 14th January, 2020 that the Head teacher at Unoa Primary School was charging illegal levies as fees in violation of guidelines by the Ministry of Education on free primary education.

Investigations further established that the head teacher had been charging illegal fees in form of development fees of Kshs. 5,000/=, harambee fee of KSh. 1,000/=, Fencing fee of KSh. 1000/= and feeding programme fee of KSh. 1850/= plus other motivation and activity fee totalling to KSh. 10,000/=.

Financial Investigations established that the head teacher owned a private enterprise namely AGPHILY Enterprise that was trading with the school wherein he was the head.

Further investigations established that the head teacher purported to have made supplies to the school and he had signed a cheque of KSh. 183,500/= in his favour. The cheque was not honoured at the bank since no supporting document was provided to the bank.

On 9th November, 2023, a report was compiled and forwarded to the DPP with the recommendations to charge the head teacher, Unoa Primary school with the following offences;

(a) Conflict of interest contrary to section 42 (3) as read with Section 48 of the ACECA, 2003.

(b) Two counts of,Forgery contrary to section 345 as read with section 349 of the Penal code

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

24. EACC/OPS/INQ/36/2023

An Inquiry into Allegations of Corrupt Conduct against a Nairobi City County Revenue Officer Based at City Hall.

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received a report dated 18th May, 2023 alleging that a Nairobi City County Revenue Officer based at City Hall was demanding for a bribe of KSh. 20,000/= from him in order to write off cess arrears amounting to KSh. 47,0000/= accrued by his lorry.

Investigations established that on 27th April, 2023 the County Official informed owner of lorry that he had cess arrears of Kshs. 47,000/= . The suspect reduced the amount to KSh. 20,000/= and required the owner of the lorry to pay KSh. 10,000/= through paybill number and was given KSh. 10,000/= in cash. On a later date, the lorry owner was informed that he had cess arrears of KSh. 14,000/=.

The Commission established that he was employed as an Administrative Officer III at the Nairobi City County Government. The county official requested and received KSh. 10,000/= in order to facilitate write-off cess arrears accrued by his lorry owed to Nairobi City County Government.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Administrative Officer at Nairobi City County Government be charged with three counts of receiving a bribe contrary to section 6 (1) *(a)* as read with section 18 of the bribery Act No. 47 of 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

25. EACC/MCKS/OPS/INQ/54B/2018

An Inquiry into Allegations of Obstruction against a Suspect In ACC 636/2020 - Republic Vs. Eldah Konzolo

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 11th April, 2021 on allegations that an accused person in Anti-corruption case no. ACC 636/2020 – R vs. Eldah Konzolo had offered KSh. 17,000/= to a witness in order to change his testimony in the stated matter which was pending trial before Mavoko law courts.

Investigations established that the suspect had compromised the witness in the said matter and indeed sent KSh. 17,000/= through Mpesa to a proxy to avoid any direct link. The money was intended to persuade the witness to change his testimony in court. It was established that the said amount was sent to one of his colleague. Investigations also established that the conduct of the accused amounted to interference with a witness with an aim to obstruct justice.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the suspect, with the following offences;

(a) One count of giving a bribe contrary to section 5 of the Bribery Act, 2016.

(b) One count of interfering with witnesses contrary to section 117 (1) of the Penal Code Cap 63.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

26. EACC/OPS/INQ/44/2023

Inquiry into Allegations of Bribery against a Member of County Assembly, Hospital Ward, Kiambu County.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 24th May, 2023 to the effect that a Member of County Assembly, Hospital Ward, Kiambu County was requesting for a financial advantage of KSh. 130,000/- as an inducement to allow her proceed with the intended development activities on Parcel No. Thika Municipality Block 11/377.

Investigations established that county official requested that he be given a portion of land and Kshs. 200,000/= so that he could disregard an alleged Petition by members of the public against any development on the subject plot. They negotiated the amount downwards to KSh. 100,000/=.

It was established that the suspect is Public Officer by virtue of him being a Member of County Assembly (MCA), Kiambu County. He was acting in his official capacity as MCA and Chairperson of the Development Committee of the Assembly when he requested for the benefit.

The Commission established that the county official requested for a bribe of KSh. 130,000/= intending that, in consequence, the owner of the plot proceeds with her intended development on Parcel No. Thika Municipality Block 11/377.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge him with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

27. EACC/BGM/OPS/INQ/8/2021

Investigation into Allegations of Bribery against a Police Officer Attached to Kakamega Central Police Station.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th December,2021 with allegations that a Police Officer attached to the DCI Kakamega Central Police Station at Kakamega County, had requested for a financial advantage of KSh. 100,000/= to give to a Magistrate stationed at Kakamega Law Courts in order to influence the outcome of an inquest proceeding at the Kakamega Magistrates Court.

Investigations established that there was an inquest under Inquest No. 3 of 2020. The inquest proceedings had concluded and pending the verdict of the Principal Magistrate. The Police Officer who was at the time the investigating officer requested for a benefit in order to compromise the said magistrate to rule in favour of the deceased.

Investigations further established that the police officer was employed at the Ministry of Interior and Co-ordination of National Government (Administration Police). The Commission established that the police officer received the bribe of KSh. 40,000/= which was recovered from him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the police officer be charged with two counts of receiving a bribe contrary to section (6) (1) (*a*) of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Total No. of files forwarded to the Director of Public Prosecutions	27
No. of files recommended for prosecution	24
No. of files recommended for administrative or other action	0
No. of files recommended for closure	3
No. of files recommended for prosecution and the cases are already lodged before Court	-
No. of files where recommendation to prosecute accepted	7
No. of files where recommendation for administrative or other action accepted	-
No. of files where recommendation for closure accepted	3
No. of files returned for further investigations	14
No. of files where recommendation to prosecute not accepted	-
No. of files where recommendation for administrative or other action not accepted	-
No. of files where closure not accepted	-

No. of files where prosecution declined but administrative action recommended	-
No. of files awaiting the DPP's advice	3

Dated the 13th February, 2024.

DAVID OGINDE,
Chairperson.

TWALIB MBARAK,
Secretary/Chief Executive Officer.

PTG 1703/23-24

GAZETTE NOTICE NO. 2090

THE KENYA INFORMATION AND COMMUNICATIONS ACT

(*No.* 2 *of* 1998)

APPLICATION FOR LICENCES

NOTICE is given that the following applicants have, pursuant to the provisions of the Kenya Information and Communications Act, 1998, made applications to the Communications Authority of Kenya for grant of the licences as shown in the Table below:

Name	*Station Identity*	*Licence Category*
Darwy Afrik Photography and Safaris Limited, P.O. Box 5572–0100, Eldoret	Assis FM	Commercial Free to Air Radio Licence
Alhaajar Investment Limited, P.O. Box 98558–80100, Mombasa	Alhaajar TV	Commercial Free to Air Television Licence
AIPCA Bahati TV and Radio Limited, P.O. Box 73053–00200, Nairobi	AIPCA Bahati TV	Commercial Free to Air Television Licence
Way of Truth Media Limited, P.O. Box 3556–00200, Nairobi	Truth Wave TV	Commercial Free to Air Television Licence
Nifty Works Plus Limited, P.O. Box 21933–00505, Nairobi	NWPLUS TV	Subscription Broadcasting Service Licence
University of Eastern Africa Baraton, P.O. Box 2500–30100, Eldoret	Baraton FM	Community Free to Air Radio Licence
Go Shipping Cargo Agency Limited, P.O. Box 4689–00100, Nairobi		International Postal/ Courier Operator Licence
Samina Senders and Logistics Limited, P.O. Box 90231–80100, Mombasa		National Postal/ Courier Operator Licence
Prime Time Meru Travellers Company, P.O. Box 415–60200, Meru		National Postal/ Courier Operator Licence
Iyanat Business Solutions, P.O. Box 30068–00100, Nairobi		National Postal/ Courier Operator Licence
Samper Cabs Limited, P.O. Box 12862–00100, Nairobi		National Postal/ Courier Operator Licence
Wekkitech Limited, P.O. Box 536–20100, Nakuru		Network Facilities Provider Tier 3 (NPF-T3)
DXA Technologies Limited, P.O. Box 79450–00200, Nairobi		Network Facilities Provider Tier 2 (NPF-T2)

The licences, if granted, will enable the applicants to operate and provide the services as indicated in the Table above. The grant of these licences may affect the public and local authorities, companies, persons or bodies of persons within the country.

The Authority wishes to notify the general public that any legal or natural person, or group of individuals, who are desirous of making any representation and/or any objection to the said applications, to do so *vide* a letter addressed to: The Director-General, Communications Authority of Kenya, CA Centre, Waiyaki Way, P.O. Box 14448–00800, Nairobi, indicating the licence category on the cover enclosing it.

The said representation and/or objection must be filed on or before expiry of thirty (30) days from the date of publication of this notice and a copy of the same be forwarded to the applicants.

Dated the 13th February, 2024.

DAVID MUGONYI,
Director-General.

PTG 1685/23-24

GAZETTE NOTICE NO. 2091

THE WATER ACT, 2016

(*Sections* 70, 85, 87 *and* 139)

PUBLIC CONSULTATION MEETING ON LICENCING OF WATER SERVICE PROVIDER

THE Water Services Regulatory Board (WASREB) has received licence application from Nyeri Water and Sanitation Company Limited to provide water services within Nyeri County.

The licence application has been made pursuant to the Water Act 2016 (section 85(1)- "A person shall not provide water services except under a licence issued by the Regulatory Board, upon submission of an application and such supporting documents as the Board may require".

Therefore, in compliance to WASREB principal object under the Water Act, 2016 section 70 (1)–"protection of the interests and rights of consumers in the provision of water services", section 87(1)- "An application for a licence shall be subject to public participation" read together with the provision of section 139, we wish to advise that the public consultation meeting shall be held at the venue stated below to get stakeholders concerns on services provided, licencing conditions and proposals for services improvement going forward.

Please note that the Water Service Provider shall hold hybrid public consultation meeting (physical and virtual) as outlined below.

Water Service Provider	*County*	*Venue*		*Day Date and Time*
Nyeri Water and Sanitation Company	Nyeri	Physical meeting:	Wangari Mathai Hall, Nyeri Town	Tuesday, 5th March, 2024 10.00 a.m.
		Virtual meeting:	WSP to provide links	

Participants should be seated by 10.00 a.m. Personal identification of participants will be required. Members of the public in respective areas are invited to make oral and written submissions and ask any questions that may relate to the provision of water services in their areas.

Comments on the application shall be emailed to info@wasreb.go.ke or send in hard copy to:

The Chief Executive Officer,
Water Services Regulatory Board,
5th Floor NHIF Building,
Ngong Road,
P.O. Box 41621–00100,
Nairobi.

The closing date for receipt of comments is thirty (30) days after the publication of this notice.

Dated the 6th February, 2024.

JULIUS ITUNGA,
Ag. Chief Executive Officer,
Water Services Regulatory Board.

MR/6198975

HD/069

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY OF KENYA,

IN THE MATTER OF: ARTICLES 1, 2, 3, 4, 6, 10, 73, 74, 75, 88, 90, 91, 93, 94, 95, 97, 103, 108, 115, 118, 129, 130, 131, 132, 135, 152, 153, 156, 157, 201, 223, 232, 258 AND 259 OF THE CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT - CAP. 7F, LAWS OF KENYA.

IN THE MATTER OF: STANDING ORDER NO. 204, STANDING ORDERS OF THE NATIONAL ASSEMBLY OF KENYA [6TH EDITION - 07.06.2022].

IN THE MATTER OF: APPROVAL OF PERSONS NOMINATED FOR APPOINTMENT TO THE NATIONAL EXECUTIVE OF THE REPUBLIC.

IN THE MATTER OF: SUBMISSION OF STATEMENT CONTESTING THE NOMINATION AND SUITABILITY FOR APPROVAL FOR APPOINTMENT AS MEMBERS OF THE NATIONAL EXECUTIVE OF THE REPUBLIC OF:

NATIONAL ASSEMBLY
RECEIVED
31 JUL 2024
CLERK'S OFFICE
P O Box 41842, NAIROBI

1. PROF. KITHURE KINDIKI
2. ALICE WAHOME
3. ADEN BARRE DUALE
4. ROSELINDA SOIPAN TUIYA AND,
5. DAVIS CHIRCHIR
6. SALIM MVURYA MGALA
7. REBECCA KIANO
8. ONESIMUS KIPCHUMBA MURKOMEN
9. ALFRED NGANGA MUTUA
10. JUSTIN BEDAN NJOKA MUTURI
11. JOHN MBADI NG'ONGO
12. JAMES OPIYO WANDAYI
13. HASSAN ALI JOHO, AND

14. WYCLIFFE AMBETSA OPARANYA.

TO:

THE NATIONAL ASSEMBLY OF KENYA
NAIROBI.

I, Antony Nduati Ndibui, an adult of sound mind, disposition and a citizen of Kenya presently resident in Nairobi, Kenya hereby solemnly makes oath and states **THAT:**

1. I submit this statement to contest the nominations, by H.E. the President of the Republic, of the following persons for approval by the National Assembly for appointment as members of the national executive of the Republic, **namely**:

    1) **PROF. KITHURE KINDIKI**
    2) **ALICE WAHOME**
    3) **ADEN BARRE DUALE**
    4) **ROSELINDA SOIPAN TUIYA**
    5) **DAVIS CHIRCHIR**
    6) **SALIM MVURYA MGALA**
    7) **REBECCA KIANO**
    8) **ONESIMUS KIPCHUMBA MURKOMEN**
    9) **ALFRED NGANGA MUTUA**
    10) **JUSTIN BEDAN NJOKA MUTURI**
    11) **JOHN MBADI NG'ONGO**
    12) **JAMES OPIYO WANDAYI**
    13) **HASSAN ALI JOHO, AND**
    14) **WYCLIFFE AMBETSA OPARANYA.**

2. My grounds for contesting the nomination of the **first ten** nominees named above are **that:**

3. In a statement dated **11.07.2024** issued at State House, Nairobi, H.E. the President, announced that he had decided to dismiss, with immediate effect, all the Cabinet

Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

4. The first ten persons named above were among those members of the national executive of the Republic dismissed by H.E., the President, as notified in the statement.

5. H.E., the President, stated, among other reasons, that the dismissals came after his holistic appraisal of the performance of his Cabinet, its achievements and challenges. The decision to dismiss members of his Cabinet, including the first ten persons named above, came after the President reflected on and keenly listened to what the people of Kenya had said. The Head of State further acknowledged the high expectations the people of Kenya have on him and his Government.

6. Dismissal of the first ten persons named above and the rest of Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), was confirmed vide **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette Notice No. 8440/2024** on **12.07.2024**.

7. Citations on the face of the Executive Order acknowledged the authority donated to the President by the people of Kenya to, among others, direct and coordinate the functions of Ministries and Government Departments.

8. The Order further recognised the duty imposed on H.E., the President, to continuously review the capacity of Ministries, State Departments and State agencies to deliver on national aspirations. This prerogative was underpinned by the presidential duty of promoting good governance in the management of public affairs.

9. In the Order, H.E., the President, took exceptional care to set out the constitutional source of presidential authority and functions and how this informed the Head of State's decision in the matters set out therein.

10. H.E., the President, stated that, cognisant of the imperative to **better equip** and **orientate** the national executive of the Republic and Government in the implementation of his Administration's plan for a better Kenya, and, in recognition of the overwhelming feedback from the people of Kenya on responsibilities of Government in the performance

of its functions, he had decided to dismiss all members of his Cabinet, except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

11. The President's actions in dismissing the specified members of his Cabinet, including the **first ten** persons named above, were further informed by his commitment to enhancing efficiency, effectiveness, transparency and accountability in public service delivery.

12. The President's decision to dismiss members of his Cabinet, including the **first ten** persons named above, was additionally informed by his commitment to realign public service delivery to ensure rapid delivery of public services to Kenyans in every part of the Republic.

13. To embed operational enhancements and foster responsive governance, H.E., the President determined that, with the exception of the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, all other members of his Cabinet could no longer, individually, and collectively, fulfil their functions as expected by the Constitution. They were therefore no longer fit to continue being State officers as doing so would, among others, have demeaned the office held.

14. Following this determination and decision to dismiss, with immediate effect, members of his Cabinet as notified in the **EXECUTIVE ORDER NO. 6 OF 2024**, H.E., the President could not, subsequently, lawfully nominate, for approval for appointment by the National Assembly, any of the persons he had dismissed as a member of the national executive of the Republic on **11.07.2024**. This includes the **first ten** persons named hereinabove.

15. By his own admission and actions on **11.07.2024** and, in compliance with the Constitution, H.E. the President, determined that it was no longer constitutionally tenable for the specified persons he had previously nominated and, with the approval of the National Assembly, appointed as members of his Cabinet, to continue holding that office. These persons included the **first ten** individuals who are the subject of this contestation.

16. Individually, and collectively, the persons dismissed were unfit to remain in office as members of the national executive of the Republic. H.E., the President, determined that those persons could no longer be accountable, individually, and collectively, for the exercise of their powers and the performance of their functions, hence their dismissal. Following that determination, their remaining in office would have violated the

Constitution, including by demeaning the office and institution of the national executive of the Republic. Those persons, (including the ten named above), remaining as members of the national executive of the Republic would further have violated the President's duty to respect, uphold, defend and safeguard the Constitution.

17. The constitutional requirements, as determined by H.E. the President and as spelt out in his statement dated **11.07.2024** and in the **EXECUTIVE ORDER NO. 6 OF 2024**, which the dismissed persons, including the first ten persons named above, no longer met included:

1) The high expectations of the people of Kenya and the President for good governance, integrity and accountability. This high expectation was clearly demonstrated by participation of the people in demanding changes in the composition of the national executive of the Republic, to which the President acceded.

2) Upholding the national values and principles of governance and public service.

3) Individual, and collective, accountability to the President for the exercise of their powers and the performance of their functions as members of the national executive of the Republic.

4) Ensuring efficient, effective, transparent and accountable public services by the national government, which are rapidly, impartially and equitably accessible in every part of the Republic and;

5) Responsive, prompt and effective governance.

18. It was the President's considered view that he could not, with the assistance of the Deputy President and the rest of the members of his Cabinet, (except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs), constitutionally exercise the executive authority of the Republic delegated to him as required by the Constitution.

19. Having, upon reflection and after listening keenly to what the people of Kenya, in exercise of their direct sovereign power, had said and after his holistic appraisal of the performance

of his Cabinet, its achievements and challenges, the President decided to dismiss specified members of his Cabinet, including the above-named **first ten** persons.

20. Under the above circumstances, it is my considered opinion that H.E., the President, has no constitutional authority to nominate, and, with the approval by the National Assembly, appoint as members of his Cabinet, persons he had, in exercise of powers delegated to him by the people of Kenya, already determined to be unsuitable to hold State offices.

21. **Articles 132(2)(a** and **b), 152(2)** and **156(2)** of the Constitution gives the President broad powers to nominate and, with the approval of the National Assembly, appoint persons to be members of his Cabinet. The President may also dismiss persons appointed pursuant to those powers. Any such appointments and/or dismissals must, however, be carried out in accordance with the Constitution. Dismissal of the **first ten** persons named above was, as stated in the **EXECUTIVE ORDER**, based on **Article 152(5)(b)** of the Constitution.

22. **Articles 1(1, 2** and **3(b)), 10, 73, 75, 129, 130, 131, 232** and **259** of the Constitution, require the President to uphold the specified values and principles in discharging his constitutional functions, including when nominating, for approval by the National Assembly, persons to be appointed to his Cabinet under **Articles 130(1), 132(2)(a** and **b), 152(1** and **2)** and **156(2).**

23. Having determined, on **11.07.2024**, that specified members of his then-Cabinet were unfit to continue holding that office as set out in the statement of **11.07.2024** and **EXECUTIVE ORDER NO. 6 OF 2024** of the same date, H.E., the President, cannot lawfully nominate, for approval for appointment by the National Assembly, the same persons whom, in his considered opinion and upon reflection, he had, merely days before, deemed to be no longer constitutionally suitable to remain as members of the Cabinet of the Republic.

24. Based on the foregoing, I oppose the nominations of the above-named **first ten** persons by H.E. the President for approval by the National Assembly for them to be appointed as members of the national executive of the Republic.

25. In addition to contesting the nominations of the first **ten (10)** persons named above, I also contest the nomination, for approval by the National Assembly, of the last **four (4)** persons named above, for appointment to the national executive of the Republic.

26. It is a matter of public record and notoriety that the last four named persons are members of and/or affiliated with the ORANGE DEMOCRATIC MOVEMENT (ODM) political party.

27. HASSAN ALI JOHO and WYCLIFFE AMBETSA OPARANYA served as governors of Mombasa and Kakamega counties, respectively, between 2013 – 2022. Both stood as and were elected as members of ODM political party.

28. JOHN MBADI NG'ONGO and JAMES OPIYO WANDAYI are currently members of the National Assembly, having been nominated and elected at the general election in AUGUST 2022 as the candidates for ODM party. JOHN OPIYO WANDAYI is, in fact, currently Leader of the Minority Party in the National Assembly as provided by Article 108 of the Constitution.

29. The Constitution, including under Articles 4(2), 10(2), 90, 91 and 108, decrees that Kenya shall be a multi-party democratic State. This requires existence of plurality of political parties and ideologies, whereby the people, in exercise of their rights under Article 38, have a genuine and credible choice between different political parties, ideologies and independent candidates. This political and ideological distinction and differentiation extends to composition and membership of the national executive of the Republic, as it is in Parliament and county assemblies. Distinct political and ideological stances are the bare minimum required to achieve a multi-party democratic State as decreed by Article 4(2) of the Constitution.

30. Further and in addition, under Article 1(3) of the Constitution, the people of Kenya established distinct State organs to exercise specific delegated powers. None of those State organs is superior or subservient to the others. Nor can any of the distinct organs undermine, destroy or co-opt the other, to defeat the letter and spirit of the Constitution. The different State organs must all work, as decreed by the Constitution, to achieve for the people of Kenya in accordance with the Constitution and the law.

31. On the basis of the above, I submit that H.E., the President, cannot lawfully nominate, for approval by the National Assembly, for appointment as members of national executive of the Republic which he heads, persons who are or have been publicly, generally and notoriously known as, associated with and/or are or have been members of political parties or coalition of political parties in opposition to the President's.

32. It is a matter of public record and notoriety that H.E., the President's political party, **UNITED DEMOCRATIC ALLIANCE (UDA)** and its coalition partners in **KENYA KWANZA ALLIANCE (KKA)** are political rivals to the **ODM** party and its coalition partners, **AZIMIO LA UMOJA ONE KENYA COALITION**. **RAILA AMOLO ODINGA,** the leader of **ODM**, was a rival presidential candidate in the elections held on **09.08.2022** in which H.E., the President was elected.

33. It is further a matter of public knowledge and notoriety that **JOHN MBADI NG'ONGO** is the chairperson of ODM party while **HASSAN ALI JOHO** and **WYCLIFFE AMBETSA OPARANYA** are the party's vice-chairs.

34. The political and ideological differences between H.E., the President's political party, **UDA/KENYA KWANZA ALLIANCE** and **ODM/AZIMIO LA UMOJA ONE KENYA COALITION**, as distinct entities under the Constitution, is reinforced by the fact that **JAMES OPIYO WANDAYI**, one of the nominees whose nominations I am also contesting, is the Leader of the Minority Party or coalition of parties in the National Assembly pursuant to **Article 108** of the Constitution.

35. The purpose and/or effect of the decision of H.E., the President, to nominate the last **four** persons named above to be approved for appointment as members of his Cabinet, is to destroy Kenya as a multi-party democracy, in contravention of the Constitution, including **Articles 1, 2, 3, 4(2), 10, 90, 91, 97, 108, 129, 130, 132** and **152**.

36. The nominations are further an abuse of the responsibilities imposed on the President under Chapter Six of the Constitution, including **Articles 73, 74** and **75**. I therefore humbly requests the National Assembly to decline to approve the nominations. The President cannot, lawfully, decapitate, gut and feed on the carcases of rival political parties by co-opting their publicly-declared members and leaders to join his Cabinet. This violates the constitutional edict that Kenya shall be a multi-party democratic State, founded on the national values and principles of governance set out in **Article 10** of the Constitution.

37. Further and in addition, nomination of **JAMES OPIYO WANDAYI**, an elected member of the National Assembly, for approval for appointment as member of the national executive of the Republic, is a threat to **Article 201** of the Constitution.

38. If the nomination is approved and the appointment proceeds, the nominee will have to resign as a member of the National Assembly pursuant to **Article 152(3)** of the Constitution. This resignation will necessitate a by-election to fill the vacancy in the National Assembly constituency of **UGUNJA**.

39. It is a matter of record that the country's public finances are under great stress. This has, not least, arisen from the decision of H.E., the President, to enter reservations concerning the **Finance Bill, 2024**. Members of the National Assembly accepted the reservations on **25.07.2024**, leading to the Bill falling. The reservations and falling of the Bill have, in turn, necessitated the submission, to the National Assembly, of Supplementary Estimates for **FY 2024/2025** to seek to address the significant reduction in expected revenue for the financial year.

40. This reduction includes proposed cut of **Kshs. 63,166,846.00** from the budget of IEBC for **FY 2024/2025**. This reduction will be borne in the management of electoral processes' functions of **IEBC**.

41. In view of the expected pressure on public finances, including to cover expected shortfall of the approximately **Kshs. 344B** for the current financial that was to be raised vide the expunged **Finance Bill, 2024**, I contest the constitutional validity of H.E., the President, and **JAMES OPIYO WANDAYI**, to cause unnecessary expenditure of scare public resources in the ensuing by-election for **UGUNJA** upon approval and appointment of the nominee as hoped.

42. It is my view that this wasteful and avoidable by-election would be a violation of the Constitution, including **Articles 3(1), 10(2), 73, 74, 75, 201(d), 232(1)(b)** and **259(1)** of the Constitution. The nomination of elected member of Parliament should therefore be rejected to safeguard public money from being imprudently and irresponsibly used.

43. Further and in addition, the personal integrity, competence and suitability of **WYCLIFFE AMBETSA OPARANYA** to be nominated and, with the approval of the National Assembly, appointed as a member of the national executive of the Republic, is currently the subject of criminal investigations and prosecutions for alleged offences under the **Anti-Corruption and Economic Crimes Act, 2003** and **Anti-Money Laundering Act, 2009.**

44. The above investigations and charges against **WYCLIFFE AMBETSA OPARANYA** arose out of action taken by the **Ethics and Anti-Corruption Commission (EACC)** with regards to the nominee's time as the governor for Kakamega Couty under their case reference No. **EACC/FI/INQ/18/2023**.

45. On **18.12.2023**, EACC received notification from the Office of Director of Public Prosecutions (ODPP), concurring with their (EACC's) recommendations that **WYCLIFFE AMBETSA OPARANYA** should be charged for alleged offences committed while he was a State officer. As of the date of his nomination to be approved for appointment to be a member of the national executive of the Republic, **WYCLIFFE AMBETSA OPARANYA** is the subject of ongoing criminal investigations and prosecutions.

46. It is my belief, including based on the recent High Court judgment in ***Gikenyi B v Mwaura & 2 others; Ethics and Anti-Corruption Commission & 2 others (Interested Parties) (Petition E009 of 2023) [2024] KEHC 8456 (KLR)***, that **WYCLIFFE AMBETSA OPARANYA** is currently unqualified for the nomination as notified on **24.07.2024**.

47. Under the Constitution, including **Articles 3(1), 4(2), 10, 73, 74, 75, 94(2** and **4)** and **95(1, 2** and **5)**, and for the reasons given above, the National Assembly has a duty to reject the nomination of the **all the persons** named above.

48. The National Assembly must, among other constitutional requirements, stand up and, in exercise its oversight role over H.E., the President, hold him accountable for his actions and reject his nominations. The National Assembly must also respect, uphold, defend and protect the Constitution and protect democratic governance of the Republic.

49. This must include curbing the desire and intention of H.E. the President, aided and abetted by the last **four** persons named above, to cannibalise rival political parties, contrary to the requirement that the Republic of Kenya shall be a multi-party democratic State founded on the national values and principles of governance set out in **Article 10** of the Constitution. This cannibalism is further achieved at the expense of scarce public funds.

50. The National Assembly must also decline to approve persons whose personal integrity, competence and suitability to be members of the national executive of the Republic is

impugned, owing to ongoing criminal investigations and prosecution for alleged corruption during previous term in office as State officers.

51. In support of this statement, I submit the following documents as evidence, **these being:**

1) A copy of the statement issued by H.E. the President, at State House, Nairobi, on **11.07.2024**, advising of dismissal, with immediate effect, of all members of his Cabinet, (including the **first ten** persons named hereinabove), except the Deputy President and the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

2) A copy of **EXECUTIVE ORDER NO. 6 OF 2024** dated **11.07.2024** and published as **Kenya Gazette No. 8440/2024** of **12.07.2024**. The Order confirmed dismissal of all members of the national executive of the Republic, (including the **first** ten persons named hereinabove), except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs;

3) Excerpts from the Kenya Gazette dated **23.02.2024** in which **EACC**, (vide **Gazette Notice No. 2089** at page 669 and case reference **No. EACC/FI/INQ/18/2023**), notified of investigations against **WYCLIFFE AMBETSA OPARANYA,** former governor of Kakamega county, for alleged corruption and money laundering. The notice advised that the ODPP had, on **18.12.2023**, concurred with the Commission's recommendations for prosecution of **WYCLIFFE AMBETSA OPARANYA** for the alleged offences.

52. This statement and the supporting evidence have been submitted to the Clerk of the National Assembly of Kenya through E-mail addresses – clerk@parliament.go.ke and cna@parliament.go.ke.

53. What is deponed to hereinabove is true to the best of my knowledge, save what has been deponed to on information and belief, the sources and grounds whereof have been respectively specified.

MADE UNDER OATH AND **SIGNED** BY THE **SAID**, ANTONY NBUATI NBIBUI ON THIS 30th **DAY OF JULY, 2024,** AT NAIROBI, **IN THE PRESENCE OF** _____, **COMMISSIONER OF OATHS.**

NICOLE WAMBUI GITHIRI
ADVOCATE
& COMMISSIONER FOR OATHS
P.O. BOX 38410 NAIROBI

DRAWN AND SUBMITTED BY:

ANTONY NBUATI NBIBUI

Contact address for the purpose of this statement:

SUBMITTED TO:

THE CLERK OF THE NATIONAL ASSEMBLY OF KENYA VIA E-MAIL - clerk@parliament.go.ke and cna@parliament.go.ke

This is the exhibit marked "....."
reffered to in the annexed affidavit declaration
of ANTONY NGUATI NDIBUI
sworn declared before me this 30th
day of JULY 2024
Commissioner For Oaths

HARAMBEE

REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

SPECIAL ISSUE

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

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1. Along Kenyatta Avenue
   (a) KCB Bank parking lot;
   (b) Khetias Supermarket parking lot;
   (c) Bank of Baroda parking lot;
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot; and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

DANIEL MUSITA,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT

(*No.* 17 *of* 2012)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (*c*) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (*d*) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot;
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot;
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot;
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot – Junction to Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Ekero – Sabatia Road.

Dated the 9th February, 2024.

AGGREY MUSINDALO,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

This is the exhibit marked "....." referred to in the annexed affidavit declaration of ANTONY NDIKTI MBRU sworn declared before me this 30th day of JULY 2024

Commissioner For Oaths

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (*d*) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency,(TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.

(h) Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliant with section 41 (3) (*a*) of the PPDA, 2015 and Regulation 22 (1) (*c*) of the PPDR, 2020.

(ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.

*(iii)*Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 (*a*) (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (I) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularities in Embakasi North Constituency Amounting to KSh. 51,251,150

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on 21st August, 2021 on allegations of procurement irregularities and embezzlement of public funds amounting to KSh. 51,351,357 at the Embakasi North Constituency. It was further alleged that the Member of Parliament for Embakasi North Constituency used his office to award tenders to his children and close associates. The tenders were allegedly for construction of classrooms, event hosting and roadworks within Embakasi North Constituency.

Investigations established that the said constituency awarded various tenders to four companies associated with the daughter of the Member of Parliament for the constituency.

Financial investigations revealed that several payments were made to the companies for various projects allegedly undertaken with the Embakasi Constituency.

Investigations revealed that the said Member of Parliament received a total of KSh. 10,482,298/= either directly or indirectly from the companies associated with the daughter and other close associates. The MP is a signatory to bank account in one of the companies namely Ndakaini Hardware and Property Agencies.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Member of Parliament, the Fund Account Manager and directors of the four companies namely Ndakaini Enterprises Limited, Allica Investment Limited, Pride Wind Africa Limited and Ndakaini Hardware with the following offences;

(a) Two counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(b) Five counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) One count of abuse of office contrary to section 46 as read with section 48 (1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 6th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

4. EACC/PI/INQ/24/2021

Inquiry into Allegations of Irregular Tender Award and Embezzlement of Funds by Officers of Bomas of Kenya in the Award of General Insurance Cover for Financial Years 2020–2021 and 2021–2022 to CIC General Insurance Limited

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation that the Bomas of Kenya (BoK) had irregularly awarded the general property and work injury insurance cover tender to CIC General Insurance Limited during the financial year 2020-2021. Evidence obtained indicates that the tender was awarded to CIC.

Investigations established that BOK violated section 103 of the Public Procurement and Asset Disposal Act, 2015 and illegally awarded the tender to CIC. It was further established that since the tender for FY 2020-2021 was irregularly awarded. Subsequently, the renewal clause in the FY 2020-2021 tender policies could not birth a legitimate renewal in FY 2021-2022. Furthermore, no LPO was issued for the renewed tender. CIC Insurance was illegally paid KSh.9,058,916.70 for the two financial years which payments were made out of flawed procurement process.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Chief Executive Officer for Bomas of Kenya, Finance Officer, Supply Chain Management Officer, Ag. Managing Director CIC General Insurance and a Marketer at CIC, the Managing Director CIC General Insurance and CIC General Insurance Limited be charged with the following offences;

(a) Conspiracy to commit a corruption offence contrary to section 47 a (3) as read with section 48 of Anti-Corruption and Economic Crimes Act.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(d) Two counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

The Commission has in addition instituted the recovery of public property from CIC Insurance Company.

Awaiting DPP's response.

5. EACC/PI/INQ/05/2022

Investigations into Allegations of Irregular Award of Tenders and Embezzlement of Funds by Officials of Bomas of Kenya Limited During Financial Year 2020/2021 through Splitting of Tenders/Contracts to Various Companies Amounting to KSh. 8,587,831/=

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation on 3rd November, 2021. The allegation was that Bomas of Kenya (BOK) was involved in irregular award of tender for purchase of cutlery.

Investigations established that there was no budget allocated for the purchase of cutlery and crockery during the Financial Year 2020/2021 and the board did not approve any re-allocation of funds from other votes. Further investigations also established that there were several procurement irregularities including collusion between the suppliers and procurement officials in the purchase of cutlery for all the quotations at BOK. Some of the directors of the said companies denied participating in the procurement of the cutlery at BOK despite the evidence of bid documents allegedly submitted by their companies.

Financial investigations conducted revealed that after payments were made to the suppliers, they sent money to a particular supplier who would then transfer money to some of the officials of BOK.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Finance Officer, Finance Officer, Supply Chain Management Officer, former Board Chair, Directors of Arwin Gold Limited, Director for Grasonnel Limited, Directors of Bamyoung Limited and Directors of Dysema Limited together with all the four companies with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

(b) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the anti-corruption and economic crimes act, 2003.

(c) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act No. 3 of 2003.

(d) Fraudulent practice in procurement proceeding contrary to section 66 (1) as read with section 176 (1) (i) and (2) of the Public Procurement and Asset Disposal Act of 2015.

(e) One count of forgery contrary to section 345 as read with section 349 of the Penal Code.

(f) Two counts of dealing with Suspect Property contrary To section 47(2) (A) As Read with sections 47 (1) And 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(g) Four counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Awaiting DPPs response.

6. EACC/MSA/FI/INQ/7/2023

Investigations into Allegations of Corruption, Procurement Irregularities and Embezzelement of Funds at Taita Taveta County Government during the Commemoration of World War I Celebrations that Took Place Between 24th to 27th November, 2022

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 5th April, 2022, on allegations of corruption, procurement irregularities and embezzlement of funds at Taita Taveta County Government during the commemoration of World War 1 (WW1) celebrations that took place between 24th to 27th November, 2022.

Investigations established that the Government of Taita Taveta County prepared budget estimates and a consolidated procurement plan for the Financial Year 2022/2023 and the aforesaid event was not provided for in the budget.

Investigations further established that in respect to the World War One Event the Economic advisor and the Chief Officer Finance applied for imprest to facilitate the commemoration of the event. Investigation established that the Taita Taveta County utilised Kshs. 4,048,000.00 through irregular Daily Subsistence Allowance paid to officers.

It was further established that during the process of preparation for the WWI event, the public officers engaged and or directly single sourced suppliers for various services without following the laid down procedures despite the fact that the County Government had a repository of registered suppliers and service providers for the financial year 2022/2024. The suppliers that were engaged directly included Kazi Ngoma Orchestra band, Elbon Agencies, Banane North Explorer's Limited, Voi Wildlife Lodge, Kididi FM a commercial radio station, Tree Top Eatery, Pen and Paper Solutions, Gracious Tents and Sounds and Alconsup Solution Limited.

Investigations established that the receipts that were attached to the surrender documents were forgeries and were not actually issued by the purported entities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Economic Advisor to the Governor, County Secretary, County Chief Officer in charge of Trade, Tourism and Co-operatives Development with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Engaging in a project without prior planning contrary to section 45 (2) (c) as read together with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, 2003

(c) Six counts of uttering false documents contrary to section 353 of the Penal Code Cap 63 laws of Kenya

(d) Willful failure to comply with the applicable procedures and guidelines relating to incurring of expenditures contrary to section 45 (2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003

On 5th February, 2024, the DPP returned the inquiry file with recommendations for further investigations.

7. EACC/MSA/FI/INQ/13/2022

Investigations into Allegations of Corruption and Misappropriation of Public Funds at Taita Taveta County Assembly as a Result of Imprest Advanced to the Speaker of the County Assembly, Clerk Twenty One Members of the County Assembly and Four Other Officers for Traveling to Zanzibar for a Bonding Trip in the Financial Year 2022/2023

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 28th November, 2022 on allegation of embezzlement of public funds against staff of the County Assembly of Taita Taveta. It is alleged that the Speaker, Clerk, twenty-one (21) Members of the County Assembly (MCAs) and four (4) other officers incurred an expenditure of around Kenya Shillings Seven (7) million without following proper guidelines with regard to the edicts of the law on Public Finance at a bonding tour to Marijani Hotel in Zanzibar in November 2022 within the Financial Year 2022/2023.

Investigations established that members of the Liaison Committee and public officials of Taita Taveta County Assembly traveled to Zanzibar on an education tour. However, some delegates were paid excess per diem allowances which they were not entitled because accommodation had been provided while others were paid yet they had not travelled for various reasons.

The procurement process was not properly followed in regard to sourcing of the service provider being the World Scout Parliamentary Union (WSPUK) who would offer the catering and training facilities for the delegates. WSPUK was single sourced and directly engaged for the educational trip to Zanzibar. Investigation established that the procurement threshold was way above KSh. 500,000/= and therefore it ought to have been reported to the Public Procurement Regulatory Authority by the Accounting Officer.

Investigation further established that the Clerk of Taita Taveta County Assembly, authorised payment voucher for full daily subsistence allowance to the delegates whilst knowing that the delegates were not entitled to full daily subsistence allowance since their accommodation had been catered for.

The investigation established that the Taita Taveta County Assembly had lost KSh. 6,181,433.00 through irregular DSA paid to officers. The said County Assembly initiated recoveries from the beneficiaries by deducting their salaries and some made cash deposits to Taita Taveta County Assembly Bank Account amounting to KSh. 2,215,550.60. The outstanding amount yet to be recovered is KSh. 3,943,033.98

It was further established that the Accounting Officer during imprest surrender attached false travel clearance letters for delegates who had not travelled for various personal reasons. He further fraudulently authorised surrender of payment voucher of KSh. 8,037,599 purporting to have been fully accounted for yet it was not sufficiently supported by surrender documents.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Clerk/Accounting Officer and the Deputy Speaker of Taita Taveta County Assembly with the following offences:

(a) Three counts of Abuse of office contrary to section 46 as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering false documents contrary to section 353 of the Penal Code, Cap. 63 Laws of Kenya

(c) False accounting by a public officer contrary to section 331 (1) and (2) of the Penal Code, Cap. 63 Laws of Kenya

(d) Wilful failure to comply with the law applicable, regulations and guidelines relating to procurement, contrary to section 45 (2) (b) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Financial misconduct contrary to section 197(1) (i) as read with section 199 of the Public Finance Management Act, No. 18 of 2012.

On 1st February, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

8. EACC/MSA/FI/INQ/4/2017

Investigations into Allegations of Procurement Irregularities in the Purchase of Stone Cutting Machines by Coast Development Authority (CDA) from Endebes Development Company (EDC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report dated 22nd March, 2017 that Coast Development Authority (CDA) had purchased stone cutting machines from Endebes Development Company (EDC) without following procurement procedures.

Investigations established that CDA leased coral block cutting equipment and vehicles from EDC without following the public procurement laws and procedures i.e use of direct method instead of open tender method as required under the PPDR 2006.

Furthermore, there were no bid documents received from any bidder hence no procurement process was conducted hence the procurement process was a fraud.

EDC offered to sell the said machines to CDA at a cost of KSh. 62,000,000/=. On 10th July, 2012, CDA and EDC entered into a lease agreement for the machines. The lease was signed by the Managing Director on behalf of CDA. EDC received a total sum of KSh. 28,794,834.00 from CDA for the lease of coral block cutting machines. It was established that the lease agreements were entered into illegally and therefore payments made to EDC by CDA were

unlawful. It was revealed that the Director and beneficial owner of EDC is a bank signatory in the company and he had appointed the Managing Director CDA while he was the Minister for Regional Development Authorities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Managing Director, the Director of the company and Endebes Development Company Limited with the following offences;

(a) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Entering into an obligation that has financial implication contrary to section 196 (3) as read with section (196) (6) of the Public Finance Management Act, 2012.

(d) Unlawful acquisition of public property contrary to section 45 (1) (a) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

Awaiting DPP's response.

9. EACC/MSA/FI/INQ/17/2017

Investigations into Allegations of Irregular Procurement for Extension of Bura Water Supply by Coast Water Services Board (CWSb) at a Cost of KSh. 52,020,061/= in the Financial 2017/2018

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an anonymous complaint that the Coast Water Services Board (the Board) flouted the procurement law during the procurement process in the tender CWSB/TR-EQ/W/6A/2017 for extension of Bura Water Supply (the Project). This project had been sanctioned by the Ministry of Water and Irrigation (the Ministry) and was being funded from the Equalisation Fund (the Fund).

Investigations established that the Board advertised the subject procurement on 27th June, 2017 attracting 28 bidders. Further investigations established that the Board failed to subject all the tenders to both technical and financial evaluation contrary to section 80 of the Public Procurement and Disposal Act, 2015. The contract was irregularly awarded to Misriya Company Limited.

It was further established that the Director for Misriya Company limited had made false documents being motor vehicle registration documents and submitted the same to the Coast Water Services Board.

Investigations established that the Head of Procurement at CWSB prepared misleading professional opinion hence did not offer expert advised as was required of him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Evaluation Committee, the Head of Procurement and the Director of the Misriya Company Limited together with the company with the following offences;

(a) Wilful failure to comply with the procurement law contrary to section 45 (2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Fraudulent procurement practice contrary to section 66 (1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

(c) Forgery contrary to section 345 as read with section 349 of the Penal Code.

(d) Uttering a false document contrary to section 353 of the Penal Code.

(e) Knowingly misleading a person carrying out a duty contrary to section 176 (1) (b) as read with section 176 (2) of the Public Procurement and Asset Disposal Act, 2015.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

10. EACC/FI/INQ/20/2021

Inquiry into Allegations of Embezzlement/Missapropriation of Public Funds Amounting to KSh. 45,610,187/= by Turkana County Assembly Through Tendering and Construction of Turkana County Assembly Speaker's Residence at Kanamkemer Ward

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on allegation that public funds which were meant for construction of the speaker's residence at Kanamkemer within Turkana County amounting to KSh. 45,610,187/= was misappropriated by the public officer's employed at Turkana County.

Investigations revealed that eight companies submitted their bids for the tender. The tender was irregularly awarded to Ekoriagete Enterprises Limited and the contract was executed by the County Assembly Clerk.

Further, it was established that one of the directors of the said company is an employee of the County Government of Turkana. The work done was valued at KSh. 19,494,994.99 as compared to payments made to the contractor totaling to KSh. 54,392,735.87. There was an overpayment of KSh. 34,897,740.88.

Investigations revealed that the said company was not registered with the National Construction Authority for the period between the years 2013 to 2018. The NCA certificates submitted by Ekoriagete Enterprises Limited as part of the requirement were forgeries.

Furthermore, financial investigations conducted revealed that payments were made to the company' account. The account was established to be operated by one of the county officials who is a director in the company. Upon receipt of the funds, the county official withdrew KSh. 18,495,500/= between August and September 2018 in a clear case of conflict of interest.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Deputy Clerk of Turkana County Assembly, the Clerk, the County Works Officer and the Director of the Ekoriagete Enterprises Limited with the following offences;

(a) One count of conspiracy to commit an offence of economic crime contrary to Section 47A (3) all as read with Section 48 of ACECA.

(b) One count of fraudulent acquisition of public property contrary to section 45 (1) (a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of abuse of office contrary to section 46 as read with section 48(1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

(d) One count of fraudulently making payments from public revenues for services not rendered contrary to section 45(2) (iii) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(e) One count of fraudulent procurement practice contrary to section 66(1) and (2) as read with section 177 of the Public Procurement and Disposal Act, 2015.

(f) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(g) One count of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

On 19th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

11. EACC/NKR/INQ/FI/101/2017

Inquiry into the Allegations of Misappropriation of Public Funds And Procurement Irregularities in the Rehabilitation And Construction of Salgaa-Elburgon Road By The County Government of Nakuru At the Cost of KSh. 10,000,000/= in the Financial Year 2015/2016

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th January, 2017 on allegations that the County Government of Nakuru had misappropriated KSh. 10,000,000/= in the rehabilitation and construction of Salgaa-Elburgon road.

Investigations established that the County Government of Nakuru had planned for the construction and rehabilitation of Salga-Elburgon Road as per the roads work plan at KSh. 8,084,300/= during the financial year 2015/2016. It was established that the technical evaluation was not conducted as required by regulation 16(4) of the Public Procurement and Disposal Regulations 2013. The procurement process was therefore flawed. The award was issued to Gee El Construction Works Limited and was paid for KSh. 6,508,478.53.

It was further established that the said company was not registered with the National Construction Authority and that the certificate provided by the company was a forgery.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Tender Evaluation Committee members, the Supply Chain Management Officer, the Chief Officer for Department of Roads and Public Works and the Directors of Gee El Construction Works Limited with the following offences;

(a) One count of Fraudulent practice in the procurement proceedings contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act, 2015.

(b) One count of Fraudulent acquisition of public property contrary to section 45(1) (*a*) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45(2) (*b*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and

(d) One count of Abuse of office contrary to section 45(2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

12. EACC/MSA/FI/INQ/04/2021 (C)

Inquiry into Allegations of Conflict of Interest and Procurment Irregularities Involving the Head of Treasury at The Kwale County Government Who is Alleged to own a Company Known as Chilongola Holdings Limited, which has Been Trading with the County Government of Kwale

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 4th February, 2021 alleging conflict of interest against the Head of Treasury, Kwale County Government who was alleged to own two companies namely; Rome Investment Limited and Chilongola Limited Companies which transacted and received KSh. 9,000,000/= from the said institution during the Financial Year 2017/18 and 2018/2019.

Investigations established that the companies were awarded ten tenders to supply and deliver sanitation materials, food and ration, general office supplies, and institutional appliances. It was further established that the procurement process undertaken was flawed. Rome investment and Chilongola Limited entered into a contract with the County Government of Kwale through Local Purchase Orders for the 10 tenders despite the procurement process having been flawed.

It was established that the tender documents including purchase requisition forms, minutes of the Tender Opening Committee, letters of appointment of inspection and acceptance committee and inspection and acceptance minutes relating to the said tenders were forgeries and the same were presented at the Kwale County Government by the Accountant and the Hospital Administrator. Further investigations established that Rome Investments and Chilongola Limited were paid a sum of KSh 44,919,341 and KSh. 4,007,943, respectively.

Further investigations disclosed that the Head of Treasury at the county was the Director at Chilongola Holdings together with his brothers who were directors for Rome Investments (k) Limited. The Head of Treasury was a mandatory signatory of the said companies bank accounts held at KCB Kwale Branch.

Financial investigations revealed that the Head of Treasury was a beneficial owner of the two companies, by virtue of the withdrawals he made. The total amount received by the two companies was KSh. 44,919,341 and the same distributed to the directors of the companies.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the Head of Treasury and a Director of Chilogola Holdings Limited and Rome Investment Limited, an Accountant and Hospital Administrator of the Kwale County Government be charged as follows:

(a) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(c) Deceiving principal contrary to section 412) as read with as read with section 48(1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(d) Fraudulent practise in procurement contrary to section 66 as read with section 177 of the Public Procurement and Asset Disposal Act, 2015

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

13. EACC/BGM/PI/INQ/09/2020

Investigation into Allegations of Procurement Irregularities and Conflict of Interest in the Procurement of A Double Cabin Pick-Up and a 33 Isuzu Bus Seater by the County Assembly of Bungoma in the Financial Year 2018/2019

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on allegations of procurement irregularities in in tender number CA/BGM/PUR/205/2019-2020 for the supply of a double cabin pick-up and a 33 Isuzu bus seater by the County Assembly of Bungoma during the Financial Year 2018/2019. It was further alleged that the Accounting Officer of the County Assembly had participated in the procurement amounting to Conflict of interest.

It was established that seven bidders participated in the procurement process. The Evaluation Committee conducted the evaluation exercise and recommended Westfield Motors Limited for the award for both the bus and double cabin. However, after a professional opinion was submitted with the foregoing recommendations, the clerk disregarded the opinion and went ahead to establish a different three-member committee to conduct another evaluation which was irregular since the substantive evaluation committee had not been disbanded.

It was further established that the Procurement Officer and the Clerk of the County Assembly prepared and approved a professional opinion which was misleading. The Accounting Officer executed the contract and authorised payments of KSh. 5,870,000/= and KSh. 4,980,000/= to be made in full to Westfield Motors Limited and Kenyan Coach Industries Limited respectively while knowing that the vehicles had not been supplied.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Accounting Officer and the Head of Procurement with the following offences:

(a) Three counts of wilful failure to comply with applicable procedures and guidelines relating to procurement of services contrary to section 45 (2) (*b*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

14. EACC/EL/INQ/29(ii)/2022

Inquiry into Allegation that an Employee Falsified Academic Certificates To Secure Employment at Rural Electrification And Renewable Energy Corporation (REREC) as a Supply Chain Management Assistant

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received that the officer used a forged Bachelor's degree in purchasing and supplies Chain Management from Jomo Kenyatta University of Agriculture and Technology to gain employment at REREC as a Supply Chain Management Assistant (Procurement and Disposal).

Investigations established that the Supply Chain Management Assistant forged a Bachelor's degree certificate No. 3701 in purchasing and supplies from Jomo Kenyatta University and Technology. He uttered the certificate while making application to be employed in the position of Supply Chain Management Assistant as captured from his employment records. Investigations revealed that he also submitted fake transcripts to REREC.

It was established that he had irregularly been paid a net salary amounting to KSh. 311,974.45 since the April, 2022 to July, 2022.

On 17th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the aforesaid suspect with the following counts;

(a) One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act.

(b) Five counts of forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Five counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 19th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

15. EACC/EL/INQ/29(v) /2022

Inquiry into Allegations That an Employee used Forged Academic Documents to Secure Employment at Rural Electrification and Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint on 2nd August, 2022 that the employee used forged academic documents to apply for the position of a driver at REREC.

Investigations established that the said driver made an application following an advertisement in the local dailies on 1st December, 2020. In his application he attached several documents including, a Kenya Secondary school certificate No. 2386658 from Kimuri High School issued in the year 2008.

Investigations further established that the KCSE certificate was forged, having been subjected to authentication by the Kenya National Education Council (KNEC). He had worked with REREC from 1st April, 2022 to July, 2022 and irregularly earned a net salary of KSh. 293,240.94

On 17th October, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the suspect being a driver at REREC with the following offences;

(a) Fraudulent acquisition Contrary to section 45 (1) (*a*) all as read with section 48 of ACECA,

(b) Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 2nd January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

16. EACC/EL/INQ/29(iii)/2022

Inquiry into Allegations that an Employee used Forged Academic Documents To Get Employment at Rural Electrification And Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 2nd August, 2022 on allegations that the employee used forged academic documents to apply for the position of Supply Chain Management Assistant (Inventory and Logistics) at REREC.

It was established that the REREC advertised for various positions in the daily nation dated 1st December, 2020. One of the positions advertised was that of Supply Chain Management Assistant (Inventory and logistics). She applied for the position and in her application; she indicated that she holds a Diploma in Business Information Technology from Kenya Methodist University awarded in the year 2014

Investigations established that she did not study at the said institution and the Diploma certificate in question was therefore a forged document. It was further established that she had been working at REREC from 1st April, 2022 to 14th July, 2022. She illegally gained from the institution a net salary of KSh. 293,457.07 considering that she was not qualified for the position.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act 2003.

(b) One count of Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) One count of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Two counts of Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

17. EACC/ISL/EL/INQ/2/2020

Inquiry Into Allegations that the Ward Administrator for Marsabit Central Used Forged Academic Documents to get Employment

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received with allegations that the Ward Administrator for Marsabit Central had allegedly used forged Kenya Certificate of Secondary Education Certificate (KCSE) and diploma certificate to gain employment in Marsabit County.

Investigations established that the suspect applied for employment opportunity at the Marsabit County Government in the year 2018. He submitted his curriculum vitae, which indicated that he had a Diploma in Community Development and Social Work.

Investigations revealed that the Ward Administrator also applied for the position of Civic Education Officer and attached a KCSE Certificate serial No. 2023397 from Marsabit Secondary School. He further submitted a KNEC Certificate serial No. BTEP/D004270 for diploma in Community Development and Social work. The suspect was appointed as a Public Participation and Civic Education Officer from 28th January, 2019.

Investigations further revealed that the positions in which he was appointed into had not been advertised and therefore the appointments were irregular.

Further investigation revealed that the suspect had altered the grades in the KCSE certificate that he submitted to the Marsabit County Government and the Diploma in Community and Social Development were forgeries. It was further established that the Ward Administrator had earned a net salary from April, 2019 to September, 2023 amounting to KSh. 1,954,324.15

On 27th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Ward Administrator with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of ACECA.

(b) One count of Deceiving principal contrary to section 412) as read with as read with section 48(1) of ACECA.

(c) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(d) Two counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

18. EACC/MSA/FI/INQ/13/2023

Inquiry into Allegations Joskat Construction Company did not Follow the Bills of Quantities when Performing Contracts for Likoni CDF in erecting the Perimeter wall for Timbwani Secondary School in the Financial Year 2021-2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a contractor was not following the bill of quantities when performing contracts for Likoni NG-CDF project for erecting the 400-meter perimeter wall for Timbwani Secondary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Timbwani secondary School were followed from the initiation of the tender process until the award of contract. The contract was awarded to Joskat Construction Company Limited at a cost of KSh.. 6,394,807/=. The Project Management Committee confirmed that the progress was good and that the work was being done as per the specifications. The company completed the said construction as per the contract and as a result, payments were made to the contractor. The project has been completed but was yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

19. EACC/MSA/FI/INQ/11/2022

Inquiry into Allegations that a Company Called Sallysam Limited did not Follow The Bills of Quantities when Erecting the Perimeter Wall for Mrima Primary School in Likoni Consituency during the Financial Year 2021/2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a company namely Sallysam Ltd was not following the bill of quantities when performing contracts for Likoni NG-CDF project for construction of classes for Mrima Primary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Mrima Primary School were followed from the initiation of the tender process until the award of contract to Sallysam Limited. The construction was also completed as per the contract and as a result, payments were made to the contractor. The project has been completed and yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

20. EACC/MSA/FI/INQ/14/2023

Inquiry into Allegations that a Company Called Sallysam Enterprises did not follow the Bills of Quantities When Erecting The Perimeter Wall For Mtongwe Girls Secondary School in Likoni Constituency during The Financial Year 2021/2022

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 26th September, 2022 that a company called Sallysam Limited was not following the bill of quantities when performing contracts for Likoni NG-CDF project of erecting the perimeter wall for Mtongwe girls Secondary school during the Financial Year 2021/2022.

Investigations established that the NG-CDF Board approved a code of projects including Mtongwe Girls Secondary School with an allocated amount of KSh. 5,985,075/=. The procurement entity was Likoni Constituency Development Fund. Three companies submitted their bids and a final award issued to Sallysam Enterprises Limited. The contract was executed on 3rd May, 2022. The works were executed by the said company and it was noted that the project was going on well as per the specifications of the Bill of quantities. Investigations did not reveal any procurement irregularities in the subject project.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed with no further action.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

21. EACC/KSI/OPS/INQ/3/2022

Inquiry into Allegations of Corruption against a Court Assistant Working for the Judiciary at Migori Law Courts

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 11th April, 2022 that a Court Assistant had approached him and that he could assist him to get a favourable judgment from the Magistrate handling the criminal matter at a court in Migori. He was required to give KSh. 100,000/=.

Investigations established that there was a criminal matter at Migori Law Courts where the complainant was the accused and was coming up for judgment. The Court Assistant requested for KSh. 100,000/= in order to assist the complainant to get a favourable judgment. The Commission established that the Court Assistant had demanded and received a bribe of KSh. 20,000/= which was recovered from him upon arrest.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations that the Court Assistant be charged with two counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 (1) and (2) of the Bribery Act, 2016.

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

22.EACC/OPS/INQ/20/2023

Inquiry into Bribery Allegation of Corrupt Conduct Against a Kenya Revenue Authority Officer

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 14th March, 2023 alleging that a Waiver Processing Officer at the Kenya Revenue Authority was demanding for a benefit of KSh. 50,000/= in order to write off accrued erroneous value added tax penalty amounting to KSh. 410,000/=.

Investigations established that the Waiver Processing Officer worked at the KRA and had requested and received KSh. 40,000/= as a financial benefit.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Waiver Processing Officer at KRA with three counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 of the Bribery Act No. 47 of 2016

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

23.EACC/MCKS/OPS/INQ/2/2021

Inquiry into Allegations that the Head Teacher at Unoa Primary School was Charging Illegal Levies as Fees in Violation of Guidelines by the Ministry of Education on Free Primary Education (FPE)

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received on 14th January, 2020 that the Head teacher at Unoa Primary School was charging illegal levies as fees in violation of guidelines by the Ministry of Education on free primary education.

Investigations further established that the head teacher had been charging illegal fees in form of development fees of Kshs. 5,000/=, harambee fee of KSh. 1,000/=, Fencing fee of KSh. 1000/= and feeding programme fee of KSh. 1850/= plus other motivation and activity fee totalling to KSh. 10,000/=.

Financial Investigations established that the head teacher owned a private enterprise namely AGPHILY Enterprise that was trading with the school wherein he was the head.

Further investigations established that the head teacher purported to have made supplies to the school and he had signed a cheque of KSh. 183,500/= in his favour. The cheque was not honoured at the bank since no supporting document was provided to the bank.

On 9th November, 2023, a report was compiled and forwarded to the DPP with the recommendations to charge the head teacher, Unoa Primary school with the following offences;

(a) Conflict of interest contrary to section 42 (3) as read with Section 48 of the ACECA, 2003.

(b) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

24. EACC/OPS/INQ/36/2023

An Inquiry into Allegations of Corrupt Conduct against a Nairobi City County Revenue Officer Based at City Hall.

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received a report dated 18th May, 2023 alleging that a Nairobi City County Revenue Officer based at City Hall was demanding for a bribe of KSh. 20,000/= from him in order to write off cess arrears amounting to KSh. 47,0000/= accrued by his lorry.

Investigations established that on 27th April, 2023 the County Official informed owner of lorry that he had cess arrears of Kshs. 47,000/= . The suspect reduced the amount to KSh. 20,000/= and required the owner of the lorry to pay KSh. 10,000/= through paybill number and was given KSh. 10,000/= in cash. On a later date, the lorry owner was informed that he had cess arrears of KSh. 14,000/=.

The Commission established that he was employed as an Administrative Officer III at the Nairobi City County Government. The county official requested and received KSh. 10,000/= in order to facilitate write-off cess arrears accrued by his lorry owed to Nairobi City County Government.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Administrative Officer at Nairobi City County Government be charged with three counts of receiving a bribe contrary to section 6 (1) *(a)* as read with section 18 of the bribery Act No. 47 of 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

25. EACC/MCKS/OPS/INQ/54B/2018

An Inquiry into Allegations of Obstruction against a Suspect In ACC 636/2020 - Republic Vs. Eldah Konzolo

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 11th April, 2021 on allegations that an accused person in Anti-corruption case no. ACG 636/2020 – R vs. Eldah Konzolo had offered KSh. 17,000/= to a witness in order to change his testimony in the stated matter which was pending trial before Mavoko law courts.

Investigations established that the suspect had compromised the witness in the said matter and indeed sent KSh. 17,000/= through Mpesa to a proxy to avoid any direct link. The money was intended to persuade the witness to change his testimony in court. It was established that the said amount was sent to one of his colleague. Investigations also established that the conduct of the accused amounted to interference with a witness with an aim to obstruct justice.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the suspect, with the following offences;

(a) One count of giving a bribe contrary to section 5 of the Bribery Act, 2016.

(b) One count of interfering with witnesses contrary to section 117 (1) of the Penal Code Cap 63.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

26. EACC/OPS/INQ/44/2023

Inquiry into Allegations of Bribery against a Member of County Assembly, Hospital Ward, Kiambu County.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 24th May, 2023 to the effect that a Member of County Assembly, Hospital Ward, Kiambu County was requesting for a financial advantage of KSh. 130,000/- as an inducement to allow her proceed with the intended development activities on Parcel No. Thika Municipality Block 11/377.

Investigations established that county official requested that he be given a portion of land and Kshs. 200,000/= so that he could disregard an alleged Petition by members of the public against any development on the subject plot. They negotiated the amount downwards to KSh. 100,000/=.

It was established that the suspect is Public Officer by virtue of him being a Member of County Assembly (MCA), Kiambu County. He was acting in his official capacity as MCA and Chairperson of the Development Committee of the Assembly when he requested for the benefit.

The Commission established that the county official requested for a bribe of KSh. 130,000/= intending that, in consequence, the owner of the plot proceeds with her intended development on Parcel No. Thika Municipality Block 11/377.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge him with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

27. EACC/BGM/OPS/INQ/8/2021

Investigation into Allegations of Bribery against a Police Officer Attached to Kakamega Central Police Station.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th December,2021 with allegations that a Police Officer attached to the DCI Kakamega Central Police Station at Kakamega County, had requested for a financial advantage of KSh. 100,000/= to give to a Magistrate stationed at Kakamega Law Courts in order to influence the outcome of an inquest proceeding at the Kakamega Magistrates Court.

Investigations established that there was an inquest under Inquest No. 3 of 2020. The inquest proceedings had concluded and pending the verdict of the Principal Magistrate. The Police Officer who was at the time the investigating officer requested for a benefit in order to compromise the said magistrate to rule in favour of the deceased.

Investigations further established that the police officer was employed at the Ministry of Interior and Co-ordination of National Government (Administration Police). The Commission established that the police officer received the bribe of KSh. 40,000/= which was recovered from him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the police officer be charged with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Total No. of files forwarded to the Director of Public Prosecutions	27
No. of files recommended for prosecution	24
No. of files recommended for administrative or other action	0
No. of files recommended for closure	3
No. of files recommended for prosecution and the cases are already lodged before Court	-
No. of files where recommendation to prosecute accepted	7
No. of files where recommendation for administrative or other action accepted	-
No. of files where recommendation for closure accepted	3
No. of files returned for further investigations	14
No. of files where recommendation to prosecute not accepted	-
No. of files where recommendation for administrative or other action not accepted	-
No. of files where closure not accepted	-

No. of files where prosecution declined but administrative action recommended	-
No. of files awaiting the DPP's advice	3

Dated the 13th February, 2024.

DAVID OGINDE,
Chairperson.

TWALIB MBARAK,
Secretary/Chief Executive Officer.

PTG 1703/23-24

GAZETTE NOTICE NO. 2090

THE KENYA INFORMATION AND COMMUNICATIONS ACT

(*No.* 2 *of* 1998)

APPLICATION FOR LICENCES

NOTICE is given that the following applicants have, pursuant to the provisions of the Kenya Information and Communications Act, 1998, made applications to the Communications Authority of Kenya for grant of the licences as shown in the Table below:

Name	*Station Identity*	*Licence Category*
Darwy Afrik Photography and Safaris Limited, P.O. Box 5572–0100, Eldoret	Assis FM	Commercial Free to Air Radio Licence
Alhaajar Investment Limited, P.O. Box 98558–80100, Mombasa	Alhaajar TV	Commercial Free to Air Television Licence
AIPCA Bahati TV and Radio Limited, P.O. Box 73053–00200, Nairobi	AIPCA Bahati TV	Commercial Free to Air Television Licence
Way of Truth Media Limited, P.O. Box 3556–00200, Nairobi	Truth Wave TV	Commercial Free to Air Television Licence
Nifty Works Plus Limited, P.O. Box 21933–00505, Nairobi	NWPLUS TV	Subscription Broadcasting Service Licence
University of Eastern Africa Baraton, P.O. Box 2500–30100, Eldoret	Baraton FM	Community Free to Air Radio Licence
Go Shipping Cargo Agency Limited, P.O. Box 4689–00100, Nairobi		International Postal/ Courier Operator Licence
Samina Senders and Logistics Limited, P.O. Box 90231–80100, Mombasa		National Postal/ Courier Operator Licence
Prime Time Meru Travellers Company, P.O. Box 415–60200, Meru		National Postal/ Courier Operator Licence
Iyanat Business Solutions, P.O. Box 30068–00100, Nairobi		National Postal/ Courier Operator Licence
Samper Cabs Limited, P.O. Box 12862–00100, Nairobi		National Postal/ Courier Operator Licence
Wekkitech Limited, P.O. Box 536–20100, Nakuru		Network Facilities Provider Tier 3 (NPF-T3)
DXA Technologies Limited, P.O. Box 79450–00200, Nairobi		Network Facilities Provider Tier 2 (NPF-T2)

The licences, if granted, will enable the applicants to operate and provide the services as indicated in the Table above. The grant of these licences may affect the public and local authorities, companies, persons or bodies of persons within the country.

The Authority wishes to notify the general public that any legal or natural person, or group of individuals, who are desirous of making any representation and/or any objection to the said applications, to do so *vide* a letter addressed to: The Director-General, Communications Authority of Kenya, CA Centre, Waiyaki Way, P.O. Box 14448–00800, Nairobi, indicating the licence category on the cover enclosing it.

The said representation and/or objection must be filed on or before expiry of thirty (30) days from the date of publication of this notice and a copy of the same be forwarded to the applicants.

Dated the 13th February, 2024.

DAVID MUGONYI,
Director-General.

PTG 1685/23-24

GAZETTE NOTICE NO. 2091

THE WATER ACT, 2016

(*Sections* 70, 85, 87 *and* 139)

PUBLIC CONSULTATION MEETING ON LICENCING OF WATER SERVICE PROVIDER

THE Water Services Regulatory Board (WASREB) has received licence application from Nyeri Water and Sanitation Company Limited to provide water services within Nyeri County.

The licence application has been made pursuant to the Water Act 2016 (section 85(1)- "A person shall not provide water services except under a licence issued by the Regulatory Board, upon submission of an application and such supporting documents as the Board may require".

Therefore, in compliance to WASREB principal object under the Water Act, 2016 section 70 (1)–"protection of the interests and rights of consumers in the provision of water services", section 87(1)- "An application for a licence shall be subject to public participation" read together with the provision of section 139, we wish to advise that the public consultation meeting shall be held at the venue stated below to get stakeholders concerns on services provided, licencing conditions and proposals for services improvement going forward.

Please note that the Water Service Provider shall hold hybrid public consultation meeting (physical and virtual) as outlined below.

Water Service Provider	*County*	*Venue*		*Day Date and Time*
Nyeri Water and Sanitation Company	Nyeri	Physical meeting:	Wangari Mathai Hall, Nyeri Town	Tuesday, 5th March, 2024
		Virtual meeting:	WSP to provide links	10.00 a.m.

Participants should be seated by 10.00 a.m. Personal identification of participants will be required. Members of the public in respective areas are invited to make oral and written submissions and ask any questions that may relate to the provision of water services in their areas.

Comments on the application shall be emailed to info@wasreb.go.ke or send in hard copy to:

The Chief Executive Officer,
Water Services Regulatory Board,
5th Floor NHIF Building,
Ngong Road,
P.O. Box 41621–00100,
Nairobi.

The closing date for receipt of comments is thirty (30) days after the publication of this notice.

Dated the 6th February, 2024.

JULIUS TUNGA,
Chief Executive Officer,
Water Services Regulatory Board.

MR/6198975

This is the exhibit marked "....." referred to in the annexed affidavit/declaration of AHONY NGUATE MAIBUI sworn/declared before me this 30th day of 2024

Commissioner For Oaths



REPUBLIC OF KENYA

STATEMENT BY HIS EXCELLENCY WILLIAM RUTO, C.G.H.; PHD; PRESIDENT AND COMMANDER-IN-CHIEF OF THE KENYA DEFENSE FORCES ON THE CHANGES IN THE NATIONAL GOVERNMENT EXECUTIVE

JULY 11, 2024

STATE HOUSE, NAIROBI

A

1. Over the past two years, our Government has rallied the country behind the Bottom Up Economic Transformation Agenda (BETA), the basis upon which we were elected in the democratic 2022 General Election.

2. We have achieved significant progress in increasing food production by reducing the cost of farm inputs, thereby lowering the cost of food and living. We have also stabilised the economy by preventing what was an imminent debt default, stabilising fuel prices, lowering inflation and stabilising the foreign exchange regime, among others.

3. We have implemented radical changes in the education sector, including resolving uncertainty around the Competency Based Curriculum (CBC), the roll-out a new student-focused higher education funding model, with special emphasis for students from vulnerable families, and improving the student-teacher ratio by employing 56,000 teachers for our primary and secondary schools and 2,000 tutors for our Technical and Vocational Education and Training institutions (TVET).

4. We have also resolved the bottlenecks in the cash transfer programme for vulnerable Kenyans, including orphans, the elderly and people living with severe disabilities, by ensuring that the beneficiaries receive their stipend at the same time as the salaries of public servants.

5. The Government has also rolled out the Hustler Fund, registering 22 million borrowers, with 2 million benefiting every day, while 7 million Kenyans who had been denied access to financial services by the Credit Reference Bureau (CRB) are off the blacklisting roll.

6. Our Affordable Housing Programme now has more than 100,000 housing units under construction across the country, and 160,000 young people have been employed in the programme.

7. To expand manufacturing, value addition and agro-processing as a key contributor to job creation, 18 County Aggregation and Industrial Parks and 6 new Special Economic Zones are under construction. At the same time, 200 integrated fresh produce markets are at various stages of construction to support farmers and traders.

8. To accelerate local manufacturing, we imposed levies on the importation of clinker, saving the country KSh20 billion in foreign exchange, as clinker imports dropped to zero. We have imposed levies on imported steel billets, enabling 11 steel factories that had closed in the past 6 years to come back into operation, now hired 16,000 workers and saved KSh110 billion in foreign exchange.

9. Our digital transformation agenda is also on course with 17,000 Government services online, while 274 digital hubs, including in our TVET colleges, are up and running.

10. Our Universal Health Coverage (UHC) plan has already onboarded 107,000 community health promoters and the registration process for the Social Health Insurance Fund is ongoing and ready for launch on 1st of October 2024.

11. On the measures I announced last week barring State and public officers from engaging in Harambee, I want to inform the country that the Public Fundraising Appeals Bill is now ready for publication tomorrow.

12. Even with the progress we have made, I am acutely aware that the people of Kenya have high expectations of me and believe that this administration can undertake the most extensive transformation in our nation's history.

13. Recent events that necessitated the withdrawal of the Finance Bill, which will require a review and reorganisation of our budget and fiscal management, have brought us to an inflexion point.

14. Upon reflection, listening keenly to what the people of Kenya have said and after a holistic appraisal of the performance of my Cabinet and its achievements and challenges, I have, in line with the powers given to me by Article 152(1) and 152(5)(b) of the Constitution and Section 12 of the Office of the Attorney-General Act, decided to dismiss with immediate effect all the Cabinet Secretaries and the Attorney-General from the Cabinet of the Republic of Kenya except the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs.

15. I will immediately engage in extensive consultations across different sectors and political formations, with the aim of setting up a broad-based government that will assist me in accelerating and expediting the necessary, urgent and irreversible, implementation of radical programmes to deal with the burden of debt, raising domestic resources, expanding job opportunities, eliminate wastage and unnecessary duplication of a multiplicity of government agencies and slay the dragon of corruption consequently making the government lean, inexpensive, effective and efficient.

16. During this process, the operations of government will continue uninterrupted under the guidance of Principal Secretaries and other relevant officials.

17. I will be announcing additional measures in due course.

Thank you and God Bless Kenya.

SPECIAL ISSUE

THE KENYA GAZETTE

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GAZETTE NOTICE NO. 8440

THE CONSTITUTION OF KENYA

EXECUTIVE ORDER NO. 6 OF 2024

RE-ORGANIZATION OF THE GOVERNMENT OF KENYA

WHEREAS Article 132 of the Constitution confers upon the President of the Republic the authority to direct and co-ordinate the functions of Ministries and Government Departments;

MINDFUL That this presidential prerogative is exercised by the Head of State and Government through the continuous review of the capacity of Ministries, State Departments and State Agencies to deliver on our national aspirations;

ACKNOWLEDGING That Article 131, as read together with Article 132 of the Constitution, prescribe the authority of the President as the Head of State and Government and the presidential duty of promoting good governance in the management of public affairs;

COGNIZANT of the imperative to better equip and orientate Government in its implementation of the Administration's Plan for a better Kenya espoused as the Bottom-Up Economic Transformation Agenda (BETA);

RECOGNISING The overwhelming feedback of the people of Kenya on the responsiveness of Government in the performance of its functions;

COMMITTED To enhancing efficiency, effectiveness, transparency, and accountability in public service delivery by realigning its governance structure and leadership, so as to ensure rapid delivery of public services to Kenyans in every part of the Republic; and

CONSCIOUS That a review and re-organization of My Administration is necessary to embed operational enhancements and foster responsive governance:

NOW therefore, I, William Samoei Ruto, President of the Republic of Kenya and Commander-in-Chief of the Defence Forces, by the Authority vested in me by the Constitution and the Laws of the Republic of Kenya, do hereby order and direct:

I. VACATION OF THE APPOINTMENT OF THE ATTORNEY-GENERAL

THAT in accordance with section 12 (1) of the Office of the Attorney-General Act (Chapter 6A, Laws of Kenya), the appointment of Hon. Justin B. N. Muturi, E.G.H. as the Attorney-General is rescinded.

II. DISMISSAL OF CABINET SECRETARIES

THAT in accordance with Article 152 (5) (*b*) of the Constitution, the Cabinet Secretaries listed below have been dismissed from office as stated, namely:

Hon. (Prof.) Kithure Kindiki, E.G.H.
Mr. Simon Kiprono Chelugui, E.G.H.
Hon. Aden Bare Duale, E.G.H.
Prof. Njuguna Sospeter Ndung'u, E.G.H.
Mr. Davis Kimutai Chirchir, E.G.H.
Hon. Alfred Nganga Mutua, E.G.H.
Hon. Alice Muthoni Wahome, E.G.H.
Hon. Ababu Namwamba, E.G.H.
Hon. Salim Mvurya, E.G.H.
Hon. Onesimus Kipchumba Murkomen, E.G.H.
Hon. Moses Kiarie Kuria, H.S.C.
Hon. Soipan Tuya, E.G.H.
Hon. Franklin Mithika Linturi, E.G.H.
Hon. Aisha Jumwa Karisa Katana, E.G.H.
Hon. Ezekiel Machogu Ombaki, E.G.H.
Mr. Eluid Okech Owalo, E.G.H.
Ms. Rebecca Miano, E.G.H.
Ms. Susan Nakhumicha Wafula, E.G.H.
Hon. Peninah Malonza, E.G.H.
Mr. Zacharia Mwangi Njeru, E.G.H.
Hon. Florence Koske-Bore, E.G.H.

III. ASSIGNMENT AS THE ACTING CABINET SECRETARY

THAT pursuant to Article 152 (5) (*a*) of the Constitution, Hon. Wycliffe Musalia Mudavadi, E.G.H., is assigned as the Acting Cabinet Secretary in all vacant Ministerial Portfolios.

Dated the 11th July, 2024.

WILLIAM SAMOEI RUTO,
President.

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1. Along Kenyatta Avenue
   (a) KCB Bank parking lot;
   (b) Khetias Supermarket parking lot;
   (c) Bank of Baroda parking lot;
   (d) Davis and Shirtliff parking lot;
   (e) Equity Bank parking lot; and
   (f) Family Bank parking lot.
2. Canon Awori Street
3. Sudi Road
4. Hassan Were Road
   (a) Noor Plaza parking lot; and
   (b) Former Kenol Filling Station.
5. Maziwa Road
6. Keere Road
7. Muruli Road
8. Amiani Road
9. Peris Abura Road
10. Hill School – Nala Road
11. Mortuary Road
12. Muhatia Road
13. Sir Henry Road
14. Green Mount Orthodox Road
15. Pramukh Swami Road
16. Hindu Mosque – Friends Hotel Road
17. Nala Road
18. Nabongo Ring Road
19. Sore Road
20. Agoi Road
21. Ngaira Road
22. Khasakhala Road

Dated the 9th February, 2024.

DANIEL MUSITA,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2088

THE CONSTITUTION OF KENYA

THE COUNTY GOVERNMENTS ACT

(*No.* 17 *of* 2012)

COUNTY GOVERNMENT OF KAKAMEGA

THE KAKAMEGA COUNTY MUNICIPALITIES TRAFFIC (DESIGNATED PARKING PLACES) BY-LAWS, 2022

PARKING PLACES

IN EXERCISE of the powers conferred by Paragraph 5 (*c*) of the Fourth Schedule to the Constitution of Kenya, 2010, section 111 (1) (*d*) of the County Governments Act, 2012 and By-Law 16 of the Kakamega County Municipalities Traffic (Designated Parking Places) By-Laws, 2022, the Municipal Manager, Mumias Municipality gazettes the following parking places within the Municipality –

1. Mumias Central Business District
   (a) Frankmatt Supermarket parking lot;
   (b) Mama Watoto Supermarket parking lot;
   (c) Lulu Pub parking lot;
   (d) Aljazeera shop parking lot;
   (e) Family Bank parking lot;
   (f) Equity Bank parking lot;
   (g) KCB Bank parking lot;
   (h) Along Level 4 Hospitals;
   (i) Old Mumias Bus Park;
   (j) New Frankmatt Supermarket parking lot; and
   (k) Old parking bay.
2. Shibale parking lot
3. Ekero
   (a) Franco shop parking lot – Junction to Sabatia parking lot;
   (b) Black Big Nation parking lot along Kakamega–Bungoma Highway; and
   (c) Classic BBC parking lot opposite Mumias Inn along Ekero – Sabatia Road.

Dated the 9th February, 2024.

AGGREY MUSINDALO,
MR/6208579 *Municipal Manager, Kakamega Municipality.*

GAZETTE NOTICE NO. 2089

THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT, 2003

ETHICS AND ANTI-CORRUPTION COMMISSION

THE 4TH QUARTERLY REPORT COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER, 2023

Preamble

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under section 35 of the ACECA, 2003 as read with section 11(1) (*d*) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was accepted or not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney-General.
4. The Attorney-General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of ACECA. The report covers the Fourth Quarter and is for the period commencing 1st October, 2023 to 31st December, 2023.

INVESTIGATION REPORTS COVERING THE PERIOD FROM 1ST OCTOBER, 2023 TO 31ST DECEMBER 2023

1. EACC/FI/INQ/33/2022

Inquiry Into Allegations of Procurement Irregularities in the Procurement of Services involving the Construction of Kinanie Leather Industrial Park Water Supply Project Phase II and III Tender No. Tawwda/048/2021-2022 By Tanathi Water Works Development Agency (Tawwda) for KSh. 292,770,465.10

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation of procurement irregularities and conflict of interest against the Managing Director of Tanathi Water Works Development Agency (TAWWDA) in the tender for the Construction of Kinanie Leather Industrial Park Water Supply Phase I and II, which was awarded by TAWWDA to M/S Perma Structural Engineering Company Limited (PERMA) at a cost of KSh. 300,000,000.

The investigations established that fourteen companies had submitted their bids in relation to tender no TAWWDA/048/2021-2022, which was eventually awarded to PERMA. Investigations established that the procurement process was marred with irregularities including submission of forged documents in support of the bid. It was further established that the then accounting officer signed a contract without a performance bond as was required in the tender document.

Investigations established that the Manager Construction and Residual Operations, Manager Finance and Accounts and General Manager Infrastructure Development, were all employees of TAWWDA a public entity and they unlawfully traded with PERMA the company which was awarded the contract. They therefore had indirect pecuniary interest in the contract sum.

Financial investigations reveal that on 12th July, 2022, after receiving KSh. 56,030,210.00 from TAWWDA, the company transferred KSh. 500,000.00 to the Engineer for Development and Infrastructure development. Further investigations revealed that a member of the tender evaluation committee and the Manager Finance and Accounts-TAWWDA received a benefit of KSh. 925,000/- from Perma S.E. and the Project Manager received a benefit of Kshs. 1.4 Million from Perma S.E through his Company Kyasi General Merchants.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer of Tanathi Water Works Development Agency, Manager Construction and Residual Operations at Tanathi Water Works Development Agency, Manager, Finance and Accounts, Engineer Department of Infrastructure Development, General Manager Infrastructure development, a Senior Engineer in the Department of Construction and Residual Operations, Directors of Perma Structural Engineering Company Limited, Antidote Agencies Limited and Kyasi General Merchants limited with the following offences;

(a) Conspiracy to commit an offense of corruption contrary to section 47a (3) as read with section 48 of Anti-corruption and Economic Crimes Act.

(b) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act.

(c) Three counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(d) Three counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

(e) Four counts of unlawful acquisition of public property contrary to section 45(1) (a) as read with section 48(1) of the Anti-corruption and Economic Crimes Act.

(f) Two counts of deceiving principal contrary to section 41(1) as read with section 48 of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(g) Fraudulent practice in a procurement proceeding contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act.

(h) Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic crimes Act.

(i) Attempt to commit an offence involving corruption contrary to section 47 (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, 2003.

In addition, the Commission will:

(i) Issue an advisory to the Public Procurement Regulation Authority to debar Perma Structural Engineering Limited from participating in public procurement and asset disposal processes in compliant with section 41 (3) (*a*) of the PPDA, 2015 and Regulation 22 (1) (*c*) of the PPDR, 2020.

(ii) Institute civil proceedings for the recovery of KSh. 292,770,465.10 unlawfully acquired from TAWWDA by Perma Structural Engineering Limited.

(iii) Issue an advisory to TAWWDA to take appropriate measures to ensure that all procurement processes are conducted strictly in accordance with the applicable Public Procurement Laws and Regulations.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

2. EACC/FI/INQ/18/2023

Inquiry Into Allegations of Conflict of Interest and Receipt of Irregular Benefits of KSh. 56,740,325/= against the Former Governor of the County Government of Kakamega

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 6th October, 2022 alleging that the County Government of Kakamega had awarded various tenders to contractors associated with the former Governor of the said County during the Financial Year 2013/2014 to 2021/2022. It further alleged that the companies had been sending kickbacks to the former Governor through his close proxies. Some of the companies identified included AFBA Construction Company Limited, Western Cross Express limited, Sabema International Limited and Sesela Resources Limited.

It was established that the companies were awarded 60 contracts after which the companies received payments totalling to KSh. 2,251,012,597.28. It was further established that from each of the six companies the former Governor received a benefit directly and indirectly through companies associated with him. Upon receipt of the monies, part of it was used to purchase a property.

It was also established that the former Governor entered into a tenancy agreement with the Kakamega County Government for lease of land reference number Marama/Shianda/442 and the buildings erected thereon for KSh.9,200,000/=. The said land was established to be the Governor's property yet again he was being paid by the County Government in a clear case of conflict of interest. Investigations established that the former Governor irregularly received a benefit of KSh. 56,740,325/= in total from the County Government of Kakamega.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge several suspects including the former Governor, his spouse, county officials, some of the directors of the companies and the lawyer who was involved in the transaction for purchase of property belonging to the former Governor with the following offences;

(a) One count of conspiracy to commit an offence of corruption contrary to section 47 (*a*) (3) as read with sections 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Eleven counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(c) Two counts of Abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003

(d) Five counts of Money laundering contrary to section 3 (B) (I) as read with section 16 (1) of the proceeds of crime and Anti-money laundering Act, 2009

On 16th November, 2023, the DPP returned the inquiry file with recommendations for further investigations. The Commission conducted further investigations and resubmitted the file to DPP on 4th December, 2023. On 18th December, 2023, the DPP returned the file and concurred with the Commission's recommendations for prosecution.

3. EACC/PI/INQ/12/2021

Inquiry Into Allegations of Procurement Irregularies at the Embakasi North Constituency Amounting to KSh. 51,351,357/=.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on 21st August, 2021 on allegations of procurement irregularities and embezzlement of public funds amounting to KSh. 51,351,357 at the Embakasi North Constituency. It was further alleged that the Member of Parliament for Embakasi North Constituency used his office to award tenders to his children and close associates. The tenders were allegedly for construction of classrooms, event hosting and roadworks within Embakasi North Constituency.

Investigations established that the said constituency awarded various tenders to four companies associated with the daughter of the Member of Parliament for the constituency.

Financial investigations revealed that several payments were made to the companies for various projects allegedly undertaken with the Embakasi Constituency.

Investigations revealed that the said Member of Parliament received a total of KSh. 10,482,298/= either directly or indirectly from the companies associated with the daughter and other close associates. The MP is a signatory to bank account in one of the companies namely Ndakaini Hardware and Property Agencies.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Member of Parliament, the Fund Account Manager and directors of the four companies namely Ndakaini Enterprises Limited, Allica Investment Limited, Pride Wind Africa Limited and Ndakaini Hardware with the following offences;

(a) Two counts of conflict of interest contrary to section 42 (3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003

(b) Five counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) One count of abuse of office contrary to section 46 as read with section 48 (1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 6th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

4. EACC/PI/INQ/24/2021

Inquiry into Allegations of Irregular Tender Award and Embezzlement of Funds by Officers of Bomas of Kenya in the Award of General Insurance Cover for Financial Years 2020–2021 and 2021–2022 to CIC General Insurance Limited

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation that the Bomas of Kenya (BoK) had irregularly awarded the general property and work injury insurance cover tender to CIC General Insurance Limited during the financial year 2020-2021. Evidence obtained indicates that the tender was awarded to CIC.

Investigations established that BOK violated section 103 of the Public Procurement and Asset Disposal Act, 2015 and illegally awarded the tender to CIC. It was further established that since the tender for FY 2020-2021 was irregularly awarded. Subsequently, the renewal clause in the FY 2020-2021 tender policies could not birth a legitimate renewal in FY 2021-2022. Furthermore, no LPO was issued for the renewed tender. CIC Insurance was illegally paid KSh.9,058,916.70 for the two financial years which payments were made out of flawed procurement process.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Chief Executive Officer for Bomas of Kenya, Finance Officer, Supply Chain Management Officer, Ag. Managing Director CIC General Insurance and a Marketer at CIC, the Managing Director CIC General Insurance and CIC General Insurance Limited be charged with the following offences;

(a) Conspiracy to commit a corruption offence contrary to section 47 a (3) as read with section 48 of Anti-Corruption and Economic Crimes Act.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read together with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(d) Two counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

The Commission has in addition instituted the recovery of public property from CIC Insurance Company.

Awaiting DPP's response.

5. EACC/PI/INQ/05/2022

Investigations into Allegations of Irregular Award of Tenders and Embezzlement of Funds by Officials of Bomas of Kenya Limited During Financial Year 2020/2021 through Splitting of Tenders/Contracts to Various Companies Amounting to KSh. 8,587,831/=

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an allegation on 3rd November, 2021. The allegation was that Bomas of Kenya (BOK) was involved in irregular award of tender for purchase of cutlery.

Investigations established that there was no budget allocated for the purchase of cutlery and crockery during the Financial Year 2020/2021 and the board did not approve any re-allocation of funds from other votes. Further investigations also established that there were several procurement irregularities including collusion between the suppliers and procurement officials in the purchase of cutlery for all the quotations at BOK. Some of the directors of the said companies denied participating in the procurement of the cutlery at BOK despite the evidence of bid documents allegedly submitted by their companies.

Financial investigations conducted revealed that after payments were made to the suppliers, they sent money to a particular supplier who would then transfer money to some of the officials of BOK.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Finance Officer, Finance Officer, Supply Chain Management Officer, former Board Chair, Directors of Arwin Gold Limited, Director for Grasonnel Limited, Directors of Bamyoung Limited and Directors of Dysema Limited together with all the four companies with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-Corruption and Economic Crimes Act No. 3 of 2003.

(b) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45 (2) (*b*) as read with section 48 of the anti-corruption and economic crimes act, 2003.

(c) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act No. 3 of 2003.

(d) Fraudulent practice in procurement proceeding contrary to section 66 (1) as read with section 176 (1) (i) and (2) of the Public Procurement and Asset Disposal Act of 2015.

(e) One count of forgery contrary to section 345 as read with section 349 of the Penal Code.

(f) Two counts of dealing with Suspect Property contrary To section 47(2) (A) As Read with sections 47 (1) And 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(g) Four counts of unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

Awaiting DPPs response.

6. EACC/MSA/FI/INQ/7/2023

Investigations into Allegations of Corruption, Procurement Irregularities and Embezzelement of Funds at Taita Taveta County Government during the Commemoration of World War 1 Celebrations that Took Place Between 24th to 27th November, 2022

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 5th April, 2022, on allegations of corruption, procurement irregularities and embezzlement of funds at Taita Taveta County Government during the commemoration of World War I (WWI) celebrations that took place between 24th to 27th November, 2022.

Investigations established that the Government of Taita Taveta County prepared budget estimates and a consolidated procurement plan for the Financial Year 2022/2023 and the aforesaid event was not provided for in the budget.

Investigations further established that in respect to the World War One Event the Economic advisor and the Chief Officer Finance applied for imprest to facilitate the commemoration of the event. Investigation established that the Taita Taveta County utilised Kshs. 4,048,000.00 through irregular Daily Subsistence Allowance paid to officers.

It was further established that during the process of preparation for the WWI event, the public officers engaged and or directly single sourced suppliers for various services without following the laid down procedures despite the fact that the County Government had a repository of registered suppliers and service providers for the financial year 2022/2024. The suppliers that were engaged directly included Kazi Ngoma Orchestra band, Elbon Agencies, Banane North Explorer's Limited, Voi Wildlife Lodge, Kididi FM a commercial radio station, Tree Top Eatery, Pen and Paper Solutions, Gracious Tents and Sounds and Alconsup Solution Limited.

Investigations established that the receipts that were attached to the surrender documents were forgeries and were not actually issued by the purported entities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Economic Advisor to the Governor, County Secretary, County Chief Officer in charge of Trade, Tourism and Co-operatives Development with the following offences;

(a) Conspiracy to commit an offence of corruption contrary to section 47a as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Engaging in a project without prior planning contrary to section 45 (2) (*c*) as read together with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, 2003

(c) Six counts of uttering false documents contrary to section 353 of the Penal Code Cap 63 laws of Kenya

(d) Willful failure to comply with the applicable procedures and guidelines relating to incurring of expenditures contrary to section 45 (2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003

On 5th February, 2024, the DPP returned the inquiry file with recommendations for further investigations.

7. EACC/MSA/FI/INQ/13/2022

Investigations into Allegations of Corruption and Misappropriation of Public Funds at Taita Taveta County Assembly as a Result of Imprest Advanced to the Speaker of the County Assembly, Clerk Twenty One Members of the County Assembly and Four Other Officers for Traveling to Zanzibar for a Bonding Trip in the Financial Year 2022/2023

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a complaint on 28th November, 2022 on allegation of embezzlement of public funds against staff of the County Assembly of Taita Taveta. It is alleged that the Speaker, Clerk, twenty-one (21) Members of the County Assembly (MCAs) and four (4) other officers incurred an expenditure of around Kenya Shillings Seven (7) million without following proper guidelines with regard to the edicts of the law on Public Finance at a bonding tour to Marijani Hotel in Zanzibar in November 2022 within the Financial Year 2022/2023.

Investigations established that members of the Liaison Committee and public officials of Taita Taveta County Assembly traveled to Zanzibar on an education tour. However, some delegates were paid excess per diem allowances which they were not entitled because accommodation had been provided while others were paid yet they had not travelled for various reasons.

The procurement process was not properly followed in regard to sourcing of the service provider being the World Scout Parliamentary Union (WSPUK) who would offer the catering and training facilities for the delegates. WSPUK was single sourced and directly engaged for the educational trip to Zanzibar. Investigation established that the procurement threshold was way above KSh. 500,000/= and therefore it ought to have been reported to the Public Procurement Regulatory Authority by the Accounting Officer.

Investigation further established that the Clerk of Taita Taveta County Assembly, authorised payment voucher for full daily subsistence allowance to the delegates whilst knowing that the delegates were not entitled to full daily subsistence allowance since their accommodation had been catered for.

The investigation established that the Taita Taveta County Assembly had lost KSh. 6,181,433.00 through irregular DSA paid to officers. The said County Assembly initiated recoveries from the beneficiaries by deducting their salaries and some made cash deposits to Taita Taveta County Assembly Bank Account amounting to KSh. 2,215,550.60. The outstanding amount yet to be recovered is KSh. 3,943,033.98

It was further established that the Accounting Officer during imprest surrender attached false travel clearance letters for delegates who had not travelled for various personal reasons. He further fraudulently authorised surrender of payment voucher of KSh. 8,037,599 purporting to have been fully accounted for yet it was not sufficiently supported by surrender documents.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Clerk/Accounting Officer and the Deputy Speaker of Taita Taveta County Assembly with the following offences;

(a) Three counts of Abuse of office contrary to section 46 as read with section 48 (1) of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering false documents contrary to section 353 of the Penal Code, Cap. 63 Laws of Kenya

(c) False accounting by a public officer contrary to section 331 (1) and (2) of the Penal Code, Cap. 63 Laws of Kenya

(d) Wilful failure to comply with the law applicable, regulations and guidelines relating to procurement, contrary to section 45 (2) (b) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Financial misconduct contrary to section 197(1) (i) as read with section 199 of the Public Finance Management Act, No. 18 of 2012.

On 1st February, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

8. EACC/MSA/FI/INQ/4/2017

Investigations into Allegations of Procurement Irregularities in the Purchase of Stone Cutting Machines by Coast Development Authority (CDA) from Endebes Development Company (EDC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report dated 22nd March, 2017 that Coast Development Authority (CDA) had purchased stone cutting machines from Endebes Development Company (EDC) without following procurement procedures.

Investigations established that CDA leased coral block cutting equipment and vehicles from EDC without following the public procurement laws and procedures i.e use of direct method instead of open tender method as required under the PPDR 2006.

Furthermore, there were no bid documents received from any bidder hence no procurement process was conducted hence the procurement process was a fraud.

EDC offered to sell the said machines to CDA at a cost of KSh. 62,000,000/=. On 10th July, 2012, CDA and EDC entered into a lease agreement for the machines. The lease was signed by the Managing Director on behalf of CDA. EDC received a total sum of KSh. 28,794,834.00 from CDA for the lease of coral block cutting machines. It was established that the lease agreements were entered into illegally and therefore payments made to EDC by CDA were

unlawful. It was revealed that the Director and beneficial owner of EDC is a bank signatory in the company and he had appointed the Managing Director CDA while he was the Minister for Regional Development Authorities.

On 14th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Managing Director, the Director of the company and Endebes Development Company Limited with the following offences;

(a) Abuse of office contrary to section 46 as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Wilful failure to comply with the law relating to procurement contrary to section 45(2) (b) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Entering into an obligation that has financial implication contrary to section 196 (3) as read with section (196) (6) of the Public Finance Management Act, 2012.

(d) Unlawful acquisition of public property contrary to section 45 (1) (*a*) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(e) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

Awaiting DPP's response.

9. EACC/MSA/FI/INQ/17/2017

Investigations into Allegations of Irregular Procurement for Extension of Bura Water Supply by Coast Water Services Board (CWSb) at a Cost of KSh. 52,020,061/= in the Financial 2017/2018

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving an anonymous complaint that the Coast Water Services Board (the Board) flouted the procurement law during the procurement process in the tender CWSB/TR-EQ/W/6A/2017 for extension of Bura Water Supply (the Project). This project had been sanctioned by the Ministry of Water and Irrigation (the Ministry) and was being funded from the Equalisation Fund (the Fund).

Investigations established that the Board advertised the subject procurement on 27th June, 2017 attracting 28 bidders. Further investigations established that the Board failed to subject all the tenders to both technical and financial evaluation contrary to section 80 of the Public Procurement and Disposal Act, 2015. The contract was irregularly awarded to Misriya Company Limited.

It was further established that the Director for Misriya Company limited had made false documents being motor vehicle registration documents and submitted the same to the Coast Water Services Board.

Investigations established that the Head of Procurement at CWSB prepared misleading professional opinion hence did not offer expert advised as was required of him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Evaluation Committee, the Head of Procurement and the Director of the Misriya Company Limited together with the company with the following offences;

(a) Wilful failure to comply with the procurement law contrary to section 45 (2) (*b*) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Fraudulent procurement practice contrary to section 66 (1) and (2) of the Public Procurement and Asset Disposal Act, 2015.

(c) Forgery contrary to section 345 as read with section 349 of the Penal Code.

(d) Uttering a false document contrary to section 353 of the Penal Code.

(e) Knowingly misleading a person carrying out a duty contrary to section 176 (1) (*b*) as read with section 176 (2) of the Public Procurement and Asset Disposal Act, 2015.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

10. EACC/FI/INQ/20/2021

Inquiry into Allegations of Embezzlement/Missapropriation of Public Funds Amounting to KSh. 45,610,187/= by Turkana County Assembly Through Tendering and Construction of Turkana County Assembly Speaker's Residence at Kanamkemer Ward

The Ethics and Anti-Corruption Commission (EACC) commenced investigation after receiving a report on allegation that public funds which were meant for construction of the speaker's residence at Kanamkemer within Turkana County amounting to KSh. 45,610,187/= was misappropriated by the public officer's employed at Turkana County.

Investigations revealed that eight companies submitted their bids for the tender. The tender was irregularly awarded to Ekoriagete Enterprises Limited and the contract was executed by the County Assembly Clerk.

Further, it was established that one of the directors of the said company is an employee of the County Government of Turkana. The work done was valued at KSh. 19,494,994.99 as compared to payments made to the contractor totaling to KSh. 54,392,735.87. There was an overpayment of KSh. 34,897,740.88.

Investigations revealed that the said company was not registered with the National Construction Authority for the period between the years 2013 to 2018. The NCA certificates submitted by Ekoriagete Enterprises Limited as part of the requirement were forgeries.

Furthermore, financial investigations conducted revealed that payments were made to the company' account. The account was established to be operated by one of the county officials who is a director in the company. Upon receipt of the funds, the county official withdrew KSh. 18,495,500/= between August and September 2018 in a clear case of conflict of interest.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Deputy Clerk of Turkana County Assembly, the Clerk, the County Works Officer and the Director of the Ekoriagete Enterprises Limited with the following offences;

(a) One count of conspiracy to commit an offence of economic crime contrary to Section 47A (3) all as read with Section 48 of ACECA.

(b) One count of fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003.

(c) Two counts of abuse of office contrary to section 46 as read with section 48(1) of Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

(d) One count of fraudulently making payments from public revenues for services not rendered contrary to section 45(2) (iii) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(e) One count of fraudulent procurement practice contrary to section 66(1) and (2) as read with section 177 of the Public Procurement and Disposal Act, 2015.

(f) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(g) One count of conflict of interest contrary to section 42(3) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

On 19th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

11. EACC/NKR/INQ/FI/101/2017

Inquiry into the Allegations of Misappropriation of Public Funds And Procurement Irregularities in the Rehabilitation And Construction of Salgaa-Elburgon Road By The County Government of Nakuru At the Cost of KSh. 10,000,000/= in the Financial Year 2015/2016

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th January, 2017 on allegations that the County Government of Nakuru had misappropriated KSh. 10,000,000/= in the rehabilitation and construction of Salgaa-Elburgon road.

Investigations established that the County Government of Nakuru had planned for the construction and rehabilitation of Salga-Elburgon Road as per the roads work plan at KSh. 8,084,300/= during the financial year 2015/2016. It was established that the technical evaluation was not conducted as required by regulation 16(4) of the Public Procurement and Disposal Regulations 2013. The procurement process was therefore flawed. The award was issued to Gee El Construction Works Limited and was paid for KSh. 6,508,478.53.

It was further established that the said company was not registered with the National Construction Authority and that the certificate provided by the company was a forgery.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Tender Evaluation Committee members, the Supply Chain Management Officer, the Chief Officer for Department of Roads and Public Works and the Directors of Gee El Construction Works Limited with the following offences;

(a) One count of Fraudulent practice in the procurement proceedings contrary to section 66 (1) as read with section 177 of the Public Procurement and Asset Disposal Act, 2015.

(b) One count of Fraudulent acquisition of public property contrary to section 45(1) (*a*) as read with section 48 (1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(c) Two counts of Wilful failure to comply with the law relating to procurement contrary to section 45(2) (*b*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003; and

(d) One count of Abuse of office contrary to section 45(2) (*b*) as read with section 48 (1) of the Anti-Corruption and Economic Crimes Act, 2003.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

12. EACC/MSA/FI/INQ/04/2021 (C)

Inquiry into Allegations of Conflict of Interest and Procurment Irregularities Involving the Head of Treasury at The Kwale County Government Who is Alleged to own a Company Known as Chilongola Holdings Limited, which has Been Trading with the County Government of Kwale

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 4th February, 2021 alleging conflict of interest against the Head of Treasury, Kwale County Government who was alleged to own two companies namely; Rome Investment Limited and Chilongola Limited Companies which transacted and received KSh. 9,000,000/= from the said institution during the Financial Year 2017/18 and 2018/2019.

Investigations established that the companies were awarded ten tenders to supply and deliver sanitation materials, food and ration, general office supplies, and institutional appliances. It was further established that the procurement process undertaken was flawed. Rome investment and Chilongola Limited entered into a contract with the County Government of Kwale through Local Purchase Orders for the 10 tenders despite the procurement process having been flawed.

It was established that the tender documents including purchase requisition forms, minutes of the Tender Opening Committee, letters of appointment of inspection and acceptance committee and inspection and acceptance minutes relating to the said tenders were forgeries and the same were presented at the Kwale County Government by the Accountant and the Hospital Administrator. Further investigations established that Rome Investments and Chilongola Limited were paid a sum of KSh 44,919,341 and KSh. 4,007,943, respectively.

Further investigations disclosed that the Head of Treasury at the county was the Director at Chilongola Holdings together with his brothers who were directors for Rome Investments (k) Limited. The Head of Treasury was a mandatory signatory of the said companies bank accounts held at KCB Kwale Branch.

Financial investigations revealed that the Head of Treasury was a beneficial owner of the two companies, by virtue of the withdrawals he made. The total amount received by the two companies was KSh. 44,919,341 and the same distributed to the directors of the companies.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the Head of Treasury and a Director of Chilogola Holdings Limited and Rome Investment Limited, an Accountant and Hospital Administrator of the Kwale County Government be charged as follows:

(a) Conflict of interest contrary to section 42(3) as read with section 48 of the Anti-corruption and Economic Crimes Act, No. 3 of 2003.

(b) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(c) Deceiving principal contrary to section 412) as read with as read with section 48(1) of Anti-corruption and Economic Crimes Act, No. 3 of 2003

(d) Fraudulent practise in procurement contrary to section 66 as read with section 177 of the Public Procurement and Asset Disposal Act, 2015

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendation for prosecution.

13. EACC/BGM/PI/INQ/09/2020

Investigation into Allegations of Procurement Irregularities and Conflict of Interest in the Procurement of A Double Cabin Pick-Up and a 33 Isuzu Bus Seater by the County Assembly of Bungoma in the Financial Year 2018/2019

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on allegations of procurement irregularities in in tender number CA/BGM/PUR/205/2019-2020 for the supply of a double cabin pick-up and a 33 Isuzu bus seater by the County Assembly of Bungoma during the Financial Year 2018/2019. It was further alleged that the Accounting Officer of the County Assembly had participated in the procurement amounting to Conflict of interest.

It was established that seven bidders participated in the procurement process. The Evaluation Committee conducted the evaluation exercise and recommended Westfield Motors Limited for the award for both the bus and double cabin. However, after a professional opinion was submitted with the foregoing recommendations, the clerk disregarded the opinion and went ahead to establish a different three-member committee to conduct another evaluation which was irregular since the substantive evaluation committee had not been disbanded.

It was further established that the Procurement Officer and the Clerk of the County Assembly prepared and approved a professional opinion which was misleading. The Accounting Officer executed the contract and authorised payments of KSh. 5,870,000/= and KSh. 4,980,000/= to be made in full to Westfield Motors Limited and Kenyan Coach Industries Limited respectively while knowing that the vehicles had not been supplied.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Accounting Officer and the Head of Procurement with the following offences;

(a) Three counts of wilful failure to comply with applicable procedures and guidelines relating to procurement of services contrary to section 45 (2) (*b*) as read with section 48 of the Anti-Corruption and Economic Crimes Act, 2003.

(b) Two counts of abuse of office contrary to section 46 as read with section 48 of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

14. EACC/EL/INQ/29(ii)/2022

Inquiry into Allegation that an Employee Falsified Academic Certificates To Secure Employment at Rural Electrification And Renewable Energy Corporation (RAREC) as a Supply Chain Management Assistant

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received that the officer used a forged Bachelor's degree in purchasing and supplies Chain Management from Jomo Kenyatta University of Agriculture and Technology to gain employment at REREC as a Supply Chain Management Assistant (Procurement and Disposal).

Investigations established that the Supply Chain Management Assistant forged a Bachelor's degree certificate No. 3701 in purchasing and supplies from Jomo Kenyatta University and Technology. He uttered the certificate while making application to be employed in the position of Supply Chain Management Assistant as captured from his employment records. Investigations revealed that he also submitted fake transcripts to REREC.

It was established that he had irregularly been paid a net salary amounting to KSh. 311,974.45 since the April, 2022 to July, 2022.

On 17th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the aforesaid suspect with the following counts;

(a) One count of fraudulent acquisition of public property contrary to Section 45(1)(a) as read with Section 48 of the Anti-Corruption and Economic Crimes Act.

(b) Five counts of forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Five counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 19th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

15. EACC/EL/INQ/29(v) /2022

Inquiry into Allegations That an Employee used Forged Academic Documents to Secure Employment at Rural Electrification and Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint on 2nd August, 2022 that the employee used forged academic documents to apply for the position of a driver at REREC.

Investigations established that the said driver made an application following an advertisement in the local dailies on 1st December, 2020. In his application he attached several documents including, a Kenya Secondary school certificate No. 2386658 from Kimuri High School issued in the year 2008.

Investigations further established that the KCSE certificate was forged, having been subjected to authentication by the Kenya National Education Council (KNEC). He had worked with REREC from 1st April, 2022 to July, 2022 and irregularly earned a net salary of KSh. 293,240.94

On 17th October, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the suspect being a driver at REREC with the following offences;

(a) Fraudulent acquisition Contrary to section 45 (1) (*a*) all as read with section 48 of ACECA,

(b) Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) Uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 2nd January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

16. EACC/EL/INQ/29(iii)/2022

Inquiry into Allegations that an Employee used Forged Academic Documents To Get Employment at Rural Electrification And Renewable Energy Corporation (REREC)

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 2nd August, 2022 on allegations that the employee used forged academic documents to apply for the position of Supply Chain Management Assistant (Inventory and Logistics) at REREC.

It was established that the REREC advertised for various positions in the daily nation dated 1st December, 2020. One of the positions advertised was that of Supply Chain Management Assistant (Inventory and logistics). She applied for the position and in her application; she indicated that she holds a Diploma in Business Information Technology from Kenya Methodist University awarded in the year 2014

Investigations established that she did not study at the said institution and the Diploma certificate in question was therefore a forged document. It was further established that she had been working at REREC from 1st April, 2022 to 14th July, 2022. She illegally gained from the institution a net salary of KSh. 293,457.07 considering that she was not qualified for the position.

On 12th October, 2023 a report was compiled and forwarded to the DPP with recommendations to charge with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act 2003.

(b) One count of Forgery contrary to section 345 as read with section 349 of the Penal code.

(c) One count of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

(d) Two counts of Giving false information to a person employed in the public service contrary to section 129 (*a*) of the Penal Code.

On 30th November, 2023, the DPP returned the inquiry file with recommendations for further investigations.

17. EACC/ISL/EL/INQ/2/2020

Inquiry Into Allegations that the Ward Administrator for Marsabit Central Used Forged Academic Documents to get Employment

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received with allegations that the Ward Administrator for Marsabit Central had allegedly used forged Kenya Certificate of Secondary Education Certificate (KCSE) and diploma certificate to gain employment in Marsabit County.

Investigations established that the suspect applied for employment opportunity at the Marsabit County Government in the year 2018. He submitted his curriculum vitae, which indicated that he had a Diploma in Community Development and Social Work.

Investigations revealed that the Ward Administrator also applied for the position of Civic Education Officer and attached a KCSE Certificate serial No. 2023397 from Marsabit Secondary School. He further submitted a KNEC Certificate serial No. BTEP/D004270 for diploma in Community Development and Social work. The suspect was appointed as a Public Participation and Civic Education Officer from 28th January, 2019.

Investigations further revealed that the positions in which he was appointed into had not been advertised and therefore the appointments were irregular.

Further investigation revealed that the suspect had altered the grades in the KCSE certificate that he submitted to the Marsabit County Government and the Diploma in Community and Social Development were forgeries. It was further established that the Ward Administrator had earned a net salary from April, 2019 to September, 2023 amounting to KSh. 1,954,324.15

On 27th November, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the Ward Administrator with the following offences;

(a) One count of Fraudulent acquisition of public property contrary to section 45 (1) (*a*) as read with section 48(1) of ACECA.

(b) One count of Deceiving principal contrary to section 412) as read with as read with section 48(1) of ACECA.

(c) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code.

(d) Two counts of uttering a false document contrary to section 353 as read with section 349 of the Penal Code.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

18. EACC/MSA/FI/INQ/13/2023

Inquiry into Allegations Joskat Construction Company did not Follow the Bills of Quantities when Performing Contracts for Likoni CDF in erecting the Perimeter wall for Timbwani Secondary School in the Financial Year 2021-2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a contractor was not following the bill of quantities when performing contracts for Likoni NG-CDF project for erecting the 400-meter perimeter wall for Timbwani Secondary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Timbwani secondary School were followed from the initiation of the tender process until the award of contract. The contract was awarded to Joskat Construction Company Limited at a cost of KSh.. 6,394,807/=. The Project Management Committee confirmed that the progress was good and that the work was being done as per the specifications. The company completed the said construction as per the contract and as a result, payments were made to the contractor. The project has been completed but was yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

19. EACC/MSA/FI/INQ/11/2022

Inquiry into Allegations that a Company Called Sallysam Limited did not Follow The Bills of Quantities when Erecting the Perimeter Wall for Mrima Primary School in Likoni Consituency during the Financial Year 2021/2022.

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 26th September, 2022 on allegations that a company namely Sallysam Ltd was not following the bill of quantities when performing contracts for Likoni NG-CDF project for construction of classes for Mrima Primary School.

Investigations established that the procurement procedures for the construction of the perimeter wall for Mrima Primary School were followed from the initiation of the tender process until the award of contract to Sallysam Limited. The construction was also completed as per the contract and as a result, payments were made to the contractor. The project has been completed and yet to be handed over, once the defect liability period elapses.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

20. EACC/MSA/FI/INQ/14/2023

Inquiry into Allegations that a Company Called Sallysam Enterprises did not follow the Bills of Quantities When Erecting The Perimeter Wall For Mtongwe Girls Secondary School in Likoni Consituency during The Financial Year 2021/2022

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 26th September, 2022 that a company called Sallysam Limited was not following the bill of quantities when performing contracts for Likoni NG-CDF project of erecting the perimeter wall for Mtongwe girls Secondary school during the Financial Year 2021/2022.

Investigations established that the NG-CDF Board approved a code of projects including Mtongwe Girls Secondary School with an allocated amount of KSh. 5,985,075/=. The procurement entity was Likoni Constituency Development Fund. Three companies submitted their bids and a final award issued to Sallysam Enterprises Limited. The contract was executed on 3rd May, 2022. The works were executed by the said company and it was noted that the project was going on well as per the specifications of the Bill of quantities. Investigations did not reveal any procurement irregularities in the subject project.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations that the inquiry file be closed with no further action.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for closure.

21. EACC/KSI/OPS/INQ/3/2022

Inquiry into Allegations of Corruption against a Court Assistant Working for the Judiciary at Migori Law Courts

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a complaint received on 11th April, 2022 that a Court Assistant had approached him and that he could assist him to get a favourable judgment from the Magistrate handling the criminal matter at a court in Migori. He was required to give KSh. 100,000/=.

Investigations established that there was a criminal matter at Migori Law Courts where the complainant was the accused and was coming up for judgment. The Court Assistant requested for KSh. 100,000/= in order to assist the complainant to get a favourable judgment. The Commission established that the Court Assistant had demanded and received a bribe of KSh. 20,000/= which was recovered from him upon arrest.

On 9th November, 2023 a report was compiled and forwarded to the DPP with recommendations that the Court Assistant be charged with two counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 (1) and (2) of the Bribery Act, 2016.

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

22. EACC/OPS/INQ/20/2023

Inquiry into Bribery Allegation of Corrupt Conduct Against a Kenya Revenue Authority Officer

The Ethics and Anti-Corruption Commission (EACC) commenced this investigation following a report received on 14th March, 2023 alleging that a Waiver Processing Officer at the Kenya Revenue Authority was demanding for a benefit of KSh. 50,000/= in order to write off accrued erroneous value added tax penalty amounting to KSh. 410,000/=.

Investigations established that the Waiver Processing Officer worked at the KRA and had requested and received KSh. 40,000/= as a financial benefit.

On 9th November, 2023, a report was compiled and forwarded to the DPP with recommendations to charge the Waiver Processing Officer at KRA with three counts of receiving a bribe contrary to section 6 (1) (*a*) as read with section 18 of the Bribery Act No. 47 of 2016

On 28th December, 2023, the DPP returned the inquiry file with recommendations for further investigations.

23. EACC/MCKS/OPS/INQ/2/2021

Inquiry into Allegations that the Head Teacher at Unoa Primary School was Charging Illegal Levies as Fees in Violation of Guidelines by the Ministry of Education on Free Primary Education (FPE)

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received on 14th January, 2020 that the Head teacher at Unoa Primary School was charging illegal levies as fees in violation of guidelines by the Ministry of Education on free primary education.

Investigations further established that the head teacher had been charging illegal fees in form of development fees of Kshs. 5,000/=, harambee fee of KSh. 1,000/=, Fencing fee of KSh. 1000/= and feeding programme fee of KSh. 1850/= plus other motivation and activity fee totalling to KSh. 10,000/=.

Financial Investigations established that the head teacher owned a private enterprise namely AGPHILY Enterprise that was trading with the school wherein he was the head.

Further investigations established that the head teacher purported to have made supplies to the school and he had signed a cheque of KSh. 183,500/= in his favour. The cheque was not honoured at the bank since no supporting document was provided to the bank.

On 9th November, 2023, a report was compiled and forwarded to the DPP with the recommendations to charge the head teacher, Unoa Primary school with the following offences;

(a) Conflict of interest contrary to section 42 (3) as read with Section 48 of the ACECA, 2003.

(b) Two counts of Forgery contrary to section 345 as read with section 349 of the Penal code

On 30th January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

24. EACC/OPS/INQ/36/2023

An Inquiry into Allegations of Corrupt Conduct against a Nairobi City County Revenue Officer Based at City Hall.

The Ethics and Anti-Corruption Commission (EACC) commenced the investigation following a report received a report dated 18th May, 2023 alleging that a Nairobi City County Revenue Officer based at City Hall was demanding for a bribe of KSh. 20,000/= from him in order to write off cess arrears amounting to KSh. 47,0000/= accrued by his lorry.

Investigations established that on 27th April, 2023 the County Official informed owner of lorry that he had cess arrears of Kshs. 47,000/= . The suspect reduced the amount to KSh. 20,000/= and required the owner of the lorry to pay KSh. 10,000/= through paybill number and was given KSh. 10,000/= in cash. On a later date, the lorry owner was informed that he had cess arrears of KSh. 14,000/=.

The Commission established that he was employed as an Administrative Officer III at the Nairobi City County Government. The county official requested and received KSh. 10,000/= in order to facilitate write-off cess arrears accrued by his lorry owed to Nairobi City County Government.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the Administrative Officer at Nairobi City County Government be charged with three counts of receiving a bribe contrary to section 6 (1) *(a)* as read with section 18 of the bribery Act No. 47 of 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

25. EACC/MCKS/OPS/INQ/54B/2018

An Inquiry into Allegations of Obstruction against a Suspect In ACC 636/2020 - Republic Vs. Eldah Konzolo

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a report received on 11th April, 2021 on allegations that an accused person in Anti-corruption case no. ACC 636/2020 – R vs. Eldah Konzolo had offered KSh. 17,000/= to a witness in order to change his testimony in the stated matter which was pending trial before Mavoko law courts.

Investigations established that the suspect had compromised the witness in the said matter and indeed sent KSh. 17,000/= through Mpesa to a proxy to avoid any direct link. The money was intended to persuade the witness to change his testimony in court. It was established that the said amount was sent to one of his colleague. Investigations also established that the conduct of the accused amounted to interference with a witness with an aim to obstruct justice.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge the suspect, with the following offences;

(a) One count of giving a bribe contrary to section 5 of the Bribery Act, 2016.

(b) One count of interfering with witnesses contrary to section 117 (1) of the Penal Code Cap 63.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

26. EACC/OPS/INQ/44/2023

Inquiry into Allegations of Bribery against a Member of County Assembly, Hospital Ward, Kiambu County.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 24th May, 2023 to the effect that a Member of County Assembly, Hospital Ward, Kiambu County was requesting for a financial advantage of KSh. 130,000/- as an inducement to allow her proceed with the intended development activities on Parcel No. Thika Municipality Block 11/377.

Investigations established that county official requested that he be given a portion of land and Kshs. 200,000/= so that he could disregard an alleged Petition by members of the public against any development on the subject plot. They negotiated the amount downwards to KSh. 100,000/=.

It was established that the suspect is Public Officer by virtue of him being a Member of County Assembly (MCA), Kiambu County. He was acting in his official capacity as MCA and Chairperson of the Development Committee of the Assembly when he requested for the benefit.

The Commission established that the county official requested for a bribe of KSh. 130,000/= intending that, in consequence, the owner of the plot proceeds with her intended development on Parcel No. Thika Municipality Block 11/377.

On 15th December, 2023 a report was compiled and forwarded to the DPP with recommendations to charge him with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file and concurred with the Commission's recommendations for prosecution.

27. EACC/BGM/OPS/INQ/8/2021

Investigation into Allegations of Bribery against a Police Officer Attached to Kakamega Central Police Station.

The Ethics and Anti-Corruption Commission (EACC) commenced investigation following a complaint received on 9th December,2021 with allegations that a Police Officer attached to the DCI Kakamega Central Police Station at Kakamega County, had requested for a financial advantage of KSh. 100,000/= to give to a Magistrate stationed at Kakamega Law Courts in order to influence the outcome of an inquest proceeding at the Kakamega Magistrates Court.

Investigations established that there was an inquest under Inquest No. 3 of 2020. The inquest proceedings had concluded and pending the verdict of the Principal Magistrate. The Police Officer who was at the time the investigating officer requested for a benefit in order to compromise the said magistrate to rule in favour of the deceased.

Investigations further established that the police officer was employed at the Ministry of Interior and Co-ordination of National Government (Administration Police). The Commission established that the police officer received the bribe of KSh. 40,000/= which was recovered from him.

On 15th December, 2023, a report was compiled and forwarded to the DPP with recommendations that the police officer be charged with two counts of receiving a bribe contrary to section (6) (1) *(a)* of the Bribery Act, 2016.

On 31st January, 2024, the DPP returned the inquiry file with recommendations for further investigations.

STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Total No. of files forwarded to the Director of Public Prosecutions	27
No. of files recommended for prosecution	24
No. of files recommended for administrative or other action	0
No. of files recommended for closure	3
No. of files recommended for prosecution and the cases are already lodged before Court	-
No. of files where recommendation to prosecute accepted	7
No. of files where recommendation for administrative or other action accepted	-
No. of files where recommendation for closure accepted	3
No. of files returned for further investigations	14
No. of files where recommendation to prosecute not accepted	-
No. of files where recommendation for administrative or other action not accepted	-
No. of files where closure not accepted	-

No. of files where prosecution declined but administrative action recommended	-
No. of files awaiting the DPP's advice	3

Dated the 13th February, 2024.

DAVID OGINDE,
Chairperson.

TWALIB MBARAK,
Secretary/Chief Executive Officer.

PTG 1703/23-24

GAZETTE NOTICE No. 2090

THE KENYA INFORMATION AND COMMUNICATIONS ACT

(*No.* 2 *of* 1998)

APPLICATION FOR LICENCES

NOTICE is given that the following applicants have, pursuant to the provisions of the Kenya Information and Communications Act, 1998, made applications to the Communications Authority of Kenya for grant of the licences as shown in the Table below:

Name	*Station Identity*	*Licence Category*
Darwy Afrik Photography and Safaris Limited, P.O. Box 5572–0100, Eldoret	Assis FM	Commercial Free to Air Radio Licence
Alhaajar Investment Limited, P.O. Box 98558–80100, Mombasa	Alhaajar TV	Commercial Free to Air Television Licence
AIPCA Bahati TV and Radio Limited, P.O. Box 73053–00200, Nairobi	AIPCA Bahati TV	Commercial Free to Air Television Licence
Way of Truth Media Limited, P.O. Box 3556–00200, Nairobi	Truth Wave TV	Commercial Free to Air Television Licence
Nifty Works Plus Limited, P.O. Box 21933–00505, Nairobi	NWPLUS TV	Subscription Broadcasting Service Licence
University of Eastern Africa Baraton, P.O. Box 2500–30100, Eldoret	Baraton FM	Community Free to Air Radio Licence
Go Shipping Cargo Agency Limited, P.O. Box 4689–00100, Nairobi		International Postal/ Courier Operator Licence
Samina Senders and Logistics Limited, P.O. Box 90231–80100, Mombasa		National Postal/ Courier Operator Licence
Prime Time Meru Travellers Company, P.O. Box 415–60200, Meru		National Postal/ Courier Operator Licence
Iyanat Business Solutions, P.O. Box 30068–00100, Nairobi		National Postal/ Courier Operator Licence
Samper Cabs Limited, P.O. Box 12862–00100, Nairobi		National Postal/ Courier Operator Licence
Wekkitech Limited, P.O. Box 536–20100, Nakuru		Network Facilities Provider Tier 3 (NPF-T3)
DXA Technologies Limited, P.O. Box 79450–00200, Nairobi		Network Facilities Provider Tier 2 (NPF-T2)

The licences, if granted, will enable the applicants to operate and provide the services as indicated in the Table above. The grant of these licences may affect the public and local authorities, companies, persons or bodies of persons within the country.

The Authority wishes to notify the general public that any legal or natural person, or group of individuals, who are desirous of making any representation and/or any objection to the said applications, to do so *vide* a letter addressed to: The Director-General, Communications Authority of Kenya, CA Centre, Waiyaki Way, P.O. Box 14448–00800, Nairobi, indicating the licence category on the cover enclosing it.

The said representation and/or objection must be filed on or before expiry of thirty (30) days from the date of publication of this notice and a copy of the same be forwarded to the applicants.

Dated the 13th February, 2024.

DAVID MUGONYI,
Director-General.

PTG 1685/23-24

GAZETTE NOTICE No. 2091

THE WATER ACT, 2016

(*Sections* 70, 85, 87 *and* 139)

PUBLIC CONSULTATION MEETING ON LICENCING OF WATER SERVICE PROVIDER

THE Water Services Regulatory Board (WASREB) has received licence application from Nyeri Water and Sanitation Company Limited to provide water services within Nyeri County.

The licence application has been made pursuant to the Water Act 2016 (section 85(1)- "A person shall not provide water services except under a licence issued by the Regulatory Board, upon submission of an application and such supporting documents as the Board may require".

Therefore, in compliance to WASREB principal object under the Water Act, 2016 section 70 (1)–"protection of the interests and rights of consumers in the provision of water services", section 87(1)- "An application for a licence shall be subject to public participation" read together with the provision of section 139, we wish to advise that the public consultation meeting shall be held at the venue stated below to get stakeholders concerns on services provided, licencing conditions and proposals for services improvement going forward.

Please note that the Water Service Provider shall hold hybrid public consultation meeting (physical and virtual) as outlined below.

Water Service Provider	*County*	*Venue*		*Day Date and Time*
Nyeri Water and Sanitation Company	Nyeri	Physical meeting:	Wangari Mathai Hall, Nyeri Town	Tuesday, 5th March, 2024 10.00 a.m.
		Virtual meeting:	WSP to provide links	

Participants should be seated by 10.00 a.m. Personal identification of participants will be required. Members of the public in respective areas are invited to make oral and written submissions and ask any questions that may relate to the provision of water services in their areas.

Comments on the application shall be emailed to info@wasreb.go.ke or send in hard copy to:

The Chief Executive Officer,
Water Services Regulatory Board,
5th Floor NHIF Building,
Ngong Road,
P.O. Box 41621–00100,
Nairobi.

The closing date for receipt of comments is thirty (30) days after the publication of this notice.

Dated the 6th February, 2024.

JULIUS ITUNGA,
Ag. Chief Executive Officer,
Water Services Regulatory Board.

MR/6198975