



**REPUBLIC OF KENYA**

**12<sup>TH</sup> PARLIAMENT - FOURTH SESSION**

**COMMUNICATION FROM THE CHAIR ON APPROVAL BY THE KIRINYAGA COUNTY ASSEMBLY, OF A MOTION TO REMOVE FROM OFFICE BY IMPEACHMENT, THE GOVERNOR OF KIRINYAGA COUNTY**

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1. **Honourable Senators**, I have the following communication to make-
2. By a letter, Ref: CAK/SPK/SEN/1/001, dated 9<sup>th</sup> June, 2020 and received in the Office of the Speaker of the Senate on Wednesday, 10<sup>th</sup> June, 2020, the Speaker of the County Assembly of Kirinyaga informed the Speaker of the Senate that at a sitting of the County Assembly held on the morning of Tuesday, 9<sup>th</sup> June, 2020, the County Assembly of Kirinyaga approved a Motion, pursuant to Section 33(2) of the County Governments Act, for the removal from office, by impeachment, of Governor Anne Mumbi Waiguru, the Governor of Kirinyaga County.
3. The Speaker of the County Assembly also forwarded copies of the following documents –
  - (a) The Order Paper for the morning sitting of Tuesday, 9<sup>th</sup> June, 2020 of the Kirinyaga County Assembly;
  - (b) Notice of Motion on the proposed removal from office, by impeachment, of the Governor of Kirinyaga County, dated 8<sup>th</sup> June, 2020;
  - (c) The Roll Call Register on the Motion for the removal from office, by impeachment, of the Governor; and
  - (d) Copies of documents containing the grounds and particulars on which the proposal for impeachment was made.

**Honourable Senators,**

4. In terms of Article 181 of the Constitution, Section 33(3)(a) of the County Governments Act, 2012 and Standing Order 75(1)(a) of the Senate Standing Orders, the Speaker of the Senate is required “*within seven days after receiving notice of a resolution from the speaker of a county assembly to convene a meeting of the Senate to hear charges against the Governor.*”
5. Consequently, Honourable Senators, pursuant to Section 33(3)(b) of the County Governments Act and Standing Order 75(1)(a) of the Senate Standing Orders, I hereby proceed to read the Charges against the Governor of Kirinyaga County –

A. Gross Violation of the Constitution

The particulars cited under this ground are as follows-

- (a) Failing to deliver the annual State of the County Address to the County Assembly;
- (b) Undermining the authority of the County Assembly;
- (c) Violations under written law, including violation of the Public Procurement and Asset Disposal Act, 2015 and the Public Finance and Management Act, 2012; and
- (d) Violation of Article 201(a), (d) and (e) and Article 227(1) of the Constitution.

B. Abuse of Office and Gross Misconduct

The particulars cited under this ground are as follows-

- (a) Violation of section 46 of the Public Procurement and Asset Disposal Act, 2015;
- (b) Violation of Article 201(a), (d) and (e) and Article 227(1) of the Constitution;
- (c) Improperly conferring a benefit to herself;
- (d) Violation of the Public Finance Management Act, 2012 and the Salaries and Remuneration Commission Act, 2011; and

- (e) Violation of the right to health of the people of Kirinyaga County.

**Honourable Senators,**

6. In terms of the way forward, following the reading of the charges against the Governor, Standing Order 75(1)(b) of the Senate Standing Orders, gives the Senate two options on how to proceed with the matter. The Senate may –

- (a) by Resolution, appoint a Special Committee comprising eleven of its members to investigate the matter; or*
- (b) investigate the matter in plenary.*

7. The Senate Majority Leader shall shortly be giving Notice of a Motion for the establishment of a Special Committee. Should the Motion for the establishment of a Special Committee eventually pass, the Special Committee will be required, under Section 33(4) of the County Governments Act, and Standing Order 75(2) of the Senate Standing Orders to investigate the matter and to report to the Senate on whether it finds the particulars of the allegations against the Governor to have been substantiated.

**Honourable Senators,**

8. It is noteworthy, and I wish to emphasize to all Honourable Senators, that when we come to the debate on the Motion to establish the Special Committee, debate on the Motion shall be limited to the substance of the Motion, namely, whether or not to establish the Special Committee. It will not be a debate on the substance of the impeachment or its merits, propriety, prudence or even the constitutionality or the legality of the processes that have preceded the submission of this matter to the Senate. It is, therefore, not permissible to deviate to any matters other than the Motion before the Senate.

9. However, should the Motion for the establishment of a Special Committee not pass, the Senate shall proceed to investigate and

consider the matter in Plenary. In that event, I will appoint the dates on which the Senate will sit in Plenary to hear and dispose of the matter.

**Honourable Senators,**

10. The hearing of charges for the proposed removal from office of a Governor is one of the most important functions of the Senate under the Constitution. In undertaking this mandate, the Senate will be sitting as a quasi-judicial body and will conduct investigations into disputed claims and alleged infractions of the Constitution and the law and will thereafter, make its determination. In this regard, it shall be out of order, within the meaning of Standing Order 117, for any Senator to make comments, whether written or spoken, in relation to the conduct of the Governor or the impeachment process, outside the confines of the impeachment proceedings; as such comments may prejudice the just outcome of the process.
11. I conclude by urging all Senators to exercise the highest level of responsibility on this matter.

**RT. HON. SEN. KENNETH M. LUSAKA, EGH, MP,  
SPEAKER OF THE SENATE**

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