

Approved for tabling, ~~BA~~ SNA

28/8/18



REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT
SECOND SESSION



Paper laid on the
Table of the House
by the Chairperson,
Special Funds
Account Committee
on Wednesday
29th August 2018
(Afternoon)

**THE FIRST REPORT OF THE SPECIAL FUNDS ACCOUNT COMMITTEE
ON AUDITED FINANCIAL STATEMENTS FOR POLITICAL PARTIES FUND FOR
THE YEAR ENDED JUNE 2017**

Directorate of Committee Services
The National Assembly
Parliament Buildings
NAIROBI

AUGUST, 2018

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LIST OF ABBREVIATIONS AND ACRONYMS

CoK	-	Constitution of Kenya, 2010
EACC	-	Ethics and Anti-Corruption Commission
FY	-	Financial Year
GoK	-	Government of Kenya
MP	-	Member of Parliament
ORPP	-	Office of the Registrar of Political Parties
OAG	-	Office of the Auditor- General
PPF	-	Political Parties Fund
RPP	-	Registrar of Political Parties

CHAIRPERSON'S FOREWORD

The Special Funds Accounts Committee is amongst the three Watchdog Committees of the twelfth Parliament. The Committee was established in the fifth session of the Eleventh Parliament following the review of the National Assembly's Standing Orders. Examination of audited accounts of Political Parties Fund is amongst the mandate of the Committee as provided under the National Assembly Standing Order number 205A (b).

Article 95 (4) (c) of the Constitution of Kenya, 2010¹ outlines the roles of Parliament which includes oversight over the national revenue and its expenditure. Further, Article 229(8) provides that *"Within three months after receiving an audit report, Parliament shall debate and consider the report and take appropriate action"*. In fulfillment of these constitutional provisions, the National Assembly Standing Orders (3rd Edition)² has established three Committees which examine reports of the Auditor-General to ascertain whether public funds have been utilized in a lawful, authorized, effective, efficient, economical and transparent manner.

The Political Parties Fund was established to enhance democracy through promoting the representation in Parliament and in the county assemblies of women, persons with disabilities, youth, ethnic and other minorities and marginalized communities. This is in addition to promoting active participation by individual citizens in political life, covering the election expenses of the political party and the broadcasting of the policies of the political party.

To achieve this, revenues allocated to the Fund must be administered in an effective, efficient and transparent manner. In addition, the Fund must be allocated the requisite amounts of revenue to support well governed and managed political parties as envisaged in Article 91 and 92 of the Constitution of Kenya, 2010.

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it during consideration of the reports. The Committee further extends its appreciation to the Office of the Auditor-General and the National Treasury for the complimentary role that they continue to playing in oversight over public funds.

¹ Constitution of Kenya, 2010

² The National Assembly Standing Orders (3rd Edition)

On behalf of the Special Funds Accounts Committee, and pursuant to Standing Order 199(6), it is my pleasant duty and honour to present to this House the report of the Committee on audited financial statements of Political Parties Fund for the year ended 30th June, 2017.

HON. KATHURI MURUNGI, M.P

EXECUTIVE SUMMARY

The report of the Auditor-General on the financial statements of Political Parties Fund for the year ended June 2017 was tabled in the house on March 13, 2018 and committed to Special Funds Accounts Committee.

Examination of audited accounts of Political Parties Fund is amongst the mandate of the Committee as provided under the National Assembly Standing Order number 205A (b). This is in line Article 95 (4) (c) of the Constitution of Kenya 2010 which stipulates oversight over national revenue and its expenditure as amongst the roles of the National Assembly, which is delegated to Committees of the House.

Article 229(8) of the Constitution of Kenya 2010 provides that “*Within three months after receiving an audit report, Parliament shall debate and consider the report and take appropriate action*”. In addition, section 68(1) of the Public Finance Management Act, 2012³ states that “*An accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary shall be accountable to the National Assembly ...*”. Further, Section 23 of the Political Parties Act, 2011 states that “*There is established a Fund to be known as the Political Parties Fund, which shall be administered by the Registrar.*”

Subsequently, the Committee invited the Registrar of Political Parties who appeared before it on 3rd July, 2018 during examination of the report of the Auditor- General on financial statements of Political Parties Fund for the year ended 30th June, 2017

This report contains recommendations arising from observations and findings made by the Committee from submissions made by the Registrar of Political Parties.

The Committee observed that the Registrar of Political Parties had taken administrative actions geared towards addressing all matters raised in the report of the Auditor-General. The Committee also observed that the revenue allocated to Political Parties Fund is based on a criteria adopted by the National Treasury where out of the total revenues received and audited, allocations are first made on the Public debt, Pensions, Constitutional salaries, County Governments, Parliament, Judiciary, Constitutional Commissions and equalization fund, and the balance is used to determine allocation to the Political Parties Fund.

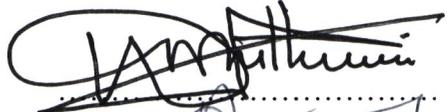
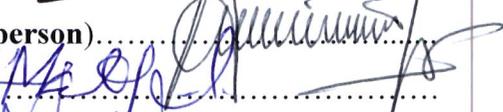
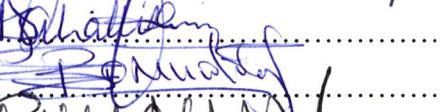
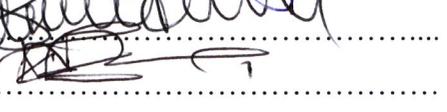
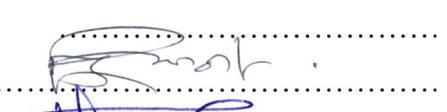
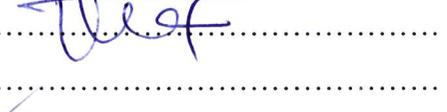
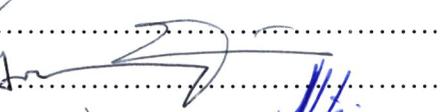
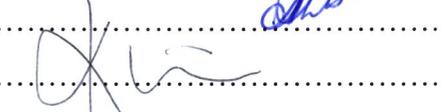
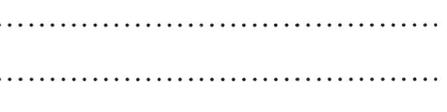
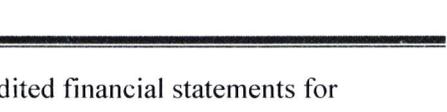
³ Public Finance Management Act, 2012

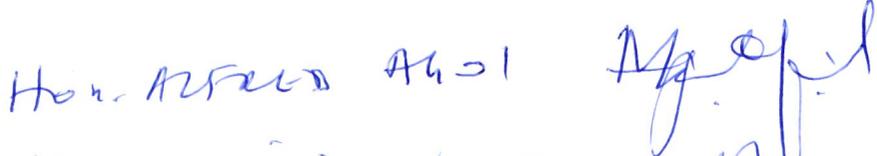
The Committee recommended that the Registrar of Political Parties ensures implementation of the Information Conformity and Disaster Recovery Plan during the financial year 2018/2019.

The Committee further recommended that the Cabinet Secretary, National Treasury and Planning comply with the provisions of section 24 (1) (a) of the Political Parties Act, 2011 that provides that sources of the Fund be *“not less than zero point three percent of the revenue collected by the national government as may be provided by Parliament”*

ADOPTION LIST

Pursuant to Standing Order 199 (2), we the undersigned Members of the Special Funds Account Committee of the National Assembly, do hereby append our signatures to adopt this Report.

- 1. Hon. Kathuri Murungi, M.P. - (Chairperson) 
- 2. Hon. William Kamuren Chepkut, M.P. - (Vice-Chairperson) 
- 3. Hon. Alfred Agoi Masadia, M.P. 
- 4. Hon. Dennitah Ghati, M.P. 
- 5. Hon. Mark Lomunokol, M.P. 
- 6. Hon. Shakeel Shabbir, M.P. 
- 7. Hon. Erastus Kivasu Nzioka, M.P. 
- 8. Hon. Esther M. Passaris, M.P. 
- 9. Hon. Geoffrey Omuse, M.P. 
- 10. Hon. Irene M. Kasalu, M.P. 
- 11. Hon. James Kamau Wamacukuru, M.P. 
- 12. Hon. Jared Okelo, M.P. 
- 13. Hon. Justus Gesito Mugali, M.P. 
- 14. Hon. Marwa Maisori Kitayama, M.P. 
- 15. Hon. Mohamed M. Ali, M.P. 
- 16. Hon. Mwambu M. Mabongah, M.P. 
- 17. Hon. Rehema Dida Jaldesa, M.P. 
- 18. Hon. Mohamed Ali Lokiru, M.P.
- 19. Hon. Abdi Koropu Tepo, M.P.

Proposed by:  Hon. Alfred Agoi Masadia

Seconded by:  Hon. William Kamuren Chepkut

1.0 PREFACE

The Special Funds Accounts Committee is amongst the three audit Committees of the twelfth Parliament. The Committee was established in the fifth session of the Eleventh Parliament following the review of the National Assembly's Standing Orders.

1.2 Mandate of the Committee

The Committee is established under the National Assembly's Standing Order number 205A to examine accounts laid before the House of the Equalization Fund, the Political Parties Fund, the Judiciary Fund, the National Government Constituencies Development Fund and such other Fund established by law as the Speaker may direct.

1.3 Committee Membership

Chairperson	Hon. Kathuri Murungi, M.P.
Vice-chairperson	Hon. William Kamuren Chepkut, M.P.
Member	Hon. Shakeel Shabbir, M.P.
	Hon. Alfred Agoi Masadia, M.P
	Hon. Dennitah Ghati, M.P.
	Hon. Erastus Kivasu Nzioka, M.P.
	Hon. Esther M. Passaris, M.P.
	Hon. Geoffrey Omuse, M.P.
	Hon. Irene M. Kasalu, M.P.
	Hon. James Kamau Wamacukuru, M.P.
	Hon. Jared Okelo, M.P.
	Hon. Justus Gesito Mugali, M.P.
	Hon. Marwa Maisori Kitayama, M.P.
	Hon. Mohamed M. Ali, M.P.
	Hon. Mwambu M. Mabongah, M.P.
	Hon. Rehema Dida Jaldesa, M.P
	Hon. Mohamed Ali Lokiru, M.P.
	Hon. Abdi Koropu Tepo, M.P.
	Hon. Mark Lomunokol, M.P

1.4 Committee Secretariat

- | | | |
|---------------------------------|---|------------------------------|
| 1. Ms. Lucy Kimathi | - | Principal Clerk Assistant II |
| 2. Ms. Ruth Mwhaki Gakuya | - | Third Clerk Assistant |
| 3. Ms. Clare Jerotich Kidombo | - | Research & Policy Analyst |
| 4. Mr. Ngetich Robert Kiprotich | - | Fiscal Analyst |
| 5. Mr. Peter Mwaura | - | Legal Counsel |
| 6. Mr. Josphat Bundotich | - | Serjeant- at- Arms |
| 7. Ms. Naserian Kaare | - | Serjeant-at- Arms |
| 8. Ms. Deborah Mupusi | - | Media Relations officer |
| 9. Mr. Ian Otieno | - | Audio-recording Officer |

2.0 INTRODUCTION

Oversight over national revenue and its expenditure is amongst the roles of the National Assembly as provided under Article 95 (4) (c) of the Constitution of Kenya, 2010. In addition, Article 229(8) provides that “*Within three months after receiving an audit report, Parliament shall debate and consider the report and take appropriate action*”. In fulfillment of these constitutional provisions, the National Assembly Standing Orders (3rd Edition) has established three audit committees that examine reports of the Auditor-General to ascertain whether public funds have been utilized in a lawful, authorized, effective, efficient, economical and transparent manner.

The Special Funds Accounts Committee is amongst the three audit Committees of the twelfth Parliament. The Committee was established in the fifth session of the Eleventh Parliament following the review of the National Assembly’s Standing Orders. Examination of audited accounts of Political Parties Fund is amongst the mandate of the Committee as provided under the National Assembly Standing Order number 205A (b).

Article 229(8) provides that “*Within three months after receiving an audit report, Parliament shall debate and consider the report and take appropriate action*”. It is on this basis that the report was of the Auditor- General on financial statements of Political Parties Fund for the year ended 30th June, 2017 was committed to the Special Funds Accounts Committee for scrutiny and thorough examination to ascertain whether public funds have been utilized in a lawful, authorized, effective, efficient, economical and transparent manner.

In addition, section 68(1) of the Public Finance Management Act, 2012⁴ states that “*An accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary shall be accountable to the National Assembly*” Further, Section 23 of the Political Parties Act, 2011 states that “*There is established a Fund to be known as the Political Parties Fund, which shall be administered by the Registrar.*” The Committee was also guided by these provisions in law to invite the Registrar of Political Parties being the accounting officer of the Political Parties Fund make submissions on key audit matters raised in the audit report.

⁴ Public Finance Management Act, 2012

2.1 Political Parties Fund

The establishment of Political Parties Fund is provided under section 23 of Political Parties Act, 2011⁵. The purpose of the Fund is to enhance democracy through promoting the representation in Parliament and in the county assemblies of women, persons with disabilities, youth, ethnic and other minorities and marginalized communities. This is in addition to promoting active participation by individual citizens in political life, covering the election expenses of the political party and the broadcasting of the policies of the political party.

Further, the fund is used for organization by the political party of civic education in democracy and other electoral processes, bringing the political party's influence to bear on the shaping of public opinion and administrative and staff expenses of the political party which shall not be more than thirty per cent of the moneys allocated to the political party.

Section 24 of the Political Parties Act, 2011 provides for sources of revenue into the Fund as *“such funds not being less than zero point three per cent of the revenue collected by the national government as may be provided by Parliament”*. This is in addition to contributions and donations to the Fund from any other lawful source. Further, section 2 of the Act provides that *“The balance of the Fund at the end of the financial year shall be retained for the purposes for which the Fund is established, subject to any law relating to public finance”*.

The Fund is administered by the Registrar of Political Parties, who also regulate the formation, registration, and funding of political parties in accordance with the Constitution and rule of law.

On sharing of funds, section 25 of the Political Parties Act, 2011 provides that 80 percent of the Fund is distributed by reference proportionately to the total number of votes secured by each political party in the preceding general election. Secondly, 15 percent is distributed proportionately to political parties based on the number of candidates of the party from special interest groups elected in the preceding general election. The balance of 5 percent is for the administration expenses of the Fund.

⁵ Political Parties Act, 2011

3.0 SUBMISSION BY THE REGISTRAR OF POLITICAL PARTIES

3.1 Introduction

This section contains submissions made by the Registrar of Political Parties had been invited by the Committee to respond to audit queries raised in the report of the Auditor-General. This is in addition to general observations arising out of additional information availed by the Registrar of Political Parties during the meeting.

Mrs. Lucy Ndung'u, the Registrar of Political Parties accompanied by Mr. Joshua Kimulu (Deputy Chief Finance Officer), Ms. Veronicah Muasya (Chief Internal Auditor) and Mr. Richard Waithaka (Senior ICT Officer) appeared before the Committee on 3rd July, 2018 to respond to audit issues contained in the report of the Auditor-General on the financial statements of Political Parties Fund for the Financial Year ended 30th June, 2017.

The Committee observed that the Auditor-General indicated in the report that during the Year under review, the Office of the Registrar of Political parties Information Conformity and Disaster recovery Plan and back-ups were not kept off-site as required. Further, there was no IT Strategic or Steering Committee and no formally documented and approved use of management standards and procedures. In addition, there was no formal process to review user access rights.

3.2 Submission by the Registrar of Political Parties on the report of the Auditor-General on the financial statements of Political Parties Fund for the financial year ended 30th June, 2017

The Registrar of Political Parties submitted that on Information Conformity and Disaster recovery plan offsite Backups:

- (i) It is true that the ORPP Information Conformity and Disaster Recovery Plan and Back-ups were kept off-site. This issue was deliberated by the Audit Committee on 14th December, 2017 who recommended the IT issues to be addresses by the ORPP management. In the Management meeting held on 9th February, 2018, it was recommended that the activity be factored in the FY 2018/2019 work plan and procurement plan for ORPP.
- (ii) In the FY 2018/19, Government consolidated the Information and Communication Technology (ICT) budget under the Ministry of ICT. In line with the Ministry of ICT Circular Ref: MICT/CONF/18/30/(A)/(23) dated 13th June, 2018, ORPP developed and

forwarded Terms of Reference for procurement of off-site backup data and records (Annex 6 &7).

On Strategic or Steering Committee, the Registrar of Political Parties further submitted that:

- (i) At the time of the Audit, ORPP did not have a stand-alone IT Strategic or Steering Committee. The Office has a Committee named Human Resource, Administration and IT which deliberated on human resource, administration and ICT matters. Following the audit, the Office established an IT steering committee which is operational and has deliberated on ORPP strategic ICT matters.
- (ii) The IT Steering Committee has formally documented ORPP IT management standards and procedures and the same has been approved. In addition, the Office has formalized the process of user rights which are documented and communicated to the staff.
- (iii) The Office has also developed a Disaster Recovery Plan and Information and Communications Technology (ICT), Policy which covered standards, procedures and user controls to be adhered to in performing day to day operations. Attached are the appointment letters, committee minutes, disaster recovery plan and Information Communications Technology (ICT) Policy.

Committee observation

The Committee observed that the Registrar of Political Parties had taken administrative measures to address the audit matters raised by the Auditor-General on the financial statements of Political Parties Fund for the financial year ended 30th June, 2017 satisfactorily.

Committee recommendation

The Committee recommends that the Registrar of Political Parties ensures implementation of the Information Conformity and Disaster Recovery Plan during the financial year 2018/2019.

3.3 Additional submission by the Registrar of Political Parties

The Committee also engaged the Registrar of Political Parties on the funding of the Political Parties Fund who submitted that:

1. In line with Section 81(1) and (4) of the Public Finance Management Act, 2012, the Office of the Registrar of Political Parties prepared and submitted financial statements of the Political Parties Fund for the year ended 30th June, 2017 to the Auditor –General and no key Audit Matter was raised;
2. Section 24 (1) (a) of Political Parties Act requires the sources of the Fund *be “not less than zero point three percent of the revenue collected by the national government as may be provided by Parliament”* The Political Parties Fund is allocated funds through the Governance, Justice, Law and Order Sector (GJLOS) where the Office of the Registrar of Political Parties falls in the budgetary process;
3. The National Treasury had allocated allocated Kshs. 2,045.28 million (Ksh. 2.04B) over the period FY2013/2014 – 2018/2019;
4. The Office of the Registrar of Political Parties had engaged the National Treasury on the issue on non-allocation of the stipulated 0.3 percent of the national revenue to the PPF. It has informed the National Treasury that the issue is a challenge and there was need for it to be addressed.
5. The Office of the Registrar of Political Parties appeared before the Departmental Committee on Justice and Legal Affairs on 20th February, 2018 to defend the Financial Year 2018/19 budgetary allocation among other issues. The office informed the committee that the GJLOS budget ceiling could not accommodate the amount requested for the Political Parties Fund, and requested the committee for the National Assembly to consider allocating the Political Parties Fund from the Consolidated Fund.
6. Over the Financial Years 2013/14 to 2017/18, the funds allocated to the PPF were distributed to the qualifying political parties as indicated in tables 1-5;

Table 1: Distribution of Financial Year 2013/14 Political Parties Fund

S/No.	Party Name	Kshs.	Percentage
1.	The National Alliance (TNA)	88,834,394.40	43.29
2.	Orange Democratic Movement (ODM)	78,080,095.20	38.05
3.	United Republican Party (URP)	28,025,510.40	13.66
4.	Administration of the Fund	10,260,000.00	5
Total		205,200,000.00	100

Source: Office of the Registrar of Political Parties

Table 2: Distribution of FY 2014/2015 Political Parties Fund

S/No.	Political Party	Kshs.	Percentage
1.	The National Alliance (TNA)	155,849,814.60	43.29
2.	Orange Democratic Movement (ODM)	136,982,623.20	38.05
3.	United Republican Party (URP)	49,167,562.20	13.66
4.	Administration of the Fund	18,000,000.00	5
Total		360,000,000.00	100

Source: Office of the Registrar of Political Parties

Table 3: Distribution of FY 2015/2016 Political Parties Funds

S/No.	Political Party	Total Kshs.	Percentage
1.	The National Alliance (TNA)	158,979,845.00	43.30
2.	Orange Democratic Movement (ODM)	139,647,018.00	38.03
3.	United Republican Party (URP)	50,213,137.00	13.67
4.	Administration of the Fund	18,360,000.00	5
Total		367,200,000.00	100

Source: Office of the Registrar of Political Parties

Table 4: Distribution of FY 2016/2017 Political Parties Fund

S/No.	Party Name	Total Kshs.	Percentage
1.	The National Alliance (TNA)	149,396,786.95	40.32
2.	Orange Democratic Movement (ODM)	131,310,799.51	35.44
3.	United Republican Party (URP)	47,131,758.38	12.72
4.	Wiper Democratic Movement- Kenya(WIPER-K)	24,140,215.16	6.52
5.	5 % for Administration of PPF	18,525,240.00	5
Total		370,504,800.00	100

Source: Office of the Registrar of Political Parties

Table 5: Distribution of FY 2017/2018 Political Parties Fund

S/No.	Party Name	Total Kshs.	Percentage
1.	Jubilee Party (JP)	240,374,863	64.76
2.	Orange Democratic Movement (ODM)	112,255,637	30.24
3.	Administration	18,559,500	5
Total		371,190,000	100

Source: Office of the Registrar of Political Parties

7. The funds were distributed to the qualifying political parties as per the Political Parties Act. As per the Act, only political parties qualify for the Fund, though, political parties in a coalition can deposit a coalition agreement with the Office of the Registrar of Political Parties stating how they will share the funds. This indicates that political parties in coalitions can only share funds based on their coalition agreements in reference to the performance of each party in the election;
8. The Orange Democratic Movement Party (ODM) filed a Judicial Review Application against the National Treasury, the National Assembly and Registrar of Political Parties seeking payment of Funds due to the party for three financial years using the statutory allocation provision of 0.3 percent of the national revenue;
9. ODM sought for orders of mandamus to compel the National Treasury, Cabinet Secretary National Treasury, the National Assembly and the Registrar of Political Parties to forthwith, allocate, appropriate and disburse the amounts lawfully due to the Orange Democratic Party not being less than 40 percent of the 95 percent of the 0.3 percent of the total revenue collected by the national government during the period 2012- 2016.
10. It was submitted that the National Assembly is responsible for allocation and appropriation of funds and must demonstrate that they have performed their duty. That under Article 206 of the Constitution, the Government cannot draw money from the Consolidated Fund unless Parliament appropriates it and that only parliament can authorize withdrawal of money
11. A citation of the *Political Parties Forum Coalition & 3 Others Vs- Registrar Of Political Parties and 8 Others* (Supra) the Court of Appeal stated: "***A literal reading of Section 24 (1) of the Political Parties Act clearly demonstrates that the funds allocated to the political parties fund shall not be less than 0.3% of the Revenue collected by national government.***"

This Section envisages that Parliament may allocate additional funds to the Political Parties Fund but a minimum ceiling of 0.3 % has been enacted. The money to be appropriated and allocated to the Political Parties Fund is done by Parliament. It is our considered view that the Registrar of Political Parties has no constitutional or statutory duty to allocate and appropriate Funds to the Political Parties Fund”.

12. The Judge in her determination indicated that representative democracy cannot function effectively without strong and healthy Political parties. Therefore, Political parties should not be starved of that much needed revenue which accrues to them by fiat of the Constitution and its implementing legislation.

13. The Final Orders issued by the Hon. Judge on 31st October, 2017 were inter alia as follows:-

(a) That Judicial Review order of mandamus be and is hereby issued compelling the National Assembly to comply with the provisions of section 24 of the political parties Act, namely to allocate and appropriate not less than 0.3 percent of the National government revenue collected to the Political Parties Fund for administration by the Office of the Registrar of Political Parties for disbursement to the qualifying political parties in accordance with the legally established formula under the Political Parties Act, 2011.

(b) That the Cabinet Secretary of the National Treasury is hereby ordered to ensure that in each financial year, the National Treasury shall make budgetary proposals and estimates that reflect the allocation of not less than 0.3 percent of the National Revenue collected to be due to the Political Parties Fund for appropriation and disbursement in accordance with the established formula under the Political Parties Act, 2011.

(c) That the judgment and orders shall take effect from the 2018/2019 Financial Year.

14. *The matter is still on going in Court following an appeal by the applicant challenging the effective date (2018/2019 Financial Year) of the said orders.*

3.4 Allocation criteria by the National treasury

The Committee further sought further information on the criterion used by the National Treasury to allocate revenues to Political Parties Fund. The National treasury vide letter Ref. CONF/MOF/360/02(5) dated 7th August, 2018 which was addressed to the Registrar of Political Parties indicated the rationale of the budgetary allocations to Political Parties as indicated in the table below:

Table 6: Constitutional Obligations that must be met before application of any statutory requirement (Ksh. Million)

Item description	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Total Revenues Received and Audited	776.9	776.9	776.9	935.6	935.6	935.6
Article 203: National Interest						
(i) Public debt						
(ii) Pensions, Constitutional salaries						
(iii) County Governments						
(iv) Parliament						
(v) Judiciary						
(vi) Constitutional Commissions						
Article 204- Equalization Fund	3.4	3.4	3.4	6.0	6.0	7.7
Total Expenditure	733.5	845.6	733.3	803.2	912.1	1,105.0
Net Balance	43.4	(68.7)	43.6	132.4	23.4	(169.4)
0.3% of the Net Balance to be allocated to Political Parties Fund	1.3	(2.1)	1.3	4.0	0.7	(5.1)

Source: Office of the Principal Secretary, the National Treasury

Committee observation

The Committee observed that whilst section 24 of the Political Parties Act, 2011 provides for sources of revenue into the Political Parties Fund as “such funds not being less than zero point three per cent of the revenue collected by the national government as may be provided by Parliament”, the National treasury allocates net balance of revenues after allocations are made to Public debt, Pensions, Constitutional salaries, County Governments, Parliament, Judiciary, Constitutional Commissions and equalization fund and the balance is used to determine allocation to the Political Parties Fund.

Committee recommendation

The Committee recommends that the Cabinet Secretary, National Treasury and Planning complies with the provisions of section 24 (1) (a) of the Political Parties Act, 2011 that provides that sources of the Fund be “not less than zero point three percent of the revenue collected by the national government as may be provided by Parliament”.

4.0 RECOMMENDATIONS

The Committee made the following recommendations from submissions received by the Registrar of Political Parties on the report of the Auditor-General and other additional information on funding of the Political Parties Fund:

4.1 THAT the Registrar of Political Parties ensures implementation of the Information Conformity and Disaster Recovery Plan during the financial year 2018/2019; and

4.2 THAT the Cabinet Secretary, National Treasury and Planning complies with the provisions of section 24 (1) (a) of the Political Parties Act, 2011 that provides that sources of the Political Parties Fund be *“not less than zero point three percent of the revenue collected by the national government as may be provided by Parliament”*.

Signed:



Date:

28/08/2018.

HON. KATHURI MURUNGI, MP

CHAIRPERSON, SPECIAL FUNDS ACCOUNTS COMMITTEE



MINUTES OF THE 40TH SITTING OF THE SPECIAL FUNDS ACCOUNTS COMMITTEE HELD ON TUESDAY 3RD JULY 2018, IN THE COMMITTEE ROOM 12, MAIN PARLIAMENT BUILDINGS, AT 9.00 A.M.

PRESENT

1. Hon. Kathuri Murungi, M.P. - **Chairperson**
2. Hon. William Chirchir Chepkut, M.P. - **Vice- Chairperson**
3. Hon. Alfred Agoi Masadia, M.P.
4. Hon. Justus Gesito Mugali, M.P.
5. Hon. Shakeel Shabbir Ahmed, M.P.
6. Hon. Geoffrey Omuse, M.P.
7. Hon. Erastus Kivasu Nzioka, M.P.
8. Hon. Irene Kasalu, M.P.
9. Hon. Mwambu M. Mabongah, M.P.
10. Hon. Marwa Kitayama Maisori, M.P.

APOLOGIES

1. Hon. Mark Lomunokol, M.P.
2. Hon. Dennitah Ghati, M.P.
3. Hon. Esther M. R. Passaris, M.P.
4. Hon. James G.K Wamacukuru, M.P.
5. Hon. Jared Okelo, M.P.
6. Hon. Mohamed Ali, M.P.
7. Hon. Mohamed Ali Lokiru, M.P.
8. Hon. Abdi Koropu Tepo, M.P.
9. Hon. Rehema Dida Jaldesa, M.

IN- ATTENDANCE

NATIONAL TREASURY

1. Mr. Geoffrey Mwitari - Assistant Accountant General/Liason Officer
2. Rev. Kimathi Kwiriga - Assistant Accountant General

OFFICE OF THE AUDITOR GENERAL

3. Mr. Francis N. Kabui - Manager, Audit/Liason Officer
4. Mr. Kennedy M. Mwaniki - Manager, Audit

OFFICE OF THE REGISTRAR OF POLITICAL PARTIES

1. Mrs. Lucy Ndung'u - Registrar of Political Parties
2. Mr. Joshua Kimuhu - Deputy Chief Finance Officer
3. Ms. Veronicah Muasya - Chief Internal Auditor
4. Mr. Richard Waithaka - Senior ICT Officer

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Lucy Kimathi - Senior Clerk Assistant
2. Ms. Ruth Mwhaki - Third Clerk Assistant.

3. Mr. Robert Ngetich - Fiscal analyst
4. Mr. Ian Otieno - Audio Recording
5. Ms. Naserian Eva Kaare - Serjeant At Arms
6. Mr. Meshack Mutali - Office Assistant

MIN.NO. NA/ SFAC/2018/175: PRELIMINARIES

The Chairman called the meeting to order at 9.30 a. m and a prayer was said. He thereafter invited those present to introduce themselves.

MIN.NO. NA/ SFAC/2018/176: CONFIRMATION OF MINUTES

Minutes of the 38th sitting held on Tuesday 26th June 2018 at 9.00 am were confirmed as a true record of proceedings of that day and proposed by Hon. Irene Kasalu, M.P and seconded by Hon. Alfred Agoi, M.P.

Minutes of the 39th sitting held on Thursday 28th June 2018 at 10.00 am were confirmed as a true record of proceedings of that day and proposed by Hon. Alfred Agoi, M.P and seconded by Hon. Irene Kasalu, M.P.

MIN.NO. NA/ SFAC/2018/177: MATTERS ARISING

Under Min No. NA/ SFAC/2018/168

1. Members were informed that the Committee had been advised to reschedule the retreat due to the challenges of getting finances for the activity at the close and beginning of the financial year. The report writing retreat was therefore rescheduled to 22nd to 27th July 2018.

Other activities were rescheduled as follows: Nyeri County Constituencies, 5th to 10th August, 2018, Meeting with the Youth Fund and Commodities Fund 16,17th - 18th, and 19th August 2018.

MIN.NO. NA/ SFAC/2018/178: CONSIDERATION AND ADOPTION OF THE REPORT ON THE 3RD ANNUAL ICPAK CHAPTER SEMINAR HELD IN MAY 8 – 12, 2018 IN JOHANNESBURG SOUTH AFRICA

The report was adopted having been proposed and seconded by the Hon. Erastus Kivasu Nzioka, M.P. and Hon. Irene Kasalu, M.P respectively.

MIN.NO. NA/ SFAC/2018/179: CONSIDERATION AND ADOPTION OF THE COMMITTEE HALF YEAR REPORT

The report was adopted having been proposed and seconded by the Hon. Marwa Kemero, M.P. and Hon. Erastus Kivasu Nzioka, M.P respectively.

MIN.NO. NA/ SFAC/2018/ 180: MEETING WITH THE REGISTRAR OF POLITICAL PARTIES ON THE AUDITED REPORT OF THE POLITICAL PARTIES FUND FOR THE PERIOD ENDED 30TH JUNE 2017.

Ms. Lucy Ndung'u, Registrar of Political Parties, appeared before the Committee and submitted as follows:

1. The Constitution under Articles 91 and 92 envisage a well governed and a managed political party in Kenya. It recognises political parties as important governance institutions in the promotion of democracy.
2. All registered political parties are therefore required to be of national character, promote and uphold national unity, abide by the democratic principles of good governance, promote and practice democracy.
3. The Constitution further provides for the establishment and management of political parties fund accounts and audit of political parties.
4. To operationalise the constitutional provisions, Parliament enacted the Political Parties Act, 2011 which establishes the Office of the Registrar of Political Parties (ORPP) as a state office within the meaning of Article 260. The Act provides statutory provisions for the establishment and management of political parties fund administered by the Registrar.
5. Section 24 of the Political Parties Fund Act, 2011 stipulates that the Political Parties Fund shall receive "such funds not less than zero point three percent of the revenue collected by the National government as may be approved by Parliament. In the 2016/2017 financial year, the fund was allocated a budget of Kshs. 370.5 Million. These being disbursement to political parties' ad 5 % fund administration expenses. This allocation was below the anticipated 2.6 billion being 0.3 % of the revenue collected by the National government.
6. Only registered Political Parties which meet the requirements set out in law qualify for funding. That is, amongst others, the party must have a national outlook with 1,000 members registered in 24 counties across the Country. Independent candidates are not entitled to funding
7. The Fund had requisitioned for Kshs. 3.559 bn in the 2017/2018 but was allocated Kshs. 371.19 million which is 0.031%. The office has appeared before the Justice and legal Affairs Committee of the National Assembly during budget hearings and made submissions on its requirements.
8. The Orange Democratic Movement (ODM) sued the Registrar of Political Parties and the National Assembly requiring the allocation provision to be obeyed. The Court ruled in favour though the National treasury is yet to implement.
9. On the cumulative amounts owed to the fund since its creation in 2011, the matter is still in court. A hearing date has been set for August 2018. Cumulative amounts pending between 2013/2014 to 2017/2018 Financial year's amount to Ksh. 14.0354 billion.
10. The ORPP does not accumulate funds and disburses to political parties' immediately. The distribution criterion however keeps changing. Distribution is only to registered political parties. The fund was allocated Kshs. 370 million in the 2016/2017 FY. Parties that qualified for funds in the 2016/2017 financial years as follows:
 - TNA- 149.3 million
 - ODM - 131.3
 - URP - 47.1
 - Wiper - 24.1
 - Administrative Costs - 5%While only two parties qualified for funds in the 2017/2018 financial years as follows:
 - ODM - 112.255 million - 30.24%
 - Jubilee - 240.374 million - 64%
 - Administrative - 5%

11. The fund has been allocated Kshs 371 million in the 2018/2019 FY which will be distributed amongst Jubilee ,ODM and administrative costs, distributed in the following percentages 64%, 30.24 and 5% respectively.
12. Political Parties who received funds are supposed to forward their accounts to the Auditor general for audit. Only two parties, Jubilee and ODM received funding in the FY 2017/2018.
13. Administrative costs are spent on training, public sensitizations, capacity building of political parties, building partnerships amongst others. However due to inadequate funding, the office is operating below its optimal staffing level.
14. The ORPP has opened regional offices which are already operational IN Kisumu, Mombasa, Uasin Gishu, Isiolo, Kitui, Nakuru and Nyeri. The Garissa office is proposed to be opened in the current financial year. The office requires 47 county offices but cannot be able to open them due to unavailability of funds.
15. In line with section 81 (1) and (4) of the PFM Act ,2012, the ORPP prepared and submitted financial statements of the Political Parties Fund for the year ended 30th June 2017 to the Auditor General. There were no key audit matters raised.
16. On the paragraph on Other matter- Information and technology systems, the matter was reported as resolved.

COMMITTEE OBSERVATION

The Committee observed that whilst the law provides that 0.3 % of the National revenue should be allocated th the Political Parties Fund, the fund has been underfunded since inception with cumulative figures owing to the fund running to approximately Kshs.14,0354 billion from the 2013/2014 to the 2018/2019 Financial years. This underfunding further affects allocations to registered political Parties.

The Committee resolved that the Registrar of Political Parties should present a status reports of allocations to Political Parties including cumulative funds owed to the parties since the 2013/2014 to the 2018/2019 Financial years by Tuesday 10th July 2018.

And that the National Treasury representative in the meeting to report back on the status of funds owed to the Political Parties Fund by the National Treasury by Tuesday 10th July 2018.

The Committee further observed the manner of reporting in the audit report which failed to capture the issue of underfunding of the Political Parties Fund in other matters.

The Committee recommends that the same be captured in the next reporting cycle.

MIN.NO. NA/ SFAC/2018/181: ADJOURNMENT

There being no other business the meeting was ended at 12:10 p. m.

SIGNED: 

**HON. KATHURI MURUNGI, M.P
CHAIRPERSON**

DATE: 

**MINUTES OF THE 49TH SITTING OF THE SPECIAL FUNDS ACCOUNT COMMITTEE
HELD ON THURSDAY 23RD AUGUST 2018, IN THE COMMITTEE ROOM 12, MAIN
PARLIAMENT BUILDINGS, AT 10.00 A.M.**

PRESENT

1. Hon. Kathuri Murungi, M.P. - Chairperson
2. Hon. William Chirchir Chepkut, M.P. - Vice Chairperson
3. Hon. Erastus Kivasu Nzioka, M.P.
4. Hon. Geoffrey Omuse, M.P.
5. Hon. Shakeel Shabbir Ahmed, M.P.
6. Hon. Justus Gesito Mugali, M.P.
7. Hon. Mohamed Ali, M.P.

ABSENT WITH APOLOGIES

1. Hon. Esther M. R. Passaris, M.P.
2. Hon. Dennitah Ghata, M.P.
3. Hon. Irene Kasalu, M.P.
4. Hon. Jared Okelo, M.P.
5. Hon. Mwambu M. Mabongah, M.P.
6. Hon. Alfred Agoi Masadia, M.P.
7. Hon. Rehema Dida Jaldesa, M.P.

ABSENT WITHOUT APOLOGIES

1. Hon. Abdi Koropu Tepo, M.P.
2. Hon. James G.K Wamacukuru, M.P.
3. Hon. Mohamed Ali Lokiru, M.P.
4. Hon. Marwa Kitayama Maisori, M.P.
5. Hon. Mark Lomunokol, M.P.

IN- ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Lucy Kimathi - Principal Clerk Assistant II
2. Ms. Hellen Ekadeli - Second Clerk Assistant
3. Mr. Robert Ng'etich - Fiscal Analyst
4. Mr. Ian Otieno - Audio Recorder
5. Mr. Josephat Bundotich - SAA

NATIONAL TREASURY

1. Mr. Geoffrey K. Mwitari - Assistant Accountant General

UWEZO FUND OVERSIGHT BOARD

1. Mr. Joseph Kirubi - Ag. Head of Secretariat
2. Mr. Peter Lengapiani - Head of Programmes
3. Dr. Annie Njau - Programme Officer
4. Ms. Polline Githinji - Accountant



MIN.NO. NA/ SFAC/2018/222: PRELIMINARIES

The Chairman called the meeting to order at 10.15 a.m. and Hon. Erastus Kivasu, M.P led in prayer. The agenda of the meeting was adopted having been proposed and seconded by Hon. Erastus Kivasu, M.P and Hon. Geoffrey Omuse, M.P respectively.

The agenda included:-

1. The confirmation of pending minutes;
2. The review and adoption of report of the Political Parties Fund;
3. Meeting with Chief Executive Officer, Uwezo Fund Oversight Board during consideration of their audited financial statements; and
4. Any Other Business.

MIN.NO. NA/ SFAC/2018/ 223: CONFIRMATION OF MINUTES

The minutes of the 48th Sitting were deferred to the next meeting and therefore there were no matters arising.

MIN.NO. NA/ SFAC/2018/ 224: REPORT ON AUDITED FINANCIAL STATEMENTS FOR POLITICAL PARTIES FUND FOR YEAR ENDED JUNE 2017

The Committee scrutinized the final draft of the report and satisfactorily observed that whilst section 24 of the Political Parties Act, 2011 provides sources of revenue into the Political Parties Fund as "*such funds not being less than zero point three per cent of the revenue collected by the national government as may be provided by Parliament*", the National Treasury allocates net balance of revenues after allocations are made to Public Debt, Pensions, Constitutional salaries, County Governments, Parliaments, Judiciary, Constitutional Commissions and Equalization Fund and the balance is used to determine allocation to the Political Parties Fund.

Further, the Committee made the following recommendations based on the submissions received by the Registrar of Political Parties on the report of the Auditor General and other additional information on funding of the Political Parties Fund that the Registrar of Political Parties ensures implementation of the Information Conformity and Disaster Recovery Plan during the financial year 2018/2019 and the Cabinet Secretary, National Treasury and Planning complies with the provision of section 24 (1) (a) of the Political Parties Act, 2011 that provides that sources of the Political Parties Fund be "*not less than zero point three per cent of the revenue collected by the national government as may be provided by Parliament*".

The Committee resolved to adopt the report in the next meeting in preparation for tabling in the House on Tuesday, 28th August 2018.

MIN.NO. NA/ SFAC/2018/ 225: MEETING WITH CEO, UWEZO FUND OVERSIGHT BOARD

Mr. Joseph Kirubu, Ag. Head of Uwezo Secretariat, informed the Committee that Uwezo Fund was started in 2014/2015 financial year with the aim of empowering women, youth and people

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living with disabilities to initiative economic projects. It is an interest free revolving fund with no collateral demands and that the fund monies have been distributed to the 290 constituencies.

The Committee noted that the CEO's mandate is to carry out operational duties of the fund and authorized to incur expenditure. In response to his capacity to answer the audit queries before the Committee, Mr. Joseph Kirubi informed the Committee that the responsibility rests with the Principal Secretary as the Accounting Officer. The Public Finance Management (Uwezo Fund) Regulations, 2014 in Article 5 (2) (c) "*the Principal Secretary in the Ministry for the time being responsible for matters relating to finance*".

Further, he informed the Committee that the operations of the fund at the Constituencies level have been non-functional due to non-existent Uwezo Fund Management Committees. The Committee noted that 106 Constituencies Management Committees have been gazetted, while 151 await gazettement and 169 Constituencies have not submitted the names of their committee management members.

Observations

The Committee observed that Uwezo Fund Management at the Constituencies:

1. Experiences shortage of staff.
2. Inadequate flow of information from the Head Office to the Patrons of the Fund and the Constituents.
3. Lack of structured mechanisms of loan recovery.

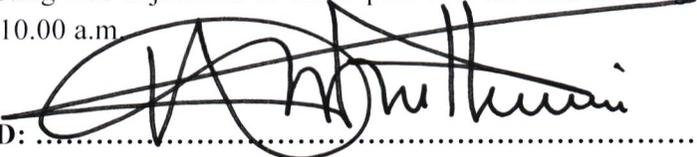
Resolutions

The Committee resolved that the Uwezo Fund Oversight Board should:

1. Write a circular to all gazetted constituencies and instruct formally the Youth Officers managing the CDF offices to inaugurate and operationalize the activities of Uwezo Fund.
2. Expedite the gazettement of 106 Constituencies Committee Members with the office of the Attorney General.
3. The Uwezo Fund Secretariat to assign Loan Recovery officers to Counties to follow up on loan repayment.
4. Train and sensitize the public on the objectives of the Uwezo fund and the clarity of prompt repayment.
5. Disburse the monies meant for administrative support to all Constituencies.
6. The Principal Secretary to appear before the Committee to answer the audit queries.

MIN.NO. NA/ SFAC/2018/226: ADJOURNMENT

The meeting was adjourned at 12:40 p.m. and the next meeting will be on Tuesday, 28th August 2018 at 10.00 a.m.

SIGNED: 

HON. KATHURI MURUNGI, M.P
CHAIRPERSON

DATE: 

