

SPECIAL ISSUE



THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

(Registered as a Newspaper at the G.P.O.)

Vol. CXXV—No. 46

NAIROBI, 1st March, 2023

Price Sh. 60

GAZETTE NOTICE No. 2642

THE CONSTITUTION OF KENYA

IN THE MATTER OF A TRIBUNAL APPOINTED PURSUANT TO ARTICLE 251 OF THE CONSTITUTION

WHEREAS the Head of State and Government is in receipt of the Report of the Tribunal appointed *vide* Kenya Gazette Notice No. 14890 of 2022, to consider the petition for the removal of: Juliana Whonge Cherera; Francis Mathenge Wanderi; Irene Cherop Masit; and Justus Abonyo Nyang'aya from office as Members of the Independent Electoral and Boundaries Commission (IEBC) and to inquire into the allegations therein;

WHEREAS that Tribunal was appointed upon the recommendation of the National Assembly pursuant to Article 251 (3) of the Constitution, with the August House having been satisfied that the grounds for removal of a Member of a Constitutional Commission had been *prima facie* satisfied per Article 251 (1) of the Constitution;

WHEREAS subsequent to the appointment of the Tribunal, Juliana Whonge Cherera, Francis Mathenge Wanderi, and Justus Abonyo Nyang'aya tendered their resignations from Office through letters of resignation addressed to the Head of State and Government as required by law;

WHEREAS the Tribunal was tasked to investigate the matter expeditiously, report on the facts, and make a binding recommendation to the President;

WHEREAS the Tribunal having considered all the evidence tendered found that the allegations on serious violations of the Constitution and statute law and the allegations of gross misconduct contrary to the Constitution, the Independent Electoral and Boundaries Commission Act, No. 9 of 2011, the Leadership and Integrity Act, No. 19 of 2012 and the Public Officer Ethics Act, No. 4 of 2003 had been proved to the required standard as against Irene Cherop Masit;

WHEREAS the Tribunal has consequently recommended to the President the removal of Irene Cherop Masit from Office as a Member of the IEBC; and

WHEREAS Article 251 (6) of the Constitution requires that upon receiving the Report of the Tribunal, the President shall act in accordance with the recommendation of the Report within (30) thirty days.

NOW THEREFORE, and having considered the said Report together with its annexures, I note as follows:

1. THAT the recommendations of the Tribunal are binding on the Head of State and Government;
2. THAT before making its recommendation, the Tribunal is required to make a finding as to whether sufficient and justifiable grounds exist for the removal from Office of a Member of a Constitutional Commission;
3. THAT due to the gravity and import of such a decision, the law sets an extraordinarily high threshold to be met;
4. THAT the law requires that the impugned conduct of the Member of the Constitutional Commission be so egregious and the circumstances surrounding their conduct so grave that the only cause of action is the termination of their tenure as a State Officer; and
5. THAT the litany of gross violations of the Constitution by Irene Cherop Masit as enumerated in the Report of the Tribunal meet the required threshold for the removal from office of the subject State Officer.

REASONS WHEREFORE, I, William Samoei Ruto, President and Commander-in-Chief of the Kenya Defence Forces in exercise of the authority vested by Article 251 (6) of the Constitution do hereby direct that:

The appointment and tenure in office of Irene Cherop Masit as a Member of the Independent Electoral and Boundaries Commission be and is terminated with immediate effect.

Dated the 1st March, 2023.

WILLIAM SAMOEI RUTO,
President.

GAZETTE NOTICE No. 2643

THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION ACT

(No. 9 of 2011)

DECLARATION OF A VACANCY

IN EXERCISE of the powers conferred by section 7A (1) (C) of the Independent Electoral and Boundaries Commission Act, 2011, I,

William Samoei Ruto, President and Commander-in-Chief of the Kenya Defence Forces, declare a vacancy in the position of the sixth member of the Independent Electoral and Boundaries Commission.

Dated the 1st March, 2023.

WILLIAM SAMOEI RUTO,
President.