



**CHAIRMAN'S REMARKS ON ELECTION PREPARADNESS AT BOMAS OF KENYA  
ON MAY 30<sup>th</sup> 2022**

*Representatives of Media Houses Present,*

*Members of the Public,*

Good Afternoon,

I wish to welcome you to this Media conference.

The Commission is currently undertaking the registration of candidates for 9<sup>th</sup> August General election. The exercise is being overseen by Returning Officers assisted by their deputies.

The registration is in respect of the six elective state offices. The end product of the exercise is that candidates, who will be participating in the 9<sup>th</sup> August 2022 General election will be known. Consequently, they will be gazetted. Therefore, the commission wishes to state as following:-

**1. RESOLUTION OF DISPUTES ARISING FROM REGISTRATION OF  
CANDIDATES**

The Constitution of Kenya, 2010 confers upon the Independent Electoral and Boundaries Commission constitutional power to settle electoral disputes including disputes relating to or arising from nomination but excluding election petitions and disputes subsequent to the declaration of election results.

Section 74 of the Elections Act, 2011 that speaks to the same function is a mirror of the said Article 88 (4) (e) of the Constitution. As a result of this exercise, If a person is dissatisfied with the decision of the Returning

Officer on the registration of a particular candidate or a rejection of an aspirant to be so registered, he/she is at liberty to lodge a complaint/dispute with the Commission's Dispute Resolution Committee (DRC).

The Committee in exercise of quasi-judicial power will sit at the Milimani Law Courts from 9<sup>th</sup> to 19<sup>th</sup> June 2022. The Commission has already shared the complaint form on its website.

A disputant aggrieved by the decision of any Returning Officer is advised to print and populate it with relevant details of the complaint and submit a hard copy to the Commission legal registry situated on the 7<sup>th</sup> Floor, Anniversary Towers within twenty-four (24) hours of the Occurrence of the dispute.

The Commission wishes to advise that it will not hear any dispute arising from the political parties' nominations (popularly known as primaries) but only those arising from registration of candidates done by the Commission.

In discharging this mandate, the Commission commits to be fair by conducting expeditious, efficient and lawful hearings and rendering reasonable and procedurally fair determination

## **2. ENFORCEMENT OF THE ELECTORAL CODE OF CONDUCT**

The Constitution of Kenya, 2010 confers upon the Commission, a mandate to develop a code of conduct for candidates and political parties contesting elections.

Article 84 of the Constitution places a constitutional obligation on all candidates and political parties by requiring them to comply with the code of conduct prescribed by the Commission.

The Electoral Code of Conduct is found in the second schedule of the Elections Act, 2011 and binds every political party, leaders and members of the political parties, all candidates, agents and supporters of both political parties and candidates. It also binds the Government. Therefore, the application of the Electoral Code of Conduct is broad and covers the entire spectrum of the elections. Essentially, all actors in elections are bound by the code and are subject to its application.

As the Commission undertakes the registration of candidates for election, all candidates are required to execute and abide by the Electoral Code of Conduct. Any candidate or political party who attempts to participate in an election without subscribing to the Code of Conduct commits an offence under the Election Offences Act, 2016 and is liable on conviction to a fine not exceeding one million shillings or imprisonment for a term not exceeding six years or to both imprisonment and fine.

In addition, the Code prescribes penalties and sanctions that may be meted out in the event of breach. They range from a formal writing, suspension of campaigns, prohibition from utilization of any public media for electoral purposes, a fine and in the extreme a disqualification.

The Commission and the Office of Director of Public Prosecution under the aegis of established law and framework of collaboration commit to ensure adherence to the Electoral Code of Conduct and will investigate, prosecute and punish any candidate, agent, supporter and/or political party that commits electoral transgression and breach the Electoral Code of Conduct.

### **3. NOTICE TO CANDIDATES AND OTHER PERSONS HOLDING PUBLIC RESOURCES**

Section 14 of the Election Offences Act, 2016 prohibits a candidate or any other person from using public resources for the purposes of campaigning during elections.

The provision also prohibits Government from publishing any advertisement either in the print media, electronic media, or by way of banners or hoardings in public places during the election period.

In keeping with the provision of Section 14(3) of the Election Offences Act, 2016 the Commission issued a notice published in the media on 27<sup>th</sup> May 2022 requiring any candidate, who is a Member of Parliament, a County Governor, a Deputy Governor or a Member of a County Assembly to state the facilities attached to the candidate or any equipment normally in the custody of the candidate by virtue of the office he/she holds.

The Commission wishes to affirm that the application of this legal obligation extends to any employee of a statutory corporation or of a company in which the Government owns controlling interest.

The candidates who fall under the above cadre are required to submit the said information to the Office of the Commission Chairman situated on the 6<sup>th</sup> floor, Anniversary Towers, University Way within a period of fourteen (14) days from the date of the notice being 27<sup>th</sup> May 2022.

The Commission wishes to inform such candidates that failure to comply amounts to an offence that is punishable upon conviction to a fine not exceeding Kenya shillings two Million (Kshs. 2,000,000) or imprisonment for a term not exceeding six (6) years or to both fine and imprisonment.

In addition, the Commission by itself or through any authorised agency has power to impound or order the impounding of any state resources unlawfully used in an election period.

The Commission will exercise this power without fear or favour. The Commission will enlist the support of the National Police Service in the execution of this function as guided by the provisions of Section 105 of the Elections Act, 2011.

Therefore, the Commission calls for a timeous adherence to the published notice and in any event not later than 9<sup>th</sup> June 2022.

#### **4. PRESIDENTIAL ASPIRANTS COMPLIANCE.**

It is paramount to remind Kenyans that 55 Presidential Aspirant applied to be candidates. Out of which 11 were knocked for failing to provide their running mates. The remaining went through a rigorous preliminary assessment of compliance as per Regulation 18 of the General Election. The assessment entailed ascertaining the aspirants list of at least 2000 supporters in each of a majority of the counties.

On May 23<sup>rd</sup>, 2022, Commission held a pre-nomination meeting, which was attended by Aspirants or and their representatives, Commission re-emphasised the requirement that Aspirants submit the list of supporters in both hardcopy and softcopy in excel format.

Following deliberations, the Commission in the spirit of Article 83(3) of the Constitution extended the deadline for submission of lists of supporters in the prescribed format and in the requisite numbers of county in each of a majority of the counties to Wednesday 25<sup>th</sup> May 2022. This was to enable Aspirants comply.

In a letter dated 28<sup>th</sup> May, 2022, Commission informed the Presidential Aspirants, who did not make to the final list of Eighteen(18) of their non-compliance. The Commission has since closed this exercise and is now in the process of clearing aspirants, who will vie as Presidential candidates.

A handwritten signature in black ink, appearing to read 'W. W. Chebukati', written in a cursive style.

**W. W CHEBUKATI**  
**CHAIRMAN**