



MEDIA RELEASE

FOR IMMEDIATE RELEASE:

NAIROBI, KENYA: AUGUST 5TH, 2022

SUBJECT: PRINTED REGISTER OF VOTERS

On 4th August 2022, the High Court sitting in Nairobi rendered a decision in High Court Constitutional Petition Number E 306 of 2022. The petition was filed by Kenya Human Rights Commission and 6 others against the Independent Electoral and Boundaries Commission. The subject of litigation was a letter dated 10th June 2022, responding to concerns by Azimio La Umoja One Kenya Coalition Party regarding, among others, the use of the Register of voters at the polling station on polling day.

In its judgment, the Honourable Court made declarations *inter alia*;

- a) That the decision of the 1st and 2nd Respondents (The Commission), signified by a letter dated 10th June 2022 stating that the 1st Respondent shall not use the manual Register of Voters in the General Election of Tuesday, 9th August 2022 is unconstitutional and the said decision is hereby quashed.
- b) That the 1st and 2nd Respondents shall in the conduct of the General Election apply the provisions of Regulations 69 of the Elections (General) Regulations, 2012.

It is worth noting that the Court of Appeal in its Judgement dated 4th August 2017 recorded a consent between NASA and IEBC introducing a Memorandum of the Commission Secretary/Chief Executive Officer, IEBC dated 27th July 2017 that was adopted and incorporated into the Judgement. The Court held that:

- a) Biometric verification of a voter is the primary mode of identifying voters at the Polling Station;
- b) Where a voter cannot be identified using biometrics, the Presiding Officer shall use a complimentary mechanism of alphanumeric search in the presence of agents and the voter shall fill form 32A before being issued with six ballot papers;
- c) The Presiding Officer will resort to the use of the Printed Register of Voters after approval from the Commission upon confirmation that the KIEMS kit has completely failed and that there is no possibility of repair or replacement.

- d) The contents of the said memo dated 27th July 2017 shall be adhered to by all concerned persons in application of Regulations 69 and 83 of the Elections (General) Regulations, 2012.

Guided by the Court of Appeal Judgment of 4th August 2017, the Commission resolved to use the printed Register of Voters only in instances where the KIEMs kits completely fail and that there is no possibility of repair or replacement.

On Wednesday 29th June 2022, the Commission held a consultative meeting with the Presidential candidates at Windsor Golf Hotel and County Club, where we deliberated on a raft of issues including the deployment of the Register of Voters at the Polling Station. During the meeting, the Commission explained the inherent risks associated with the use of printed register by way of crossing out names of voters after identification using the KIEMS kits.

The Commission, in Compliance with the decision in High Court Constitutional Petition Number E 306 of 2022, shall now deploy the Printed Register of Voters at the Polling station where names of voters shall be crossed out after identification of voters using the KIEMs kits.

The Commission commits to adhere to the Rule of Law and will facilitate the realization of Political rights as encapsulated in Article 38 of the Constitution in order to deliver a free, fair and credible General Election.



W. W. CHEBUKATI
CHAIRMAN