

SPECIAL ISSUE



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GAZETTE NOTICE NO. 10263

PRACTICE DIRECTIONS FOR THE ANTI-CORRUPTION AND ECONOMIC CRIMES DIVISION OF THE HIGH COURT

IN EXERCISE of the powers under section 5 of the Judicial Service Act No. 1 of 2011, and section 16 of the High Court (Organisation and Administration) Act, No. 27 of 2015, it is notified for the information of the general public that in the interest of the effective case management and expeditious disposal of cases in the Anti-corruption and Economic Crimes Division of the High Court, the Chief Justice makes the following Practice Directions:

Application

1. These Directions shall apply to Anti-Corruption and Economic Crimes Division established in the High Court of Kenya.

2. All new cases relating to corruption and economic crimes shall be filed in the Principal Registry of the Division at Nairobi for hearing and determination.

The Overriding Objective of Proceedings in the Anti-Corruption and Economic Crimes Division of the High Court.

3. In the exercise of its Authority and Jurisdiction, the Anti-Corruption and Economic Crimes Division of the High Court shall at all stages of any hearing be guided by Article 159 of the Constitution, Sections 1A and 1B of the Civil Procedure Act and Section 4 (4) of the Anti-Corruption and Economic Crimes Act (Cap. 65 Laws of Kenya) so as to facilitate the—

- (a) just;
- (b) expeditious,
- (c) proportionate; and
- (d) accessible adjudication of all disputes related to corruption and economic crimes.

4. For the purpose of furthering the overriding objective, the court shall handle all matters presented before it to achieve the—

- (a) just determination of the proceedings;
- (b) efficient use of the available administrative resources;
- (c) timely disposal of proceedings at a cost affordable by the respective parties; and
- (d) use of appropriate technology.

Scope of Mandate

5. The following matters shall be heard by the Anti-corruption and Economic Crimes Division of the High Court—

- (a) petitions and Judicial Review applications on claims of infringement or the threatened infringement of constitutional rights relating to corruption and/or economic crimes related matters;
- (b) all proceedings relating to corruption and economic crimes over which the Magistrates' Anti-Corruption Court has no jurisdiction;
- (c) all criminal reviews, revisions, appeals and any other applications arising from decisions of the special Magistrates appointed under Section 3 of the Anti-Corruption and Economic Crimes Act, 2003;
- (d) cases relating to corruption and economic crimes filed under the following Acts:
 - (i) Anti-Corruption and Economic Crimes Act, Cap. 65.
 - (ii) Proceeds of Crime and Anti-Money Laundering Act, Cap. 59B.
 - (iii) Anti-Counterfeit Act, Cap. 130A
 - (iv) Leadership and Integrity Act, Cap. 182.
 - (v) Public Procurement and Asset Disposal Act, No. 33 of 2015.
 - (vi) Public Officers Ethics Act, Cap. 183.
 - (vii) Public Finance Management Act, No. 18 of 2012.
 - (viii) Extradition (Contiguous and Foreign Countries) Act, Cap. 76.
 - (ix) Extradition (Commonwealth Countries) Act, Cap. 77.
 - (x) Prevention of Organized Crimes, Cap. 59.
 - (xi) Mutual Legal Assistance Act, Cap. 75A.
 - (xii) Regional and International Treaties and Conventions on Anti-Corruption.
 - (xiii) Or filed under any other enabling provisions of law.
- (e) Disputes touching on or related to—
 - (i) offences or the recovery, or protection of public property, or
 - (ii) the tracing of, freezing of, or confiscation of proceeds of corruption or related to corruption and money laundering, and

- (iii) the payment of compensation of proceeds of corruption and economic crimes.

6. All part-heard cases related to corruption and economic crimes pending before other Stations or Divisions of the High Court shall continue to be heard and determined by the aforementioned stations or divisions.

7. All cases relating to corruption and economic crimes which have been filed before other Stations or Divisions of the High Court, in which hearing has not commenced, shall be transferred to the Anti-Corruption and Economic Crimes Division.

8. Subordinate Courts shall continue to hear and determine all civil and criminal cases relating to corruption and economic crimes in which they have the requisite jurisdiction.

9. (1) Where a matter has been wrongly filed at the Anti-Corruption and Economic Crimes Registry, it shall be transferred to the appropriate court. The Court on its own motion or upon application by either of the parties shall have the discretion to order for the transfer of such matters.

(2) The Court shall determine who pays the costs incidental to the transfer.

Filing of Pleadings, Witness Statements And Documents in Civil Proceedings

10. Subject to any special practice and procedure of Court provided for in other rules, parties are enjoined to comply with the requirements, time limits and deadlines when filing pleadings, witness statements and documents as set out under the Civil Procedure Rules 2010 in particular—

- (a) appropriate pleadings and relevant forms must be filed in respect of all cases. These shall include the summons to enter appearance, list and bundles of documents and witness statements signed by witnesses;
- (b) summons to enter appearance shall be signed by the Deputy Registrar and released back to the parties expeditiously;
- (c) witness statements shall contain sufficient details, unless the Court orders otherwise so that—
 - (i) witnesses shall adopt their statements as evidence-in-chief; and
 - (ii) thereafter only minimal highlighting (if any) and production of documents may be required before the witness is cross examined;
- (d) in cases where documents are sought to be produced and relied on, the bundle of documents shall be chronologically arranged and sequentially paginated.

11. When filing any documents, parties must ensure the correct citation of the case, the date the case is fixed for hearing (if a date has already been fixed) and the correct names of the parties are given to facilitate easy retrieval of the Court file and appropriate filing.

12. All pleadings filed in Court shall contain the postal address(es), the e-mail address(es) and mobile telephone number(s) of either—

- (a) the firm of advocates on record; or
- (b) the individual advocate handling the matter; or
- (c) Where the parties are not represented by an advocate, the postal, e-mail and telephone contacts of the individual litigant. The said postal, e-mail address(es) and mobile telephone number(s) shall be appended at the end of each pleading/documents/submissions at the "Drawn and Filed By" section.

Certificates of Urgency and Mentions

13. In all matters brought under certificate of urgency—

- (a) the urgency must be self-evident in the certificate or the grounds;
- (b) the Judge shall have discretion to grant interim orders and/or give directions in Chambers on the basis of the pleadings and documents in support; and
- (c) in order to facilitate expeditious extraction of Orders relating to urgent applications, the applying advocate/party may prepare draft orders in soft copies when coming to court. The court will approve the draft with or without amendments and have a fair one executed and sealed after grant of the orders sought.

14. All urgent applications shall be fast tracked, heard and determined within sixty (60) days. All other applications shall be heard and determined within ninety (90) days. Provided that for good reason the Court shall have the discretion to extend the time allocated.

15. For proper time management, mentions will be kept to the minimum and limited to very deserving cases.

16. Where a party seeks to mention a matter before a Judge/Deputy Registrar, a letter shall be written to the Deputy Registrar clearly setting out the reasons for the mention, and the Deputy Registrar shall exercise his/her discretion as to whether or not to grant the mention or give other appropriate directions.

Pre-Trial Directions

17. After the close of pleadings, there shall be compliance with Order 11 of the Civil Procedure Rules 2010, with necessary modifications, regarding Pre-Trial Directions and conferences.

18. Once pre-trial directions are issued by a Judge, every party shall be bound by them.

Conduct of Hearings

19. It shall be the responsibility of the parties to ensure, three days or so before the hearing of an application or a full hearing, that all documents are properly filed and that proper service has been effected.

20. In order to expedite trial—

- (a) parties shall be encouraged to proceed by way of written submissions in regard to all interlocutory applications; and
- (b) parties shall file written submissions that summarize their arguments. In all cases, submissions shall be paginated. Hard copies of all cited cases must accompany the submissions.

21. At the full trial, parties shall restrict themselves to the narrowed down issues for determination as directed by the Judge during the pre-trial conference.

22. To enable a Judge expedite delivery of rulings and judgments, parties are encouraged to—

- (a) send to the court and the other parties in the suit, soft copies of their pleadings, affidavits and submissions and list of authorities, using the court email address furnished for the purpose; and
- (b) in all such cases, the case number, the names of parties and the Judge dealing with the matter must be stated.

23. Before commencing proceedings, the court will expect the parties to have explored and considered Alternative Dispute Resolution (ADR) to assist with settlement.

24. Where parties at any stage compromise a matter or intimate a settlement outside court, they shall file a consent signed by all parties involved in the settlement. If no settlement is reached, the matter shall be set down for hearing. In all cases, the filed consent shall require the approval and adoption by the court.

25. Non-compliance with the relevant Civil Procedure Rules, Orders and/or directions issued by the court may attract sanctions.

Determination of Sanctions

26. The court may decide that there has been a failure of compliance when a party has—

- (a) not provided sufficient information to enable the objectives in paragraph 2 to be met; or
- (b) not acted within the time limit set out in the relevant statute, or within a reasonable period; or
- (c) where required by law, unreasonably refused to use ADR, or failed to respond to an invitation to do so.

27. The court will consider the effect of any non-compliance when deciding whether to impose any sanctions which may include—

- (a) an order that the party at fault pays the costs of the proceedings, or part of the costs of the other party or parties; costs here include court adjournment fees;
- (b) an order depriving a successful party of interest on that sum for a specified period and/or awarding interest at a lower rate than would otherwise have been awarded; and
- (c) an order awarding interest at a higher rate, on a sum found due for a specific period, but not exceeding 10% above the rate which would otherwise have been awarded.

Cause Lists

28. The cause list shall be prepared by the Deputy Registrar weekly in advance and posted on the internet by 1.00 pm every Friday. Additions may be made by way of a supplementary cause list. There will however be a cause list generated for each day denoting what cases are before which Judge or Deputy Registrar.

Miscellaneous

29. These Directions supersede the directions in Gazette Notice No. 9123 published on 11th December, 2015.

Dated the 9th December, 2016.

DAVID K. MARAGA,
Chief Justice and President of the Supreme Court of Kenya.

GAZETTE NOTICE NO. 10264

THE CONSTITUTION OF KENYA
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION ACT
(No. 9 of 2011)
THE ELECTION LAWS (AMENDMENT) ACT
(No. 36 of 2016)

SELECTION PANEL FOR THE APPOINTMENT OF COMMISSIONERS OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

NAMES OF APPLICANTS SHORTLISTED FOR THE POSITION OF CHAIRPERSON OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION AND
INTERVIEW DATES FOR THE SHORT-LISTED APPLICANTS

PURSUANT to Articles 88, 166 (3) and 250 of the Constitution of Kenya, 2010, sections 5 and 6 of the Independent Electoral and Boundaries Commission Act, 2011 and Paragraph 3 of the First Schedule thereto, and the First Schedule of the Election Laws (Amendment) Act, 2016, on 7th December, 2016, the Selection Panel for the Appointment of Commissioners of the Independent Electoral and Boundaries Commission published the longlist of all applicants for the re-advertised position of Chairperson of the Independent Electoral and Boundaries Commission and their qualifications.

The Selection Panel for the Appointment of Commissioners of the Independent Electoral and Boundaries Commission publishes the names of applicants shortlisted for the re-advertised position of Chairperson of the Independent Electoral and Boundaries Commission and their respective interview dates.

The short-listed candidates are invited to appear for an interview on the date and at the time indicated below:

Name	Gender	ID/PP No.	County	Date	Time
Taib Ali Taib Bajabir	M	7113611	Mombasa	Monday, 19th December, 2016	10:00 a.m.
Florence Muoti Mwangangi	F	2303626	Machakos	Monday, 19th December, 2016	11:15 a.m.
Wanyonyi Wafula Chebukati	M	2078119	Trans Nzoia	Monday, 19th December, 2016	12:30 p.m.
Tukero ole Kina	M	7117785	Kilifi	Monday, 19th December, 2016	3:00 p.m.
Lucas Leperes Naikuni	M	8567926	Narok	Monday, 19th December, 2016	4.15 p.m

Important Notice

1. All the interviews shall be held at the Mini Chamber located on the First Floor of the County Hall Building along Parliament Road, Nairobi.
2. All the interviews shall be conducted in public.
3. Applicants are requested to bring with them the originals of their testimonials and/or certificates including their national identity card or passport, but should ensure that these are returned to them before leaving the interview venue.
4. Applicants should also bring with them current clearances from CID, HELB, KRA, EACC and any of the Credit Reference Bureaus.
5. Candidates nominated for approval by the National Assembly shall be required to appear before a Committee of the National Assembly for vetting.
6. Members of the public are invited to avail, in writing, by memoranda, any information of interest with respect to the suitability of any of the short-listed candidates to serve as Chairperson of the Independent Electoral and Boundaries Commission.
7. Memoranda may be forwarded to the Selection Panel using the contacts below:

The Secretary,
Selection Panel for the Appointment of Commissioners of the Independent Electoral and Boundaries Commission,
P.O. Box 41842-00100, Nairobi.

or

Email: IEBCselectionpanel@parliament.go.ke

or

hand-delivered during office hours to the Secretariat of the Selection Panel for the Appointment of Commissioners of the Independent Electoral and Boundaries Commission, 1st Floor, County Hall, Parliament Buildings, Parliament Road, Nairobi.

8. The memoranda will be received for a period of seven (7) days; from the date of this publication and close on Friday, 16th December, 2016 at 5.00 pm
9. It is notified that the Selection Panel may interview any member of the public who submits a memorandum on any of the short-listed candidates.

FURTHER to the advertisement of 16th November, 2016 by the Selection Panel shortlisting candidates for the position of Chairperson of the IEBC and inviting the candidates for interview, and following the subsequent deferral by the Selection Panel of the interviews for this position, the following short-listed candidates are informed of the new interview dates and are invited to appear for an interview on the date and at the time indicated above.

*Candidates shortlisted for both the positions of Chairperson and Member of the IEBC shall be interviewed only once.

Dated the 9th December, 2016.

SECRETARY,
Selection Panel for the Appointment of Commissioners of the Independent Electoral and Boundaries Commission.

