

# **SPECIAL ISSUE**



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GAZETTE NOTICE No. 9585

REPUBLIC OF KENYA

EXECUTIVE OFFICE OF THE PRESIDENT

IN THE MATTER OF THE TRIBUNAL APPOINTED UNDER ARTICLE 168 (5) OF THE CONSTITUTION OF KENYA TO INVESTIGATE THE CONDUCT OF THE HON. MR. JUSTICE D. K. NJAGI MARETE, JUDGE OF EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA

WHEREAS, a Complaint (the “Complaint”) by Kaplan & Stratton Advocates on behalf of their clients, the Kenya Tea Growers Association (KTGA), Unilever Tea Kenya Ltd (UTKL), Siret Tea Company Limited, Kakuzi Limited (KABOSWA), Eastern Produce Kenya Limited, Kibwari Limited (EPK) and James Finlay (K) Limited, on the conduct of the Hon. Mr. Justice D. K. Njagi Marete, Judge of the Employment and Labour Relations Court (“Hon. Judge”), was considered by the Judicial Service Commission on the 8th May, 2019;

WHEREAS, the genesis of the complaint emanates from the manner in which the Hon. Judge handled Kericho Employment and Labour Relations Court Miscellaneous Application No. 6 of 2017, Kenya Plantation Workers Union (KPAWU) vs Kenya Tea Growers Association (KTGA) and Others and Kericho Employment and Labour Relations Court Miscellaneous Application No. 7 of 2017, Kenya Plantation Workers Union vs James Finlay Flowers Limited;

WHEREAS, the Judicial Service Commission, having satisfied itself that a *prima facie* case against the Hon. Judge had been made on the counts of gross misconduct/misbehavior, breach of the Constitution, and breach of the Judicial Code of Conduct and Ethics, transmitted a Petition to the President on the 14th May, 2019 in accordance with Article 168 (4) of the Constitution;

WHEREAS, pursuant to Article 168 (5) of the Constitution, the President *vide* Gazette Notice No. 4851 of 2019, suspended the Hon. Judge from office and appointed a Tribunal to inquire into his conduct; and

WHEREAS, the Tribunal submitted its Report to the President on the 1st September, 2020, and recommended that:

(i) Hon. Mr. Justice D. K. Njagi Marete, ought not to be removed from office; and

(ii) The current suspension of the Hon. Mr. Justice D. K. Njagi Marete from exercising the functions of his office be lifted.

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

(i) That pursuant to Article 168 (9) of the Constitution, the recommendations of the Tribunal with respect to the Hon. Judge are binding on the President.

(ii) That following the lapse of the constitutionally allowable period for appeal against the decision of the Tribunal; and

(iii) That having had no party exercise the right of appeal against the decision of the Tribunal.

Reasons wherefore, I, Uhuru Kenyatta, President and Commander-in-Chief of the Kenya Defence Forces, by the authority vested in me by the Constitution and the Laws of Kenya, do determine as follows:

(i) That in accordance with the recommendations of the Tribunal, the suspension of The Hon. Mr. Justice D. K. Njagi Marete, Judge of Employment and Labour Relations Court of Kenya is lifted; and

(ii) That Hon. Mr. Justice D. K. Njagi Marete is reinstated to Office, and all remunerations and benefits adjusted during the term of his suspension pursuant to Article 168 (6) of the Constitution shall accrue to the Hon. Judge with immediate effect.

ISSUED under the hand and seal of the President, at State House, Nairobi on this 12th day of November, 2020.

UHURU KENYATTA,  
*President.*