

Approved  
SWA  
15/11/22

By Hon. Speaker  
Submitted  
Approved  
Tabled  
by the  
House  
Members  
15-11-22

Paper laid  
By Hon. Wanjira  
Muhia, MP  
(Co-Chair - EALA)  
on Tue 15/11/22


REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | FIRST SESSION

PARLIAMENT  
OF KENYA  
LIBRARY

REPORT OF THE JOINT PARLIAMENTARY SELECT  
COMMITTEE ON THE ELECTION OF MEMBERS TO THE EAST  
AFRICAN LEGISLATIVE ASSEMBLY

	
THE NATIONAL ASSEMBLY	
P. . . . . D	
DATE: 15 NOV 2022	DAY: . . . . .
TABLED BY:	Co-Chair EALA
CLERK-AT THE-TABLE:	Wanjira Ndindiri
NOVEMBER, 2022	

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## **ABBREVIATIONS AND ACRONYMS**

- EAC - East African Community
- EALA - East African Legislative Assembly
- IEBC - Independent Electoral and Boundaries Commission
- ORPP - Office of the Registrar of Political Parties
- WDM-K - Wiper Democratic Movement - Kenya

## **PREFACE**

The Joint Parliamentary Select Committee on the Election of Members to the East African Legislative Assembly (EALA) was established on 13<sup>th</sup> and 18<sup>th</sup> October, 2022 by the National Assembly and the Senate respectively.

### **Mandate of the Committee**

The Committee was mandated to –

1. suggest appropriate timelines for purposes of notifications, nominations and elections of EALA Members;
2. consider the nominees, oversee the election process and report to the respective Houses of Parliament within the timelines stipulated in the Elections Rules; and
3. undertake any other functions as contemplated under the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017 within the stipulated timelines.

### **Membership of the Committee**

1. Sen. Daniel Maanzo, EBS, MP	<b>Co-Chairperson</b>
2. Hon. Wanjiku Muhia, MP	<b>Co-Chairperson</b>
3. Hon. (Dr.) Makali Mulu, CBS, MP	Member
4. Sen. Joyce Korir, MP	Member
5. Hon. Sabina Chege, CBS, MP	Member
6. Sen. Muhamed Chute, MP	Member
7. Hon. (Dr.) Kanyuithia Mutunga, MP	Member
8. Sen. Joseph Githuku, MP	Member
9. Hon. Daniel Nanok MP	Member
10. Sen. Raphael Mwinzagu, MP	Member
11. Hon. Francis Kipyegon, EBS, MP	Member
12. Sen. Miraj Abdullahi, MP	Member
13. Hon. Ruth Adhiambo Busia, MP	Member
14. Sen. Beatrice A. Ogola, MP	Member



## CHAIRPERSON'S FOREWORD

### **Hon. Speaker,**

The East African Legislative Assembly (EALA) is the independent legislative arm of the East African Community (EAC), established under Article 9 of the EAC Treaty. EALA membership comprise of nine (9) members elected by each Partner State. Article 50 of the Treaty requires that EALA Members represent as much as practicable the various political parties represented in the National Parliament, shades of opinion, gender and other special interest groups in the partner states.

The Assembly plays a critical role in the furtherance of the EAC objectives by:

1. liaising with National Assemblies of partner states on matters relating to the community;
2. debating and approving the budget of the Community;
3. considering of annual reports on the activities of the community, annual audit reports and any other reports referred to it; and
4. discussing all matters referred to it regarding the community and making recommendations as it may deem necessary for the implementation of the community treaty.

### **Hon. Speaker,**

The Fourth Assembly of the East African Legislative Assembly which commenced on 18<sup>th</sup> December, 2017 will come to an end on 17<sup>th</sup> December, 2022. Consequently, the member states are expected to elect members of the Assembly **within ninety days** before the end of the term of the ongoing Assembly. The Parliament of Kenya is therefore expected to elect its representatives to the Assembly between **18<sup>th</sup> September, 2022** and **16<sup>th</sup> December, 2022** in order to be within the stipulated timelines.

**Hon. Speaker,**

In this regard, the National Assembly and the Senate respectively resolved to establish a Joint Parliamentary Select Committee on Election of Members to the East African Legislative Assembly.

**Hon. Speaker,**

The Joint Select Committee was established on the 13<sup>th</sup> and 18<sup>th</sup> October, 2022, by the National Assembly and the Senate respectively to undertake the functions contemplated under the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017.

**Hon. Speaker,**

The Committee comprises the following Members from the National Assembly –

- |   |                         |
|---|-------------------------|
| 1) Hon. Wanjiku Muhia, M.P.               | <b>Co - Chairperson</b> |
| 2) Hon. (Dr.) Makali Mulu, CBS, MP        | Member                  |
| 3) Hon. Sabina Chege, CBS, MP             | Member                  |
| 4) Hon. (Dr.) John Kanyuithia Mutunga, MP | Member                  |
| 5) Hon. Daniel Epuyo Nanok, MP            | Member                  |
| 6) Hon. Francis Sigci Kipyegon, CBS, MP   | Member                  |
| 7) Hon. Ruth Adhiambo Busia, MP           | Member                  |

The Members of the Senate in the Joint Select Committee are-

- |   |                         |
|---|-------------------------|
| 1) Sen. Daniel Kitonga Maanzo, EBS, MP  | <b>Co - Chairperson</b> |
| 2) Sen. Raphael Chimera Mwinzagu, MP    | Member                  |
| 3) Sen. Joyce Chepkoech Korir, MP       | Member                  |
| 4) Sen. Miraj Abdullahi Abdulrahman, MP | Member                  |
| 5) Sen. Chute Muhamed Said, MP          | Member                  |
| 6) Sen. Joseph Githuku Kamau, MP        | Member                  |
| 7) Sen. Beatrice Akinyi Ogola, MP       | Member                  |

**Hon. Speaker,**

The Joint Select Committee held its first meeting on 25<sup>th</sup> October, 2022 where the timelines and immediate road map were developed with a view to expediting the election of Members to EALA.

**Hon. Speaker,**

Pursuant to Rule 4 (a) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, the Presiding Officers (the Clerks of the Houses of Parliament) notified the public via a *Gazette* Notice No. 13031, dated 26<sup>th</sup> October, 2022 and placed an advertisement in the *Standard* and *Daily Nation* newspapers of 26<sup>th</sup> October, 2022 inviting interested and qualified persons to apply within a period of seven days from the date of the notice.

**Hon. Speaker,**

At the close of application period on 2<sup>nd</sup> November 2022 at 5:00 p.m., a total of three hundred and forty-eight (348) applications had been received through the Offices of the Clerk of the National Assembly and the Senate and through the official email address.

The Presiding Officers noted that, although the total number of applications received was 348, a number of applicants submitted multiple applications, with some applicants submitting up to four applications at the offices of the Clerks and on email. After reconciliation of the applications, the total number of applicants was 287.

On Monday, 7<sup>th</sup> November, 2022, pursuant to Rule 7 of the Rules, the Presiding Officers made a pre-nomination briefing to the party leadership of both Houses of Parliament before the actual nomination exercise which was carried out on Wednesday, 9<sup>th</sup> November, 2022.

**Hon. Speaker,**

On Wednesday, 9<sup>th</sup> November, 2022, the Presiding Officers received nomination documents from candidates of political parties and candidates independent of political parties. A total of sixty-nine (69) candidates appeared before the Presiding Officers, out of whom the *Kenya Kwanza* Alliance Coalition presented fifteen (15), the *Azimio la Umoja-One* Alliance Coalition twelve (12) nominees while forty-two (42) were candidates independent of political parties.

Thereafter, **Hon Speaker**, pursuant to rule 12 of the Rules, the Presiding Officers gave the public an opportunity to inspect the nomination papers and lodge any complaints they may have had with respect to a candidate's nomination. The inspection was done on Thursday, 10<sup>th</sup> and Friday, 11<sup>th</sup> November, 2022 from 9:00am to 4:00pm.

Consequently, **at the close of the nominations on Friday, 11<sup>th</sup> November, 2022**, the Presiding Officers forwarded the names and nomination papers of all duly nominated candidates to the Joint Select Committee for consideration, and complaints lodged during the inspection days.

**Hon. Speaker,**

The Joint Select Committee observed that observed that the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017 assigns crucial roles in the election process, to the Presiding Officers instead of the Joint Select Committee.

**Hon. Speaker,**

The Committee further observed that some of the candidates did not comply with the advertisements in the Daily Nation and the Standard newspapers and the Kenya *Gazette* on 26<sup>th</sup> October, 2022. Most of the applicants did not comply with provisions of the Elections Act as regards qualifications of Member of Parliament, either through a political party or as an independent candidate.

The Committee also observed that the provisions on withdrawal of candidature is restrictive to those who may wish to withdraw before election day.

**Hon. Speaker,**

Based on the aforementioned observations, the Joint Select Committee therefore recommends enhancements to the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017 to –

1. enhance the role of the Joint Select Committee;
2. make provisions on withdrawal of candidature to allow candidates to withdraw at any time before the election day as they may wish;
3. provide a framework for formal campaigns.

**Hon. Speaker,**

It is now my pleasant duty and privilege, on behalf of the Joint Select Committee, to present the Report on the Election of Members to EALA for your consideration.



**Hon. Wanjiku Muhia, M.P.**

**Co - Chairperson**


**DATE** 14/11/2022



**Sen. Daniel Maanzo, EBS, M.P.**

**Co – Chairperson**


**DATE** 14/11/2022

 <b>THE NATIONAL ASSEMBLY</b> P. O. BOX 100 NAIROBI	
<b>DATE: 15 NOV 2022</b> DAY: <input type="text"/>	
<b>TABLED BY:</b>	Co-Chair - EALA
<b>CLERK AT THE TABLE:</b>	Wanjiku Ndindiri




**We, the undersigned, members of the Joint Select Committee on Election of Members to the East Africa Legislative Assembly append our signatures to confirm the content of the Report-**

Hon. Wanjiku Muhia, MP



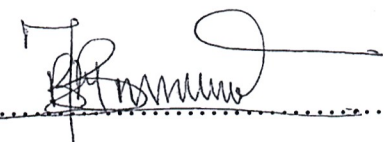
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Sen. Daniel Kitonga Maanzo, EBS, MP



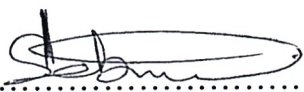
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Hon. (Dr.) Makali Mulu, CBS, MP



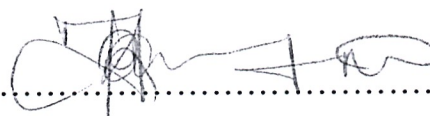
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Hon. Sabina Chege, CBS, MP




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Hon. (Dr.) John Kanyuithia Mutunga, MP




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Sen. Joyce Chepkoech Korir, MP




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Sen. Chute Muhamed Said, MP



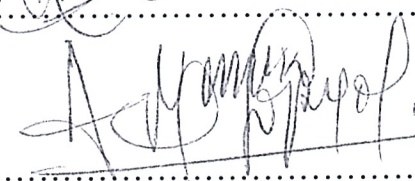
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Sen. Joseph Githuku Kamau, MP



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Hon. Daniel Epuyo Nanok, MP



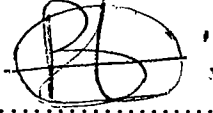
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Hon. Francis Kipyegon Sigei, CBS, MP .....

Hon. Ruth Adhiambo Busia, MP .....

Sen. Raphael Chimera Mwinzagu, MP  .....

Sen. Miraj Abdullahi Abdulrahman, MP .....

Sen. Beatrice Akinyi Ogola  .....

## CHAPTER ONE

### 1. INTRODUCTION

1. The East African Legislative Assembly (EALA) is established under Article 9 of the Treaty for the Establishment of the East African Community (EAC) as one of the key organs and independent institutions of the Community. EALA's membership comprises nine (9) members elected by each Partner State.
2. Articles 50 and 51 of the EAC Treaty provide for election of Members of the Assembly and the tenure of office of elected Members, respectively. Specifically, Article 51(1) provides that an elected member of the Assembly shall hold office for five years and is eligible for re-election for a further term of five years.
3. By letters dated 28<sup>th</sup> February, 2022 and 21<sup>st</sup> June, 2022, the Clerk of EALA transmitted a notification to all Member States informing them that the term of the Fourth Assembly, which commenced on 18<sup>th</sup> December, 2017, would come to an end on 17<sup>th</sup> December, 2022. The letters further notified Member States that they were to elect members of the Assembly within ninety days before the end of the term of the ongoing Assembly (*Annex 1*).
4. Consequently, the Parliament of Kenya was required to elect its representatives to the Assembly between 18<sup>th</sup> September, 2022 and 16<sup>th</sup> December, 2022 in order to be within the stipulated timelines.
5. By a Motion adopted by the National Assembly and the Senate on 13<sup>th</sup> and 18<sup>th</sup> October, 2022, respectively, the Joint Parliamentary Select Committee on the Election of the Members of EALA, consisting of seven (7) Members from each of the Houses of Parliament, was established (*Annex 2*).



6. The following Members represent the National Assembly in the Committee-

- a. Hon. Wanjiku Muhia, MP **Co-Chairperson**
- b. Hon. (Dr.) Makali Mulu, CBS, MP
- c. Hon. Sabina Chege, CBS, MP
- d. Hon. John Kanyuithia Mutunga, MP
- e. Hon. Daniel Epuyo Nanok, MP
- f. Hon. Francis Sigei Kipyegon, CBS, MP
- g. Hon. Ruth Adhiambo Busia, MP

7. The following Members represent the Senate in the Committee-

- a. Sen. Daniel Kitonga Maanzo, EBS, MP **Co-Chairperson**
- b. Sen. Raphael Chimera Mwizangu, MP
- c. Sen. Joyce Chepkoech Korir, MP
- d. Sen. Miraj Abdullahi Abdulrahman, MP
- e. Sen. Chute Muhamed Said, MP
- f. Sen. Joseph Githuku Kamau, MP
- g. Sen. Beatrice Akinyi Ogola, MP

8. The Joint Select Committee was mandated to undertake the functions contemplated under the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017 (*Annex 3*). The Committee was further mandated to-

- a. suggest appropriate timelines for purposes of notifications, nominations and elections of EALA Members;
- b. consider the nominees, oversee the election process and report to the respective Houses within the timelines stipulated in the Elections Rules; and
- c. undertake any other functions as contemplated under the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017 within the stipulated timelines.

### 1.1. Election of Members to the East African Legislative Assembly

9. The Election of Members to the East African Legislative Assembly is guided by the Treaty for the Establishment of the East African Community and the East African Legislative Assembly Elections Act, 2011 (*Annex 4*).
10. Articles 50 and 51 of the Treaty provide for the election of Members of the Assembly and the tenure of office of elected Members, respectively. Specifically, Article 51(1) provides that an elected member of the Assembly shall hold office for five years and is eligible for re-election for a further term of five years.
11. Further, the East African Legislative Assembly Elections Act, 2011 provides for the election of Members to the Assembly. Section 4(1) of the Act provides that the election of Members to the Assembly shall be conducted in accordance with the rules of procedure of the Legislatures of the Partner States, while section 4(2) requires that Member States shall each elect nine members to the Assembly. The election should be held within ninety (90) days before the expiry of the date of the outgoing Assembly.
12. In order to comply with section 4 of the East African Legislative Assembly Elections Act, 2011 on the rules of procedure, the Parliament of Kenya is guided by the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017 which detail the processes and timelines leading to election of members to the East African Assembly.
13. Rule 3 provides that a person shall not qualify to vie for election unless he or she meets the requirements for election set out under Article 50(2) of the Treaty for the Establishment of the East African Community, Article 99 of the Constitution and section 22 of the Elections Act, 2011.

14. Article 50 of the Treaty provides as follows –

*(1) The National Assembly of each Partner State shall elect, not from among its members, nine members of the Assembly, who shall represent as much as it is feasible, the various political parties represented in the National assembly, shades of opinion, gender and other special interest groups in that Partner State, in accordance with such procedure as the National Assembly of each Partner State may determine.*

*(2) A person shall be qualified to be elected a Member of the Assembly by the National Assembly of a Partner State in accordance with paragraph (1) of this Article if such person –*

*(a) is a citizen of that Partner State;*

*(b) is qualified to be elected a member of the National Assembly of that Partner State under its Constitution;*

*(c) is not holding office as a Minister in that Partner State;*

*(d) is not an officer in the service of the Community; and*

*(e) has proven experience or interest in consolidating and furthering the aims and objectives of the Community.*

15. Article 99 of the Constitution sets out the qualifications and disqualifications for election as a Member of Parliament as follows –

*(1) Unless disqualified under subsection (2), a person qualifies for nomination as a member of Parliament if the person –*

*(a) is registered as a voter;*

*(b) satisfies any educational, moral and ethical requirements prescribed by the Constitution and this Act; and*

*(c) is nominated by a political party, or is an independent candidate who is supported –*

*(i) in the case of election to the National Assembly, by at least one thousand registered voters in the constituency; or*

*(ii) in the case of election to the Senate, by at least two thousand registered voters in the county.*

*(2) A person is disqualified from being elected a member of Parliament if the person –*

*(a) is a State officer or other public officer, other than a Member of Parliament;*

*(b) has, at any time within the five years immediately preceding the date of election, held office as a member of the Commission;*

*(c) has not been a citizen of Kenya for at least the ten years immediately preceding the date of election;*

*(d) is a member of a county assembly;*

*(e) is of unsound mind;*

*(f) is an undischarged bankrupt;*

*(g) is subject to a sentence of imprisonment of at least six months, as at the date of registration as a candidate, or at the date of election; or*

*(h) is found, in accordance with any law, to have misused or abused a State office or public office or in any way to have contravened Chapter Six of the Constitution.*

*(3) A person is not disqualified under subsection (2) unless all possibility of appeal or review of the relevant sentence or decision has been exhausted.*

16. Further, section 22 of the Elections Act, 2011 provides for the qualifications for nomination of candidates as follows –

*(1) A person may be nominated as a candidate for an election under this Act only if that person –*

*a. is qualified to be elected to that office under the Constitution and this Act; and*

*b. holds –*

*i. in the case of a Member of Parliament, a degree from a university recognized in Kenya; or*

*ii. in the case of member of a county assembly, a degree from a university recognized in Kenya.*

*(1A) Notwithstanding subsection (1), this section shall come into force and shall apply to qualifications for candidates in the general elections to be held after the 2017 general elections.*

*(1B) The provisions of this section apply to qualifications to nomination for a party list member under section 34.*

*(3) Notwithstanding subsection (1)(b), a person may be nominated as a candidate for election as President, Deputy President, county Governor or deputy county Governor only if the person is a holder of a degree from a university recognized in Kenya.*

17. The Joint Select Committee however noted that section 22(1)(b)(i) was the subject matter of Constitutional Petition No. 28 of 2021, where on 13<sup>th</sup> April, 2022, the court held that the section was unconstitutional and in violation of Articles 24, 27, 38(3) and 56 of the Constitution. The qualification for a Member of Parliament to possess a degree was therefore nullified.

18. Section 24 of the Elections Act, 2011 is also a key consideration in this process with regard to candidates independent of political parties. Section 24(1)(c) provides that a person qualifies for nomination as a member of Parliament if the person is nominated by a political party, or is an independent candidate who is supported in the case of election to the National Assembly, by at least one thousand registered voters in the constituency or in the case of election to the Senate, by at least two thousand registered voters in the county.

## 1.2. Meetings of the Joint Select Committee on Election of Members to EALA

19. The Joint Select Committee held its first sitting on 25<sup>th</sup> October, 2022 and considered and approved the timelines for the election of Members to EALA as follows –

**Table 1: Proposed Timelines for the Election of Members to EALA**

	Activity	Rule	Timeline
1.	Establishment of a Joint Parliamentary Select Committee on Nomination of Membership to EALA		13 <sup>th</sup> October, 2022 and 18 <sup>th</sup> October, 2022
2.	1 <sup>st</sup> Meeting of the Joint Select Committee	Rule 13	25 <sup>th</sup> October, 2022
3.	Presiding Officers, by notice in the <i>Gazette</i> and in at least two newspapers of national circulation to invite interested qualified persons to apply within a period of seven days from the date of the notice.	Rule 4(a)	26 <sup>th</sup> October, 2022
4.	Close of applications <i>(within a period of seven days from the date of the notice)</i>	Rule 4(a)	2 <sup>nd</sup> November, 2022
5.	Nomination Day <i>(within a period of seven days from the expiry of the application period)</i>	Rule 4(b)	9 <sup>th</sup> November, 2022
6.	Independent candidate or a nominee, the leader of the majority party or the leader of the minority party in Parliament to submit nomination papers to the Presiding Officers.	Rule 10	9 <sup>th</sup> November, 2022 9. 00 a.m. and 4.00 p.m.

	Activity	Rule	Timeline
	<i>(within seven days)</i>		
7.	Withdrawal of a candidate <i>(not later than the day following the nomination day)</i>	Rule 11	10 <sup>th</sup> November, 2022 not later than 4.00 p.m.
8.	Inspection of nomination papers of candidates <i>(two working days from the nomination day)</i>	Rule 12	10 <sup>th</sup> & 11 <sup>th</sup> November, 2022
9.	Presiding Officers to transmit the names to the Joint Select Committee <i>(within three days after expiry of the period provided for under Rule 10 -- delivery of nomination papers)</i>	Rule 13	12 <sup>th</sup> November, 2022
10.	Joint Select Committee to consider the nominations and Report to the House <i>(within 7 days from the date of receipt of the papers)</i>	Rule 13	13 <sup>th</sup> to 15 <sup>th</sup> November, 2022
11.	Presiding Officers to <i>Gazette</i> the Election date	Rule 15	16 <sup>th</sup> November, 2022
12.	Election date – Same date and time for both Houses <i>(not more than 14 days after the nomination day)</i>	Rule 15	17 <sup>th</sup> November, 2022
13.	Publication in the <i>Gazette</i> and transmission of names of the duly elected members to the Clerk of the East African Legislative Assembly <i>(within seven days after the declaration of the duly elected Members)</i>	Rule 20	18 <sup>th</sup> November, 2022



20. The Joint Select Committee further considered the issue of the entitlement for nomination slots under the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017.
21. Rule 6(1) provides as follows –
- “The number of candidates that each party shall be entitled to nominate for election under these Rules shall be three times the figure arrived at by multiplying the number of elected Members of that party by such number as the Joint Select Committee shall determine and dividing the result by the total number of elected Members of Parliament”.*
22. Rule 9 of the Rules provides that-
- “a person intending to vie for election independent of a political party shall submit his or her duly filled nomination form in the format prescribed in the Second Schedule to a presiding officer in the manner specified in the notice published under rule 4 and in accordance with rule 10”.*
23. In this regard, the Joint Select Committee summed up the total number of members in each political party in both Houses as a proportion of the total membership of Parliament, which is 411 Members, being the total number of members currently in Parliament and multiplied by the resultant figure by 9.
24. The Joint Select Committee having considered the relative strengths of the coalitions in Parliament resolved that the *Kenya Kwanza* Alliance Coalition, being the Majority Coalition, nominates fifteen (15) nominees and the *Azimio la Umoja*–One Kenya Alliance Coalition, being the Minority Coalition, nominates twelve (12) nominees in order to ensure adequate representation of political parties in the membership of EALA.



25. The Joint Select Committee was also conscious of the fact that twelve (12) independent members in Parliament are indeed independent of one another and therefore could not be construed to be a “political party” for purposes of computing the proportional entitlements for parties. The Committee however resolved that independent candidates be invited to submit their nomination forms in accordance with rule 9 of the Rules.

### 1.3. Invitation for Applications for Election to EALA

26. Pursuant to rule 4 of the EALA Election Rules, the Clerks of the Houses of Parliament, being the Presiding Officers for EALA Elections placed adverts in the *Gazette* and in the *Standard* and *Daily Nation* newspapers on 26<sup>th</sup> October, 2022 calling for applications from interested and qualified persons (*Annex 5*).

27. The notice invited candidates from political parties to present their applications on or before 2<sup>nd</sup> November, 2022 and independent candidates to present their applications on the nomination day set for 9<sup>th</sup> November, 2022.

28. At the close of the application period, the Presiding Officers received a total of 348 applications. A summary of the applications is indicated in the following table-

**Table 2: A Summary of Applications Received**

S/No.		No. of Applicants
1.	Received at the Office of the Clerk of the National Assembly	169
2.	Received at the Office of the Clerk of the Senate	43
3.	Received via email	136
	<b>TOTAL</b>	<b>348</b>

29. The Presiding Officers noted that, although the total number of applications received was 348, a number of applicants submitted multiple applications, with some applicants submitting up to four applications at the offices of the Clerks and on email. After reconciliation of the applications, the total number of applicants was 287.

30. It was also noted that that one of the applicants, Ms. Susan Cherotich Maritim, Serial No. NA/148, who had sought nomination under the Kenya Kwanza Alliance Coalition, subsequently withdrew her application through a letter dated 3<sup>rd</sup> November, 2022 and received in the Office of the Clerk of the National Assembly on 4<sup>th</sup> November, 2022 (*Annex 6*).

31. The applications received may be further categorized as follows-

		No. of applications
1.	Applicants seeking to be nominated by political parties falling under the <i>Kenya Kwanza Alliance Coalition</i>	145
2.	Applicants seeking to be nominated by political parties falling under the <i>Azimio la Umoja One Kenya Coalition</i>	96
3.	Applicants seeking to be nominated by other political parties not falling under the two Coalitions- (a) Kenya National Congress (b) National Reconstruction Alliance	1 1
4.	Independent candidates	16
5.	Applicants who made no indication as to whether they sought to be nominated by a political party or whether they were independent candidates	29
<b>Total</b>		<b>287</b>

32. Further, Ms. Valentine Chepkemai Mutai, Serial No. EM/059, who sought nomination under the United Democratic Movement Party (UDM), has been placed under both the *Kenya Kwanza Alliance Coalition* and the *Azimio la Umoja One Kenya Coalition* as UDM is accounted for under the *Kenya Kwanza Alliance Coalition* in the National Assembly and under the *Azimio la Umoja One Kenya Coalition* in the Senate.

#### 1.4. Pre-Nomination Briefing

33. By a letter dated 3rd November, 2022, the Clerks of both Houses, invited the Majority and Minority Party Leaders of both Houses for a pre-nomination briefing which was held on Monday, 7th November, 2022 at 11:00 a.m. (Annex 7). The party leaders were requested to submit their nominees for election to the Presiding Officers on nomination day which was set for Wednesday, 9th November, 2022. Independent candidates were similarly to submit their applications to the Presiding Officers on the nomination day.
34. Pursuant to Rule 7 of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, the Presiding Officers forwarded the schedule of applicants to the leaders of Majority and Minority Parties in both Houses of Parliament for their action (*Ann. r 8*).
35. The purpose of the pre-nomination briefing was to brief the Political Party leadership on the nomination requirements under the Treaty for the Establishment of the East African Community, the East African Legislative Assembly Act, 2011 and the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017.
36. The Presiding Officers requested the political parties to undertake the nomination process in accordance with rule 6 and 8 of the Rules and submit the nomination papers of their nominees on the appointed Nomination Day.
37. The Majority and Minority Party Leaders were further requested to note that on the nomination day, which was scheduled to be Wednesday, 9<sup>th</sup> November, 2022, the following documents would be required for inspection by the Presiding Officers in respect of each candidate nominated for election to EALA:

- (1) *A duly filled Nomination of Party Nominee Form for Election of a Member of the East African Legislative Assembly as set out in the First Schedule to the Rules;*
- (2) *A letter certifying that rule 8(3) requiring that each party nominates candidates through a transparent and democratic process has been complied with and attaching the final list of nominees of the party.*
- (3) *A copy of the National Identity Card or Passport of the nominee evidencing that the person is and has been a citizen of Kenya for at least ten years immediately preceding the date of the election (Article 50(2) of the Treaty and Article 99(2)(c) of the Constitution);*
- (4) *Detailed Curriculum Vitae (as required in the form set out in the First Schedule to the Rules);*
- (5) *Certified copies of certificates and testimonials (as required in the form set out in the First Schedule to the Rules);*
- (6) *For nominees who are State officers, public officers, sitting members of Parliament or are officers in the service of the East African Community, evidence of resignation as received by their employer or competent authority (Article 50(1) of the Treaty and Article 99(2)(a) and (d) of the Constitution);*
- (7) *For nominees who have held office as members of the IEBC, evidence that they have not held such office within five years immediately preceding the date of election; and*
- (8) *An Affidavit sworn by the candidate in support of the candidate's nomination.*



## CHAPTER TWO

### 2. NOMINATION OF CANDIDATES

38. On 9<sup>th</sup> November, 2022, the Presiding Officers received nomination papers of independent candidates and candidates nominated by the Majority Party Coalition and Minority Party coalition. The nomination centre was opened from 9:00 am to 4:00 pm in accordance with Rule 10.
39. A total of sixty-nine (69) candidates appeared before the Presiding Officers, out of whom the *Kenya Kwanza Alliance Coalition* presented fifteen (15) nominees, the *Azimio la Umoja-One Kenya Alliance Coalition* twelve (12) nominees while forty-two (42) persons were candidates independent of political parties.
40. Upon scrutiny of the nomination papers to determine if the requirements for election as a Member of the EALA had been met by the applicants, the Presiding Officers cleared and issued provisional nomination certificates to twenty-eight (28) candidates. Out of this number, twenty-seven (27) nominees were affiliated to the political parties while one (1) was independent of a political party.
41. The list of provisionally nominated candidates which was transmitted to the Joint Select Committee on Friday, 11<sup>th</sup> November, 2022, is shown in table below-

#### KENYA KWANZA ALLIANCE COALITION

NO.	NAME	GENDER	ID. NO.
1.	ADEN, Abdikadir Omar	MALE	13116397
2.	BUSAIDY, Salim Mohamed	MALE	1017378
3.	CHARLES, Fredrick Muteti	MALE	14730467
4.	HASSAN, Hassan Omar	MALE	13663076
5.	IMAN, Falhada Dekow	FEMALE	22399216
6.	IRINGO, Cyprian Kubai	MALE	16014705
7.	KERING, Zipporah Jesang Kurgat	FEMALE	7445968

NO.	NAME	GENDER	ID. NO.
8.	KUKO, Jonas Misto Vincent	MALE	0277383
9.	LOWOIYA, Rebecca	FEMALE	8663673
10.	MWANGI, Godffrey Maina	MALE	31027730
11.	NYAMBANE, Joel Okeng'o	MALE	27826094
12.	SANKOK, David Ole	MALE	20634336
13.	SHEIKH, Yasser Ali	MALE	13781573
14.	TOMITOM, Lilian Cheptoo	FEMALE	22555678
15.	TOO, Anne Cheronno	FEMALE	11723938

**AZIMIO LA UMOJA ONE KENYA COALITION**

NO.	NAME	GENDER	ID. NO.
16.	ALI, Fatuma Gedi	FEMALE	24910809
17.	BOSIRE, Timothy Mosei E	MALE	1634249
18.	DIRIYE, Abdullahi Mohamed	MALE	21445973
19.	KALONZO, Kennedy Musyoka	MALE	24804993
20.	KEGA, James Mathenge Kanini	MALE	12474351
21.	KIONI, Jeremiah Ngayu	MALE	4291113
22.	MUGALI, Justus Kizito	MALE	10841219
23.	MUTUA, Winfred Syonindi	FEMALE	20693425
24.	NAKUSA, Beatrice Asukul	FEMALE	12434187
25.	NDETI, Hellen Mueni	FEMALE	3933371
26.	ODINGA, Irmgard Winnie	FEMALE	27586118
27.	SHAHBAL, Suleiman Said	MALE	3490900

**CANDIDATE INDEPENDENT OF A POLITICAL PARTY**

NO.	NAME	GENDER	ID. NO.
1.	NDEGWA, Duncan Mwangi (PWD)	MALE	7039426

42. The Presiding Officers received-(*Annex 9a*)

- a. a letter from Mr. Yasser Ali Sheikh submitted on 9<sup>th</sup> November, 2022 requesting the inclusion of the name “Bajaber” in the certificate of nomination to EALA and on the ballot paper; and
- b. an affidavit from Mr. Mwangi Godffrey Maina requesting inclusion of the name “Karobia” on the ballot paper.

43. The Presiding Officers further received the following letters (*Annex 9b*)-

- a. Mr. Isaac Salat Ntiyieine submitted a letter received by the Clerk of the National Assembly on 8<sup>th</sup> November, 2022 at 9:00 pm indicating that he had inadvertently not indicated his political party, being United Democratic Alliance (UDA), in the application and requesting for onward transmission of his application to the Leader of the Majority Party for consideration.
- b. Ms. Elizabeth Akinyi Obala submitted a letter dated 8<sup>th</sup> November, 2022 indicating that she had inadvertently not indicated her political party, being Orange Democratic Movement (ODM), in the application.

44. The following forty-two (42) applicants sought to be nominated independent of political parties pursuant to Rule 9 but were disqualified for the reasons highlighted in the table below:

	NAME OF CANDIDATE	REASON FOR DISQUALIFICATION
1.	Nancy Kabevaka Lingohi	Candidate submitted a letter from EIBC indicating that she had contested as an independent candidate in the 2022 General Elections. The Presiding Officers however informed the candidate that the signatures submitted for the 2022 General Elections would not be valid for the EALA Elections.  The candidate sought time and submitted 912 signatures, 124 of which were copies and therefore not admissible.
2.	Robert Jumba Mutange	Candidate submitted 1174 signatures. However, the subject matter was not indicated on each page therefore raising the question whether the signatories knew what they were signing for (only 489 signatures appeared on titled pages).
3.	Douglas Maraga Mang'era	Candidate submitted 1758 signatures (Nairobi City County) out of the required 2000 signatures.
4.	Beverly Moraa	Candidate did not submit signatures.
5.	Suleiman Achiki Seka	Candidate did not submit signatures.



	NAME OF CANDIDATE	REASON FOR DISQUALIFICATION
6.	Charles Mwangi Ng'ang'a	Candidate submitted 1304 signatures. However, the subject matter was not indicated on each page therefore raising the question whether the signatories knew what they were signing for.
7.	Lloyd Kaburu Metha	Candidate submitted 739 signatures. However, the subject matter was not indicated on each page therefore raising the question whether the signatories knew what they were signing for (only 67 signatures appear on titled pages).  Further, the signatures submitted were photocopies.
8.	Joshua Ndolo Mwongela	The signatures submitted were photocopies.
9.	Millicent Dorothy Kajimba	Candidate submitted 1052 signatures. However, the subject matter was not indicated on each page therefore raising the question whether the signatories knew what they were signing for (only 46 signatures appeared on titled pages).
10.	Doris Nasieku Oseur	The candidate is a public officer – ICT Officer, Kajiado County Government and did not submit a resignation letter.  Further, the candidate did not submit signatures.
11.	Kipngeno Zakayo Kinabu	The candidate did not submit a detailed curriculum vitae and signatures
12.	Rebecca Ghati Maroa	The candidate did not submit signatures, certified copies of certificates and testimonials.
13.	Raffaella Adiyakhiso Ntotoi Bulyaar	The candidate submitted 1000 signatures and thumbprints. The Presiding Officers were convinced that the signatures and thumbprints were forged. The candidate was informed of the consequences of forgery and opted to withdraw the signatures.
14.	Loice Chepchirchir	The candidate is a public officer – employee of the Eldoret Water and



	NAME OF CANDIDATE	REASON FOR DISQUALIFICATION
		Sanitation Company and did not submit a resignation letter. Further, the candidate did not submit signatures.
15.	Joseph Akech Donde	The candidate did not submit signatures.
16.	Elizabeth Akinyi Obala	The candidate did not submit signatures.
17.	Suleman Mwamlole Warrakah	The candidate did not submit signatures, certified copies of certificates and testimonials
18.	Andrew Makoro Nyangwansa	Candidate submitted signatures indicating that he had contested as an independent in the 2022 General Elections. The Presiding Officers however informed the candidate that the signatures submitted for the 2022 General Elections would not be valid for the EALA Elections.
19.	Isaac Oundo Odwori	The candidate did not submit signatures, a curriculum vitae and certified copies of certificates and testimonials.
20.	Francis Lekoioli Ambetsa	The candidate is a public officer -- employee of University of Embu and did not submit a resignation letter. Further, the candidate did not submit signatures.
21.	Linus Kimaru Sang	Candidate submitted 1177 signatures. However, the subject matter was not indicated on each page therefore raising the question whether the signatories knew what they were signing for (only 52 signatures appeared on titled pages).
22.	Mugaa Johnson Kailanya	The candidate submitted 786 signatures. Further, the candidate did not submit certified copies of certificates and testimonials.
23.	Eric Theuri Wangai	The candidate did not submit signatures.
24.	John Kipkoskei Arap Bore	Some of the copies of certificates provided were not certified. Further, the candidate did not submit signatures.

	NAME OF CANDIDATE	REASON FOR DISQUALIFICATION
25.	Juma Yusuf Haineni	The candidate did not submit signatures.
26.	Arnold Otieno Odhiambo	The candidate did not submit signatures, and certified copies of certificates and testimonials.
27.	Pollyins Ochieng Anyango	The candidate submitted photocopies of names and signatures.
28.	Collins Denmark Omondi	The candidate did not submit signatures.
29.	Nicholas Ouma Opundo	The candidate is a public officer – employee of Teachers Service Commission and did not submit a resignation letter. Further, the candidate did not submit signatures.
30.	Linas Kishoyian Basha	The candidate did not submit signatures.
31.	Samar Nasrullah Musa Al-Kindy	The candidate did not submit signatures.
32.	Joseph Osia Opiyo	The candidate did not submit signatures.
33.	Kevin Kiprono Kirui	The candidate did not submit signatures.
34.	Peter Mbugua Gachie	The candidate did not submit signatures.
35.	Tracy Wanjiru Kingoli	The candidate did not submit certified copies of certificates. Further, the candidate did not submit signatures.
36.	Jim Omondi Otana	The candidate did not submit signatures.
37.	Abdinasir Birik Hassan	The candidate did not submit signatures.
38.	Mary Nyathare Makoffu	The candidate did not submit signatures.
39.	Stephen Okwaro Samo	The candidate did not submit certified copies of certificates. Further, the candidate did not submit signatures.
40.	Jones Mwangangi Mutunga	The candidate did not submit signatures.
41.	John Collins Alinyo	The candidate did not submit signatures.
42.	Peter Muriu Mwangi	The candidate did not submit certified copies of certificates. Further, the candidate did not submit signatures.

45. To authenticate the eligibility of the provisionally nominated candidates, the Presiding Officers wrote the following letters to –

(a) the Independent Electoral and Boundaries Commission (IEBC) (*Annex 10a*) to confirm-

i. *whether or not, as required under article 99(1) (a) of the Constitution, each provisionally nominated candidates is registered as a voter in the voters Register held by the Commission; and*

ii. *whether or not, as required under article 99(1) (a) of the Constitution, the persons set out in the list submitted by the independent candidates, as persons supporting their nominations, are registered voters in the respective constituencies (at least one thousand registered voters in the constituency) or counties (at least two thousand registered voters in the county):*

(b) the Office of the Registrar of Political Parties (ORPP) (*Annex 10b*), to ascertain whether the independent candidates meet the conditions set out in section 33(1)(a) of the Elections Act, 2011 which provides inter alia that – a person qualifies to be nominated as an independent candidate for presidential, parliamentary and county elections for the purposes of Articles 97, 98, 137, 177 and 180 of the Constitution if that person has not been a member of any political party for at least three months preceding the date of the election

46. On 11<sup>th</sup> November, 2022, the IEBC through a letter, *Ref IEBC/VREO/11/10/1*, dated 11<sup>th</sup> November, 2022, (*Annex 11a*) indicated the status of political party affiliation for the provisionally nominated candidates by political parties. The letter confirmed that all the twenty-eight (28) provisionally nominated candidates were duly registered as voters as required under the law, as shown herein below-

	NAME	ID/ PASSPORT NUMBER	POLITICAL PARTY
1.	Ms. Rebecca Merikeju	8663673	United Democratic



	NAME	ID/ PASSPORT NUMBER	POLITICAL PARTY
	Lowoiya		Alliance
2.	Hon. Zipporah Kering	7445968	United Democratic Alliance
3.	Mr. Godffrey Maina Mwangi	31027730	United Democratic Alliance
4.	Mr. Joel Okeng'o Nyambane	27826094	United Democratic Alliance
5.	Mr. Fredrick Muteti Charles	14730467	United Democratic Alliance
6.	Hon. Falhada Dekow Iman	22399216	United Democratic Alliance
7.	Hon. David Ole Sankok	20634336	United Democratic Alliance
8.	Sen. Hassan Omar Hassan	13663076	United Democratic Alliance
	Hon. (Dr.) Abdikadir Omar Aden	13116397	United Democratic Alliance
9.	Ms. Anne Cherono Too	11723938 / A1764323	United Democratic Alliance
10.	Mr. Jonas Misto V.Kuko	0277383	United Democratic Alliance
11.	Hon. Cyprian Kubai Iringo	16014705	United Democratic Alliance
12.	Hon. Lilian Cheptoo Tomitom	22555678	United Democratic Alliance
13.	Mr. Yasser Ali Sheikh	13781573	Ford Kenya
14.	Mr. Salim Mohammed Busaidy	1017378	Amani National Congress
	NAME	ID/ PASSPORT NUMBER	POLITICAL PARTY
1.	Hon. Kennedy Musyoka Kalonzo	24804993	Wiper Democratic Movement
2.	Ms. Winfred Syonindi Mutua	20693425	Wiper Democratic Movement
3.	Ms. Hellen Mueni Ndeti	3933371	Wiper Democratic Movement
4.	Mr. Suleiman Said Shabhal	3490900/ C008270	Orange Democratic Movement
5.	Ms. Winnie Imgard Odinga	27586118	Orange Democratic

	NAME	ID/ PASSPORT NUMBER	POLITICAL PARTY
			Movement
6.	Hon. Timothy Moseti Edward Bosire	1634249	Orange Democratic Movement
7.	Hon. Justus Kizito Mugali	10841219	Orange Democratic Movement
8.	Hon. Abdulahi Diriye	21445973	Orange Democratic Movement
9.	Ms. Beatrice Asukul Moe	12434187	Orange Democratic Movement
10.	Hon. Kanini Kega James Mathenge	12474351	Jubilee
11.	Hon. Jeremiah Ng'ayu Kioni	4291113	Jubilee
12.	Hon. Fatuma Ali Gedi	24910809	Jubilee

47. Accordingly, only Mr. Duncan Mwangi Ndegwa was not affiliated to a political party and was thus eligible to be nominated as an independent candidate, pending verification by the IEBC to ascertain whether the list of supporters attached to his nomination met the threshold of Article 99 of the Constitution. The letter from the Registrar of Political Parties is attached as *Annex 11b*.

48. On 14<sup>th</sup> November, 2022, the Presiding Officer received a letter, *Ref No: IEBC/VREO/11/10/1* dated 14<sup>th</sup> November, 2022, from IEBC in response to a request by the Clerks of both Houses of Parliament requesting the Commission to confirm whether or not as required under Article 99 (1) (c) of the Constitution, the persons set out in the lists submitted by the Independent Candidate, Mr. Duncan Mwangi Ndegwa of ID No. 7039426, as persons supporting his nomination are registered as voters in Limuru Constituency (*Annex 11c*).

49. In the letter, the Commission advised that the Candidate had not met the requisite threshold as provided for in Article 99 of the Constitution. The Commission indicated that upon scrutiny of the records-

- a. the list submitted by the nominee contained 2003 recorded supporters;
- b. 906 of the supporters attached copies of their National Identity cards while 1097 did not attach the same;
- c. through the verification process of the records, the Commission confirms that the nominee has been supported by 924 registered voters out of which only 337 belong to Limuru Constituency.

#### **2.1. Inspection of Nomination Papers**

50. In keeping with Rule 12, the Presiding Officers opened the designated nomination centre for two working days, Thursday, 10<sup>th</sup> November, 2022 and Friday, 11<sup>th</sup> November, 2022 for any interested member of the public to inspect the nomination papers and file complaints, if any.

51. At the close of the two days appointed for inspection of nomination papers, the Presiding Officers received complaints from the following persons- (*Annex 12*)

- a. Hon. Chirau Ali Mwakwere through his Advocates, M/S Gikera Vadgama submitted a letter on 10<sup>th</sup> November, 2022, alleging that –
  - i. The *Azimio* Coalition had received a list of all applicants from the Clerks of the National Assembly and the Senate for distribution to affiliate parties. The list was not delivered to Wiper Headquarters.
  - ii. Fake minutes from Wiper Headquarters dated 1<sup>st</sup> November, 2022, a date before the deadline of 2<sup>nd</sup> November, 2022 of submission of applications for EALA, were used to confirm that three names were purportedly deliberated and approved by the Wiper Management Committee meeting of 1<sup>st</sup> November, 2022.
  - iii. Candidate, Hellen Mueni Ndeti's application to the Clerks of both the National Assembly and the Senate is dated 13<sup>th</sup> October, 2022

yet the advert for EALA applications was issued on the 27<sup>th</sup> October, 2022.

b. Mr. Abdulaziz Gakuria submitted a letter on 10<sup>th</sup> November, 2022 alleging that-

i. Ms. Hellen Mueni Ndeti purports to have made an application for her EALA nomination in a letter dated 13<sup>th</sup> October, 2022 yet the first advert appeared on 26<sup>th</sup> October, 2022.

ii. Ms. Winfred S. Mutua made her application on 1<sup>st</sup> November, 2022 but indications are that it was received a day after the meeting of the WDM National Management Committee.

iii. The WDM National Management Committee met on 1<sup>st</sup> November, 2022 to make a decision yet the deadline for applications was 2<sup>nd</sup> November, 2022. This locked out and disenfranchised any applicants who may have applied to the Clerks of the Senate and the National Assembly directly.

iv. He doubts the authenticity of the minutes provided by WDM.

c. Mr. Fredrick Kioko Musau submitted a letter on 11<sup>th</sup> November, 2022 stating that he is aggrieved by his Party's decision – Wiper Democratic Movement to leave out his name from the final shortlist through a process that was not transparent and inclusive.

He further requested for the official list of all the EALA nomination applicants who submitted their documents and a certified copy of the minutes presented by WDM Kenya which contained the instructions of the final list proposed for nomination. He intends to appeal to the Dispute Tribunal.

d. Mr. Matthew Malusi submitted a letter on 11<sup>th</sup> November, 2022 alleging that –

i. The Wiper Movement from Nairobi branch has been left out of the nomination process despite presenting a candidate.



- ii. Wiper has nominated persons who are members of county assemblies;



## CHAPTER THREE

### 3. CONSIDERATION OF NOMINEES BY THE COMMITTEE

52. At its meeting held on 12<sup>th</sup> November, 2022, the Joint Select Committee considered the nominees submitted by the Majority, Minority and the independent candidates as well as complaints submitted during the inspection of the nominees.

#### 3.1. Consideration of Complaints

53. Complaint by Hon. Chirau Ali Mwakwere, the Joint Select Committee observed *that*:

- a. The party dispute regarding non-transmission of a list of all applicants by *Azimio la Umoja* One Kenya Alliance to Wiper Democratic Movement Party ought to be referred to the relevant dispute resolution tribunal or internal coalition dispute resolution mechanisms as contained in the coalition agreement. The Joint Select Committee can neither be able to intermeddle in coalition affairs nor convert itself into a quasi-judicial organ to make a determination on this matter;
  - i. On the allegation that the minutes from Wiper Democratic Movement Party Headquarters were not authentic, the Committee observed that the matter ought to be adjudicated by the relevant party organs;
  - ii. On the allegation that some applications were received outside the specified application window the committee observed that -
    - a. procedures for commencing applications are governed by Rule 4 and 5 of the EALA (Election of Members of the Assembly) Rules, 2017;
    - b. pursuant to the Rule 4 the Clerks of the two Houses of Parliament placed the advertisements in the Newspapers and *Kenya Gazette* on 26<sup>th</sup> October requiring receipt of applications by 2<sup>nd</sup> November, 2022; and

- c. the application of Ms. Helen Mueni Ndeti was received by the Clerk of the National Assembly, within the prescribed period as per the advertisement, on the 2<sup>nd</sup> November, 2022 and assigned serial number NA/152.

*54. On the complaint by Mr. Abdulaziz Gakuria*

- i. On the allegation that some applications were received outside the specified application window, the Joint Select Committee observed-
  - a. procedures for commencing applications are governed by the EALA (Election of Members of the Assembly) Rules, 2017. Pursuant to Rule 4, the Presiding Officers are required to notify and invite members of the public to apply within seven days form the date of notice, for nomination to be elected as a member of the East African Legislative Assembly;
  - b. consequently, the Clerks of the two Houses of Parliament placed the advertisements in the Newspapers and Kenya *Gazette* on 26<sup>th</sup> October requiring receipt of applications by 2<sup>nd</sup> November, 2022;
  - ii. on allegation that Ms. Winfred Syonindi Mutua made her application on 1<sup>st</sup> November, 2022, but indications are that it was received on the 2<sup>nd</sup> November a day after the meeting of the WDM National Management Committee, the Joint Select Committee observed that the matter ought to be referred to the relevant internal party organs for resolution.
  - iii. On allegation that WDM National Management Committee met on 1<sup>st</sup> November to make decision, yet the deadline for applications was 2<sup>nd</sup> November, 2022 locking out and disenfranchising some applicants, the Joint Select Committee observed that the matter ought to be referred to the relevant internal party organs for resolution.

- iv. On the allegation that the Minutes from Wiper Democratic Movement Party Headquarters were not authentic, the Joint Select Committee observed that, neither the Presiding Officers nor the Joint Select Committee are privy to the party's deliberations. Further, the names of the nominees of the Wiper Democratic Party and the Minutes were submitted by the Leader of the Minority Party representing the *Azimio la Umoja* One Kenya Coalition as contemplated in Rule 10.
- v. On the request, to the Presiding Officers to furnish names that have undergone proper party vetting, the Joint Select Committee observed that, pursuant to Rule 7, the Presiding Officers wrote a letter (Exhibit 7) to Majority and Minority Party leaders requesting them to submit the name of their respective nominees for election on nomination day which was set for Wednesday, 9<sup>th</sup> November, 2022. Consequently, the question as to proper party vetting of the nominees before submission to the Presiding Officers, rests with the political parties.

55. *Complaint by Mr. Fredrick Kioko Musau that-*

- i. he was aggrieved by the decision by WDM-K to leave out his name from the final shortlist through a process that was not transparent and inclusive. The Joint Select Committee observed that the matter ought to be referred to the relevant internal party organs for resolution.
- ii. he further be furnished with the list of all applicants for nomination and election to the membership of EALA and a certified copy of the minutes presented by the WDM-K. The Joint Select Committee observed that the complainant is entitled, under Article 35 of the Constitution to access any information that is in

custody of Parliament and the said information was availed to the complainant.

*56. Complaint by Mr. Matthew Malusi that-*

- i.* the WDM-K from Nairobi Branch has been left out of the nomination process, the Joint Select Committee observed that, that the matter ought to be referred to the relevant internal party organs for resolution;
- ii.* the WDM-K has nominated persons who are members of county assemblies, the Joint Select Committee observed that, the Ms. Hellen Mueni Ndeti of ID No. 3933371 submitted a resignation letter dated 9<sup>th</sup> November, 2022, addressed to the Speaker of the Machakos County Assembly and received by the Machakos County Assembly (*Annex 13*) and that the matter ought to be referred to the relevant internal party organs for resolution;
- iii.* Ms. Hellen Mueni Ndeti made an application for her EALA nomination in a letter dated 13<sup>th</sup> October, 2022, yet the first advert appeared on 26<sup>th</sup> October, 2022, the Joint Select Committee observed that-
  - a.* procedures for commencing applications are governed by Rule 4 and 5 of the EALA (Election of Members of the Assembly) Rules, 2017;
  - b.* pursuant to the Rule 4 the Clerks of the two Houses of Parliament placed the advertisements in the Newspapers and Kenya Gazette on 26<sup>th</sup> October requiring receipt of applications by 2<sup>nd</sup> November, 2022;
  - c.* the application of Ms. Helen Mueni Ndeti was received by the Clerk of the National Assembly, within the prescribed period as per the advertisement, on the 2<sup>nd</sup> November, 2022 and assigned serial number NA/152.

### 3.2. Consideration of letters from applicants

57. On the request by Mr. Yasser Ali Sheikh to include his popular name 'Bajaber' in the provisional nomination certificate and ballot paper, the Joint Select Committee observed that the, provisional nomination certificate granted to the applicant indicated his official names as contained in his National Identity Card. The nominee had not presented any evidence of change of name under the Registration of Persons Act, Cap 107 and the Rules thereunder hence indication of a name different from that contained in the National Identity Card whether in the provisional certificate of nomination or the ballot paper would be irregular.
58. On the affidavit sworn by Mr. Mwangi Godffrey Maina seeking to incorporate his popular name in the Ballot Paper, the Joint Select Committee observed that, the provisional nomination certificate granted to the applicant indicated his official names as contained in his National Identity Card. The nominee had not presented any evidence of change of name under the Registration of Persons Act, Cap 107 and the Rules thereunder hence indication of a name different from that contained in the National Identify Card whether in the provisional certificate of nomination or the ballot paper would be irregular.
59. On an application by Mr. Isaac Salat Ntiyieine indicating that he had inadvertently not indicated his political party, being United Democratic Alliance (UDA), in the application and requesting for onward transmission of his application to the Leader of the Majority Party for consideration. The Joint Select Committee observed that the request was received after the deadline of submission of applications and therefore could not be processed further.



60. On an application by Ms. Elizabeth Akinyi Obala indicating that she had inadvertently not indicated her political party, being Orange Democratic Movement (ODM), in the application, the Joint Select Committee observed that the request was received after the deadline of submission of applications and therefore could not be processed further.

## CHAPTER FOUR

### 4. OBSERVATIONS AND RECOMMENDATIONS

61. Having analyzed the applications and the Presiding Officers reports and other submissions, the committee makes the following observations-

- (a) **Mandate of the Joint Select Committee** - The Joint Select Committee noted that the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017 does not assign the Joint Select Committee a prominent role in the electoral process;
- (b) **Advertisement calling for Applications** – Despite the advertisement by the Presiding Officers carried in the daily newspapers and the Kenya *Gazette* on 26<sup>th</sup> October, 2022, the Joint Select Committee noted that, majority of the candidates seem not to have referred to the requisite provisions of the constitutional and statutory requirements with respect to qualifications;
- (c) **Withdrawal of a Candidate** - Rule 11(1) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017 states that withdrawal of candidates shall not be accepted after four o'clock in the afternoon of the day following the nomination day. This provision is restrictive to candidates who may wish to withdraw before the election day.
- (d) **Campaigns by Nominees** - Rule 14 of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017 provides for campaigns by nominees, who may approach and seek the support of Members of Parliament. However, candidates who are not former Members of Parliament or familiar with the precincts of Parliament may have difficulties accessing and seeking the support of the Members of Parliament for purposes of campaigns;

62. Based on the foregoing, the Committee therefore makes the following recommendations-

- (i) Amendment of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017 to enhance the role of the Joint Select Committee in whole process commencing with the invitation of applications to the submission of names to the East African Legislative Assembly.
- (ii) Amendment of the following Rules of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017-
  - i. Rule 11 on the withdrawal of candidature be amended to allow candidates to withdraw at any time before the election day; and
  - ii. Rule 14 on the campaigns by nominees be amended to include a framework for campaigns to ensure all nominees, whether they are former members of Parliament or not, have equal opportunity to campaign.
- (iii) That, having met all the requirements as provided for under the Treaty for the Establishment of the East African Community, the Constitution of Kenya, the East African Legislative Assembly Elections Act, 2011, the Elections Act, 2011 and the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, the following nominees qualify for election as members of the East African Legislative Assembly –

KENYA KWANZA ALLIANCE COALITION

NO.	NAME	GENDER	ID. NO.
1.	ADEN, Abdikadir Omar	MALE	13116397

5.

NO.	NAME	GENDER	ID. NO.
2.	BUSAIDY, Salim Mohamed	MALE	1017378
3.	CHARLES, Fredrick Muteti	MALE	14730467
4.	HASSAN, Hassan Omar	MALE	13663076
5.	IMAN, Falhada Dekow	FEMALE	22399216
6.	IRINGO, Cyprian Kubai	MALE	16014705
7.	KERING, Zipporah Jesang Kurgat	FEMALE	7445968
8.	KUKO, Jonas Misto Vincent	MALE	0277383
9.	LOWOIYA, Rebecca	FEMALE	8663673
10.	MWANGI, Godffrey Maina	MALE	31027730
11.	NYAMBANE, Joel Okeng'o	MALE	27826094
12.	SANKOK, David Ole	MALE	20634336
13.	SHEIKH, Yasser Ali	MALE	13781573
14.	TOMITOM, Lilian Cheptoo	FEMALE	22555678
15.	TOO, Anne Cheron	FEMALE	11723938

AZIMIO LA UMOJA ONE KENYA COALITION

4.

NO.	NAME	GENDER	ID. NO.
1.	ALI, Fatima Gedi	FEMALE	24910809
2.	BOSIRE, Timothy Moseti E	MALE	1634249
3.	DIRIYE, Abdullahi Mohamed	MALE	21445973
4.	KALONZO, Kennedy Musyoka	MALE	24804993
5.	KEGA, James Mathenge Kanini	MALE	12474351
6.	KIONI, Jeremiah Ngayu	MALE	4291113
7.	MUGALI, Justus Kizito	MALE	10841219
8.	MUTUA, Winfred Syonindi	FEMALE	20693425
9.	NAKUSA, Beatrice Asukul	FEMALE	12434187
10.	NDETI, Hellen Mueni	FEMALE	3933371
11.	ODINGA, Irmgard Winnie	FEMALE	27586118
12.	SHAHBAL, Suleiman Said	MALE	3490900

- (iv) That, pursuant to rule 15 of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, the election of members of the East African Legislative Assembly be held on 17<sup>th</sup> November, 2022.



## ANNEXURES

- Annex 1: A Letter from the Clerk of the East Africa Legislative Assembly on the end of term for the 4<sup>th</sup> Assembly
- Annex 2: Motions by the National Assembly and the Senate dated 13<sup>th</sup> October and 18<sup>th</sup> October respectively establishing the Joint Select Committee
- Annex 3: The East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017
- Annex 4: East African Legislative Assembly Elections Act, 2011
- Annex 5: *Gazette* Notice calling for applications from interested and qualified persons
- Annex 6: Withdrawal Letter by Ms. Susan Cherotich Maritim
- Annex 7: Presiding Officers letter inviting Majority and Minority Leaders for a pre-nomination briefing
- Annex 8: Schedule of applicants forwarded to the Leaders of Majority and Minority Party
- Annex 9: Letters by received the Presiding Officers during the Nomination Day
- Annex 10: Presiding Officers Letters to the IEBC and the ORPP
- Annex 11: Responses by the IEBC and the ORPP
- Annex 12: Complaint Letters Pursuant to Rule 12
- Annex 13: Resignation Letter by Wiper Nominee from the Machakos County Assembly