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TWELFTH PARLIAMENT
(FIRST SESSION)

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

DECEMBER 2017

PREFACE

Mr.Speaker Sir,

The East Africa Legislative Assembly (EALA) is the independent legislative arm of the East Africa Community (EAC), established under Article 9 of the EAC treaty. EALA membership comprises of 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 including:

- i. Liaising with National Assemblies of partner states on matters relating to the community;
- ii. Debating and approving the budget of the Community;
- iii. Considering of annual reports on the activities of the community, annual audit reports and any other reports referred to it;
- iv. Discussing all matters referred to it regarding the community and making recommendations as it may deem necessary for the implementation of the community treaty.

The third Assembly concluded its sittings on 4th June 2017 and the fourth Assembly is expected to commence its sittings early in the year 2018. Due to unavoidable circumstances, the election of the Kenyan representatives to EALA could not be concluded as scheduled during the 11th Parliament. There is need to urgently conclude the election process for the East African Legislative Assembly to commence transacting business of the East African Community.

The Parliament of the Republic of Kenya is therefore, expected to complete the process of election of Kenyan representatives by mid December 2017. In this regard, the Joint Parliamentary Select committee on election of Members of the East African Legislative Assembly was established on the 8th and 9th of November, 2017 by the National Assembly and the Senate respectively.

Mr. Speaker Sir,

The Committee comprises of the following Members-

The National Assembly

- 1) The Hon. Katoo Ole Metito, MGH, EGH, M.P. – **Co- Chairperson**
- 2) The Hon. Jayne Kihara, MP
- 3) The Hon. Jeremiah Kioni, MP
- 4) The Hon. Daniel Maanzo, MP
- 5) The Hon. Florence Mutua, MP

The Senate

- 1) Sen. Millicent Omanga, M.P. **- Co- Chairperson**
- 2) Sen. Dr. Abdulahi Ibrahim Ali, M.P.
- 3) Sen. Aaron Cheruiyot, M.P.
- 4) Sen. Rose Nyamunga, M.P.
- 5) Sen. Mutula Kilonzo Jnr., M.P.

Mr. Speaker Sir,

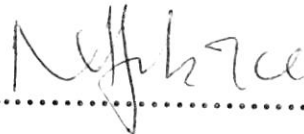
The Joint Committee held its first meeting on 15th November, 2017 where the timelines and immediate road map were developed with a view to expediting the election of the EALA Members. On 29th November, 2017, the Presiding Officers made a detailed briefing to the political leadership of both Houses before the actual nomination exercise which was carried out on 30th November, 2017. Thereafter on 1st and 4th December, 2017 the Presiding Officers gave the public an opportunity to inspect the nomination papers and submit any complaints they may have had with respect to the nominated candidates. Consequently, on 5th December, 2017, the Presiding Officers forwarded the names and nomination papers of all duly nominated candidates to the Joint Committee for consideration.

Mr. Speaker Sir,

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



Hon. Katoo Ole Metito, MGH, EGH, M.P.
Co-Chairperson

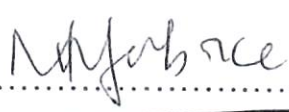


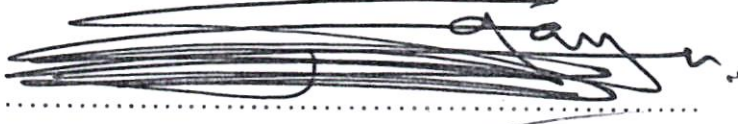
Sen. Millicent Omanga, M.P.
Co-Chairperson

DATE.. 6th December, 2017

We, the undersigned, append our signatures to confirm the content of the Report.

Hon. Katoo Ole Metito, MGH, EGH, M.P. 

Sen. Millicent Omanga, M.P. 

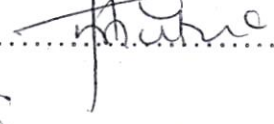
Hon. Jeremiah Kioni, M.P. 

Sen. Abdulahi Ibrahim Ali, M.P. 


Sen. Rose Nyamunga, M.P. 

Sen. Aaron Cheruiyot, M.P. 

Hon. Jayne Kihara, M.P. 

Hon. Florence Mutua, M.P. 

Hon. Daniel Maanzo, M.P. 

Sen. Mutula Kilonzo Jr., M.P. 

1.0 BACKGROUND

1. The East African Legislative Assembly 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.
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 a letter dated 7th December, 2016, the Clerk of EALA wrote to the Speaker of the National Assembly informing the Speaker that the term of the 3rd East African Legislative Assembly was due to end on 4th June, 2017 and further requesting that the Speaker cause the election of the Members of the next Assembly in accordance with Article 50 of the Treaty, the relevant provisions of the EALA Act, 2011 and the Rules of Procedure relating to election of Members of the Assembly.
4. The election process commenced in April 2017 but could not be concluded before the end of the term of the 11th Parliament. There is urgent need to conclude the election process for the East African Legislative Assembly members and enable the commencement of business by the Assembly.
5. By a Motion adopted by the National Assembly and the Senate on 8th and 9th November, 2017 respectively, the Houses of Parliament established the Joint

Parliamentary Select Committee on the Election of the Members of EALA consisting of the following members -

The National Assembly

- 1) The Hon. Katoo Ole Metito, MGH, EGH, M.P.
- 2) The Hon. Jayne Kihara, MP
- 3) The Hon. Jeremiah Kioni, MP
- 4) The Hon. Daniel Maanzo, MP
- 5) The Hon. Florence Mutua, MP

The Senate

- 6) Sen. Millicent Omanga, M.P.
- 7) Sen. Dr. Abdulahi Ibrahim Ali, M.P.
- 8) Sen. Aaron Cheruiyot, M.P.
- 9) Sen. Rose Nyamunga, M.P.
- 10) Sen. Mutula Kilonzo Jnr., M.P.

6. The Joint Committee was mandated to urgently conclude the election process for the East African Legislative Assembly and for this purpose, 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 (EALA Rules) within the timelines stipulated in the said Rules.

7. The Rules are attached as *Annex 2*.

1.1 ELECTION TIMELINES

8. The Joint Committee convened its first meeting on Wednesday, November 15, 2017, where it prepared a road map for the election of Kenya's representatives to EALA. The proposed EALA election timelines were adopted as shown in Table 1.

Table 1: Proposed EALA Members Election Timelines

No.	Activity	Applicable Rule	Timeline
1.	Presiding officer to advertise in two newspapers of national circulation and place a notice in the <i>Gazette</i> calling for application of membership to the EALA. Interested persons have 7 days to submit applications	Rule 4	16 th November, 2017
2.	Close of applications	Rule 4	23 rd November, 2017
3.	Nomination Day	Rule 4	30 th November, 2017
4.	Submission of nomination papers to the Presiding Officer by Candidates or Leaders of Majority and Minority Parties in Parliament (<i>within 7 days from close of the application period</i>)	Rule 10	30 th November, 2017 Between 8:30a.m. and 4:00 p.m.
5.	Public inspection of documents and nomination papers of duly nominated candidates	Rule 12	Friday 1 st and Monday 4 th December, 2017

No.	Activity	Applicable Rule	Timeline
6.	Transmission of names of duly nominated candidates to the Joint Committee by the Presiding Officers	Rule 13	Tuesday 5 th December, 2017
7.	Joint Committee to consider the nominees and present its Report to the Houses of Parliament	Rule 13	Wednesday 6 th – Friday 8 th December, 2017
8.	Presiding Officer to Gazette the Election date	Rule 15	Monday 11 th December, 2017
9.	Election Date	Rule 15	Wednesday 13th December 2017

1.2 ENTITLEMENT FOR NOMINATION

10. The Joint Committee considered the issue of the entitlement for nomination slots under the Rules. The Committee noted that under rule 6(1);

“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 Committee shall determine and dividing the result by the total number of elected Members of Parliament”.

Further, under rule 9 of the Rules *“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”.*

11. In accordance with the provisions of rule 6 which provides for the number of candidates each political party should submit for election, the Joint Committee analyzed the representation in the Houses of Parliament to determine the proportionate entitlement for each of the twenty (20) political parties in the 12th Parliament. In this regard, the Joint 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 416 Members and multiplied by the resultant figure by 9.
12. The Committee, noting that a party also includes a coalition of parliamentary political parties as provided in the EALA Rules and the Standing Orders of both Houses of Parliament, considered a letter from the Office of the Registrar of Political Parties which confirmed that there were only two coalition agreements deposited with the said Office. The committee learnt that five parties, namely, the *Orange Democratic Movement*, the *Wiper Democratic Movement*, *FORD Kenya*, *AMANI National Congress* and *Chama Cha Mashinani (CCM)*, had entered into a coalition agreement for the formation of the National Super Alliance (NASA) Coalition. The second coalition agreement was by two parties, that is *Wiper Democratic Movement* and *Muungano Party*.
13. The Committee therefore having considered the relative strengths of parties in Parliament and established the parties qualifying to nominate members under the EALA Rules directed the Jubilee Party to nominate fifteen nominees and the NASA Coalition to nominate twelve nominees in order to ensure adequate representation of political parties in the membership of EALA.

The Committee was also conscious of the fact that the fifteen (15) independent members in both Houses of 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 candidate be invited to submit their nomination form in accordance with rule 9 of the EALA Rules.

2.0 INVITATION FOR APPLICATIONS FOR ELECTION TO EALA

14. Pursuant to rule 4 of the EALA Rules, by an advertisement carried in the Daily Nation and the Standard Newspapers and published in the Kenya *Gazette* on 16th November, 2017, the Presiding Officers invited interested qualified persons to apply for nomination for election as a Member of EALA. The notice invited candidates from political parties to present their applications on or before 23rd November, 2017 and independent candidates to present their applications on the nomination day set for 30th November, 2017. A copy of the advertisement is attached as *Annex 3*.

15. To qualify for nomination for election, it was obligatory for interested persons to meet the qualifications set out under Article 50 of the Treaty which 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.

16. Further, Article 99 of the Constitution of Kenya (2010) sets out the qualifications and disqualifications for election as a Member of Parliament as follows:

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.

17. At the close of the application period, the Presiding Officers received a total of 208 applications. A summary of the applications per party is indicated in Table 2.

Table 2: List of Applicants per Political Party

S/No.	Party	No. of applicants
1.	The Jubilee Party (JP)	111
2.	The Orange Democratic Movement (ODM)	43
3.	The Wiper Democratic Movement (WDM)	08
4.	The Amani National Congress (ANC)	04
5.	The Economic Freedom Party (EFP)	04

6.	The Kenya African National Union (KANU)	04
7.	The Forum for Restoration of Democracy (FORD) Kenya	03
8.	The Kenya Patriots Party (KPP)	02
9.	The Party of Development and Reforms	02
10.	The Frontier Alliance Party (FAP)	01
11.	The Democratic Party (DP)	01
12.	The Party of National Unity (PNU)	01
13.	Independent candidates	24
Total applicants		208

18. By a letter dated 24th November, 2017 the Presiding Officers forwarded the schedule of applicants to the leaders of majority party and minority party in both houses of Parliament for their action. The letter to the party leaders and the schedule of the applicants to the respective parties is attached at *Annex 4*.

19. The party leaders were requested to submit their nominees for election to the Presiding Officers on nomination day which was set for Thursday, 30th November, 2017. Independent candidates were similarly to submit their applications to the Presiding Officers on the nomination day.

2.1 PRE-NOMINATION BRIEFING

20. Pursuant to Rule 7 of the EALA Rules, on 29th November, 2017, the Presiding Officers held a pre-nomination briefing with the parliamentary party leaders of the Jubilee Party and NASA coalition at which the leaders were updated on the requirements under the Treaty for nomination of candidates for election to

EALA, the number of slots for nomination available for the parties depending on their representation in Parliament and the election timelines.

21. Nominating political parties were further requested to note that on the nomination day, Thursday, 30th November 2017, 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.*

2.2 NOMINATION OF CANDIDATES

22. On 30th November, 2017, the Presiding Officers received nomination papers of independent candidates and candidates nominated by the Jubilee Party and the NASA coalition.
23. On 6th December, 2017, pursuant to Rule 13(1), the Presiding Officers presented their Report on the nomination process to the Joint Committee. The Report of the Presiding Officers is attached as *Annex 5*.
24. In the Report, the Presiding Officers informed the Committee that thirty-one (31) candidates were cleared and issued with provisional nomination certificates. Twenty-six (26) of the nominees were affiliated to the political parties while five (5) were independent candidates.
25. The Presiding Officers noted that one of the nominees of the Jubilee Party, Ms. Julie Njeri Waweru is a serving Public Officer. Ms. Waweru is one of the Directors of the Kenya Youth Enterprise Fund. The Presiding Officers had provisionally accepted her nomination papers on the strength of the court decision by Justice D.K. Njagi Marete in **Eric Cheruiyot & 7 others versus Independent Electoral and Boundaries Commission & 7 others** issued on 29th March, 2017. The Court declared section 43(5) of the Elections Act, 2011

unconstitutional, in effect allowing public officers intending to vie for political office to continue serving in their respective offices and only be required to resign after being nominated by their political parties to contest in an election.

26. The Presiding Officers went on to note that the decision of Justice Marete had been stayed by the Court of Appeal in **County Government of Embu & another versus Eric Cheruiyot & 15 others** on 27th September, 2017. This had the effect of suspending the decision of Justice Marete therefore reinstating the provisions of section 43(5) of the Elections Act, 2011 mandating public officers to resign at least six (6) months before an election in which they intend to contest.

27. The Presiding Officers also pointed out that Ms. Winfred Syonindi Mutua, a nominee of the NASA Coalition is a sitting Member of the Machakos County Assembly. Article 99(2)(a) and (d) of the Constitution provides that a member of a county assembly is not qualified to be elected as a Member of Parliament. This therefore means that Ms. Mutua does not qualify to be elected as a member of EALA in accordance with Article 50(2)(b) of the EAC Treaty. The Presiding Officers however provisionally accepted her nomination papers to enable the Committee make the decision on whether she qualifies for election to EALA in accordance with its powers under the EALA Rules.

28. In addition, the Presiding Officers stated that on Friday, 1st December, 2017 after the close of the nomination exercise they wrote to the following independent offices:

- a) The Independent Electoral and Boundaries Commission (IEBC) to confirm-

- (i) whether, 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, 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 Registrar of Political Parties 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 –
- (i) *has not been a member of any political party for at least three months preceding the date of the election.*

*The letters to Independent Electoral and Boundaries Commission (IEBC) and the Registrar of Political Parties are attached as **Annex 6***

29. On Monday, 4th December, 2017, the Registrar of Political Parties vide her letter Ref: RPP/FRP/3/2 VOL VIII dated 4th December, 2017 informed the Presiding Officers that according to the records held by her office as at 4th December, 2017, the following is the political parties membership status of the listed applicants-

S/No.	Name of Applicant	ID/PP No.	Status
1.	Mr. Cheruiyot Kemei Tamogei	13010303	Jubilee Party
2.	Ms. Hellen Makone	A022319	Jubilee Party
3.	Mr. Eric Wanjohi Gatheru	20005937	Partyless
4.	Mr. Billy Baltazar	22440730	Jubilee Party
5.	Mr. Humphrey Kimani Njuguna	1831312	Jubilee Party

30. On Tuesday, 5th December, 2017, the Independent Electoral and Boundaries Commission vide their letter Ref: IEBC/VREO/2/6/2/Vol II (8) dated 4th December, 2017 indicated that-

- a) all the thirty-one (31) candidates provisionally issued with nomination certificates were duly registered as voters,
- b) the Commission needed the soft copies of the list of supporters for the following independent candidates in order to verify whether the independent candidates meet the threshold of article 99 (1) (c) of the Constitution-

S/No.	Name of Applicant	ID/PP No.
1.	Ms. Hellen Makone	A022319
2.	Mr. Eric Wanjohi Gatheru	20005937
3.	Mr. Billy Baltazar	22440730
4.	Mr. Humphrey Kimani Njuguna	1831312

- c) Mr. Cheruiyot Kemei Tamogei who submitted the soft copies of the list of his supporters, had only 917 registered voters and hence below the required number as stipulated under article 99(1) (c).

The response from the Independent Electoral and Boundaries Commission (IEBC) and the Registrar of Political Parties are attached at Annex 7

31. The Report further indicated that the nomination papers and documents of provisionally nominated candidates were opened for public inspection on Friday, 1st December, 2017, and Monday, 4th December, 2017, in accordance to rule 12 of the said Rules. At the end of the inspection period, the Presiding Officers received the following complaints -

- i) A letter from Mr. Justus O. Mochoge a nominee of the NASA Coalition alleging that he was informed of his nomination on the nomination day - Thursday, 30th November, 2017 at 3:30 p.m. and hence was not available to present his papers as he was in Busia. He however travelled to Nairobi on 1st December, 2017 to present his papers but was informed that he was time barred as the nomination day closed on Thursday, 30th November, 2017. He has written a letter requesting the Joint Committee to consider his case and accept his papers;
- ii) A letter from Hon. Lawrence Sifuna, an independent candidate indicating that he sent his application to the Clerk of the National Assembly on 17th November, 2017. He however was unable to present his nomination papers on 30th November, 2017 as the vehicle he was travelling in broke down in Webuye and hence could not reach Nairobi on time to present his papers. He is requesting the Joint Committee to consider his application; and

iii) A letter from Mr. Jimmy P. Luka submitted on 1st December, 2017, raising an issue with the fact that he had been excluded by his party from the list of nominees and requesting that the list of nominees submitted by NASA be rejected owing to the fact that no disabled person had been nominated and further, owing to the relationship of some nominees to the coalition leadership. Letters of complaints are attached as *Annex 8*.

32. Pursuant to Rule 13(1) of the EALA Rules, the Presiding Officers forwarded to the Joint Committee the names and nomination papers of all duly nominated candidates for consideration by the Committee. The list of candidates who qualified for nomination is indicated on table 3.

Table 3: Persons Provisionally Nominated for Election as Members of the East African Legislative Assembly (EALA)

JUBILEE PARTY						
No.	Name of Nominee	ID/Pp. No.	Age	Gender	County	PWD
1.	Hon. Simon Nganga Mbugua	13308633	43	Male	Nairobi	No
2.	Hon. Adan Mohamed Nooru	0209144	59	Male	Mandera	No
3.	Mr. Charles Ayako Nyachae	7128597	59	Male	Kisii	No
4.	Hon. Lawrence Mpuru Aburi	2505927	55	Male	Meru	No
5.	Hon. Wanjiku Muhia	14476590	42	Female	Nyandarua	No
6.	Ms. Elizabeth Wangui Njeeh	25739372	30	Female	Nyeri	PWD

7.	Hon. AbdulAziz Ali Farah	10028709	48	Male	Mandera	No
8.	Ms. Irene Cherop Masit	8032980	50	Female	Elgeyo Marakwet	No
9.	Ms. Flowrence Jematiah Sergon	22209767	37	Female	Baringo	No
10.	Mr. Justin Nthiiri Bundi	4828645	60	Male	Tharaka- Nithi	No
11.	Ms. Eunice Wanjiru Karanja	10961219	45	Female	Trans- Nzoia	No
12.	Mr. Jackson Kipkemoi Kosgei	4019786	61	Male	Baringo	Yes
13.	Ms. Dorice Donya Aburi	22862539	35	Female	Kisii	No
14.	Dr. Muriuki Joe Muriithi	Pp. No. A1608352	58	Male	Nyeri	No
15.	Ms. Julie Njeri Waweru	22648302	36	Female	Nyandarua	No
<u>NASA COALITION</u>						
No.	Name of Nominee	ID/Pp. No.	Age	Gender	County	PWD
1.	Hon. (Dr.) Oburu Oginga	0637188	74	Male	Siaya	No
2.	Mr. Kennedy Musyoka Kalonzo	24804993	31	Male	Kitui	No
3.	Mr. Norman Magaya Amugira	23127809	36	Male	Kakamega	No
4.	Hon. Fatuma Ibrahim Ali	33246825	52	Female	Wajir	No

5.	Hon. Abdikadir Omar Aden	13116397	45	Male	Garissa	No
6.	Ms. Beth Kalunda Mutunga- Syengo	7435755	49	Female	Machakos	No
7.	Mr. Abubakar Zein Abubakar	8375661	53	Male	Mombasa	No
8.	Ms. Loy Mwandi Maviala	0563313	69	Female	Kakamega	No
9.	Ms. Angela Mueni Munyasia	1472556	56	Female	Machakos	No
10.	Ms. Winfred Syonindi Mutua	20693425	40	Female	Machakos	No
11.	Ms. Jane Moronge Marwa	8997651	49	Female	Migori	No

INDEPENDENT CANDIDATES

No.	Name of Nominee	ID/Pp. No.	Age	Gender	County	PWD
1.	Mr. Cheruiyot Kemei Tamogei	13010303	41	Male	West Pokot	No
2.	Ms. Hellen Makone	A022319	58	Female	Kisii	No
3.	Mr. Eric Wanjohi Gatheru	20005937	40	Male	Murang'a	No
4.	Mr. Billy Baltazar	22440730	38	Male	Kajiado	No
5.	Mr. Humphrey Kimani Njuguna	1831312	56	Male	Murang'a	No

33. Rule 3 of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, requires persons seeking the office of EALA membership to meet 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.

The thirteen (13) applicants indicated in table 4 did not qualify for nomination.

Table 4: List of Unsuccessful Independent Applicants

S/NO	APPLICANT	REMARKS
1.	Mr. Willy Mukoma Munyuthe	The candidate presented documents that were not signed by people supporting his nomination.
2.	Ms. Esther Wambui Miano	Nomination documents not supported by the requisite signatures
3.	Mr. Tony Peters Sifule	Did not submit the requisite signatures as required under Article 99 (1)(c)
4.	Mr. Ngotho Gichuru Eutyclus	Nomination documents not supported by the requisite signatures
5.	Mr. Duncan Mwangi Ndegwa	Had fewer than the required number of supporting signatures
6.	Mr. Mohamud Sheikh Adan	Presented a fingerprinted document that had less than 1000 fingerprints (Signatures)
7.	Mr. Gideon Ledama Kobei	The persons purportedly supporting his candidature did not sign
8.	Mr. Lawrence K.K. Mangunda	Did not submit the requisite signatures as required under Article 99 (1)(c)
9.	Mr. Abdallah Kasim	The signatures submitted were fewer than required under Article 99 (1)(c)
10.	Mr. John Peter Ndhune Onginjo	Did not submit the requisite signatures as required under Article 99 (1)(c)
11.	Ms. Lynette Wambui Mwangi	Did not submit the requisite signatures as required under Article 99 (1)(c)
12.	Ms. Christine Wekesa	The documents supporting her candidature bore only 658 signatures
13.	Mr. Kipkoech Evans Cheruiyot	Did not submit the requisite signatures as required under Article 99 (1)(c)

CONSIDERATION OF NOMINEES BY THE COMMITTEE

34. At a meeting held on 6th December, 2017 the Committee considered the nominees submitted by the Jubilee Party, NASA Coalition and the independent candidates as well as complaints submitted during the inspection of the nominees and made the following observations-

1. Consideration of complaints

- a) With respect to the request by Hon. Lawrence Sifuna to the Committee to consider his application after the close of the nomination day, the Committee declined to consider his application because he did NOT present his papers on the nomination day as required under Rule 9 of the Rules and as set out in the advertisement inviting persons interested in vying for election as a member of EALA to submit their applications on 30th November, 2017, the day assigned as the nomination day.
- b) With respect to the request by Mr. Jimmy P. Luka to the Committee to reject the nominees by the NASA Coalition, the Committee declined his request owing to the fact that the Rules required the political parties entitled to nominate its nominees to do so in accordance with rule 6(2). The Committee noted that it was not its mandate to adjudicate on the processes carried out by the respective political parties in determining its nominees.
- c) With respect to the request by Mr. Justus Mochoge to be included as one of the nominees of the NASA Coalition, the Committee noted that the NASA Coalition had, on the nomination day, submitted the name of the applicant as one of its nominees. The Committee therefore noted that the applicant should be included as a nominee of the NASA Coalition.

2. Observations

- a) The Jubilee Party and NASA Coalition had complied with rule 6 of the Rules and submitted three times the number of persons they are entitled to nominate under the Rules.
- b) Noting the advice of the Presiding Officers on statute and case law on the issue of resignation of State Officers and public officers intending to vie for political office, a public officer ought to resign at least six (6) months before the election he or she intends to contest. Ms. Julie Njeri Waweru, being a Public Officer employed by the Kenya Youth Enterprise Fund, did not therefore qualify to be elected as a member of EALA.
- c) Ms. Winfred Syonindi Mutua being a Member of the Machakos county assembly did not qualify to be elected to EALA in accordance with Article 50 of the EAC Treaty as read together with Article 99 of the Constitution.
- d) All the thirty-one (31) candidates provisionally issued with nomination certificates were duly registered as voters.
- e) The following independent candidates do not qualify for nominations as independent candidates as they did not 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 –
 - (i) *has not been a member of any political party for at least three months preceding the date of the election.*

S/No.	Name of Applicant	ID/PP No.	Status
1.	Mr. Cheruiyot Kemei Tamogei	13010303	Jubilee Party
2.	Ms. Hellen Makone	A022319	Jubilee Party
3.	Mr. Billy Baltazar	22440730	Jubilee Party
4.	Mr. Humphrey Kimani Njuguna	1831312	Jubilee Party

f) That Mr. Eric Wanjohi Gatheru an independent candidate was also disqualified because the list of his supporters were below the requisite number in accordance to provision of Article 99(1)(c) of the Constitution.

g) Given the fact that none of the independent candidates qualify to vie for election and that the nominees by the political parties qualify to vie, the entitlements to nominate persons for election to EALA would only accrue to political parties as follows -

(a) the Jubilee Coalition – five (5) nominees; and

(b) the NASA Coalition – four (4) nominees.

RECOMMENDATIONS

Pursuant to the provisions of rule 13 (5) of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, the Committee recommends that the Houses of Parliament resolve as follows-

- 1) **That**, pursuant to the provisions of Art. 50 (2) of the East African Community Treaty on qualification for election as Member of the Assembly as read together with Art. 99 of the Constitution of Kenya, **Ms. Julie Njeri Waweru** and **Ms. Winfred Syonindi Mutua** do not qualify to be elected a Member of the Assembly as they are unqualified to be elected as Members of Parliament in Kenya, being state officers;

- 2) **That, Mr. Cheruiyot Kemei Tamogei, Ms. Hellen Makone, Mr. Billy Baltazar and Mr. Humphrey Kimani Njuguna** who submitted their applications to vie as candidates independent of a political party do not qualify to vie for election as they do not meet the requirements of section 33(1)(a) of the Elections Act, 2011;
- 3) **That,** the Independent Electoral and Boundaries Commission having confirmed that the list of the persons in support of his nomination as an independent candidate as required under Article 99(1)(c) of the Constitution, fell below the constitutional threshold, **Mr. Eric Wanjohi Gatheru** does not qualify for election as a Member East African Legislative Assembly;
- 4) **That,** having met all requirements under the Constitution of Kenya, the East African Community Treaty, 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 to the East African Legislative Assembly –

JUBILEE PARTY						
No.	Name of Nominee	ID/Pp. No.	Age	Gender	County	PWD
1.	Hon. Simon Nganga Mbugua	13308633	43	Male	Nairobi	No
2.	Hon. Adan Mohamed Nooru	0209144	59	Male	Mandera	No
3.	Mr. Charles Ayako Nyachae	7128597	59	Male	Kisii	No
4.	Hon. Lawrence Mpuru Aburi	2505927	55	Male	Meru	No
5.	Hon. Wanjiku Muhia	14476590	42	Female	Nyandarua	No

6.	Ms. Elizabeth Wangui Njeeh	25739372	30	Female	Nyeri	No
7.	Hon. AbdulAziz Ali Farah	10028709	48	Male	Mandera	No
8.	Ms. Irene Cherop Masit	8032980	50	Female	Elgeyo Marakwet	No
9.	Ms. Flowrence Jematiah Sergon	22209767	37	Female	Baringo	No
10.	Mr. Justin Nthiiri Bundi	4828645	60	Male	Tharaka- Nithi	No
11.	Ms. Eunice Wanjiru Karanja	10961219	45	Female	Trans- Nzoia	No
12.	Mr. Jackson Kipkemoi Kosgei	4019786	61	Male	Baringo	Yes
13.	Ms. Dorice Donya Aburi	22862539	35	Female	Kisii	No
14.	Dr. Muriuki Joe Muriithi	A1608352	58	Male	Nyeri	No

NASA COALITION

No.	Name of Nominee	ID/Pp. No.	Age	Gender	County	PWD
1.	Hon. (Dr.) Oburu Oginga	0637188	74	Male	Siaya	No
2.	Mr. Kennedy Musyoka Kalonzo	24804993	31	Male	Kitui	No
3.	Mr. Norman Magaya Amugira	23127809	36	Male	Kakamega	No
4.	Hon. Fatuma Ibrahim Ali	33246825	52	Female	Wajir	No

5.	Hon. Abdikadir Omar Aden	13116397	45	Male	Garissa	No
6.	Ms. Beth Kalunda Mutunga- Syengo	7435755	49	Female	Machakos	No
7.	Hon. Abubakar Zein Abubakar	8375661	53	Male	Mombasa	No
8.	Ms. Loy Mwandu Maviala	0563313	69	Female	Kakamega	No
9.	Ms. Angela Mueni Munyasia	1472556	56	Female	Machakos	No
10.	Ms. Jane Moronge Marwa	8997651	49	Female	Migori	No
11.	Mr. Justus Onsongo Mochoge	0638384	56	Male	Kisii	No

- 5) **That**, prior to the subsequent EALA elections, the Member States considers a review of the EAC Treaty to unequivocally provide for criteria of nomination of candidates independent of a political party and consequently, the constitutive parliaments undertake a review of their respective election rules in conformity to address the existing ambiguities;
- 6) **That**, pursuant to rule 15 of the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017, election of members to EALA be held **on 13th December, 2017.**
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REPUBLIC OF KENYA



12TH PARLIAMENT

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

ADOPTION LIST

We, the undersigned, hereby affix our signatures to this Report to affirm our approval:

DATE: 6th December, 2017

	NAME	SIGNATURE
1.	Hon. Katoo Ole Metito, M.P. – Co-Chairperson	
2.	Sen. Millicent Omanga, M.P – Co-Chairperson	
3.	Sen. Aaron Cheruiyot, M.P.	
4.	Hon. Jayne Kihara, M.P.	
5.	Sen. Mutula Kilonzo Junior, M. P.	
6.	Hon. Jeremiah Kioni, M.P.	
7.	Sen. (Dr.) Abdullahi Ibrahim Ali, M. P.	
8.	Hon. Dan Maanzo, M.P.	
9.	Sen. Rose Nyamunga, M.P.	
10.	Hon. Florence Mutua, M.P.	