



OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

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NAIROBI,
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Date: 14th September, 2017

Kura Yangu Sauti Yangu

C/O Kenya Human Rights Commission
Gitanga Road, Opposite Valley Arcade
P.O. Box 41079-00100

NAIROBI

Email: admin@khcr.or.ke

Advance Copy Via Email

RE: PETITION TO UNDERTAKE INVESTIGATION AND NECESSARY PROSECUTION ON IEBC STAFF

1. I write in reference to the above captioned subject and to formally acknowledge receipt of your Petition under Article 137 of the Constitution dated and presented to my Office on **13th September, 2017**.
2. In the aforementioned Petition, you seek my urgent intervention in regard to criminal offences allegedly committed by the commissioners and staff of IEBC in relation to the general election held on August 8, 2017.
3. I have given due consideration to the content of your aforesaid Petition and your request therein.
4. I note that your request is based substantially on the findings of the Supreme Court of Kenya in the case of **Raila Odinga & Another V. The Independent Electoral and Boundaries Commission and Others – Election Petition No. 1 of 2017**, that:
 - i. IEBC failed, neglected or refused to conduct the Presidential elections in a manner consistent with the dictates of the Constitution and, inter alia the Elections Act;
 - ii. IEBC committed irregularities and illegalities inter alia in the transmission of results, particulars and substance of which will be given in the detailed and reasoned judgment of the Court.
 - iii. Such irregularities and illegalities affected and impugned the integrity of the entire Presidential Election.
5. Further, you contend that, although the said decision of the Supreme Court only dealt on the conduct of the presidential election, it is your view that the violations or the non-compliance with the law identified by the Supreme Court does apply to other elections conducted on August 8 2017.

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A. O. P.

6. As you correctly noted in your aforesaid Petition the Supreme Court is yet to render a detailed and reasoned judgment in the relevant petition. Furthermore, the Supreme Court expressly indicated that **"the particulars and substance of the irregularities and illegalities"** committed by IEBC **"will be given in the detailed and reasoned judgment of the court"**, which, as already pointed out, is yet to be delivered.

7. In order for me to be able to give **clear, precise and specific** directives to the Inspector General of the Police or any such other criminal investigative agencies as may be appropriate and so as to facilitate a **holistic and comprehensive** investigation, I am of the considered view that it would be proper to await delivery of the detailed and reasoned judgment of the Supreme Court which, as indicated by the judges, will contain the particulars and substance of the irregularities and illegalities found to have been committed by IEBC.

8. I would like to assure you that this Office takes seriously its constitutional and legal mandate and obligations.



KERIAKO TOBIKO, CBS, S.C.
DIRECTOR OF PUBLIC PROSECUTIONS