

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL & HUMAN RIGHTS DIVISION
CONSTITUTIONAL PET NO [E/591](#) OF 2025

IN THE MATTER OF: ARTICLES 3(1), 22 (1) & (2) (a) & (c), 23, 48, 50(1),
165 (3) (b) & (d)(ii), AND 258 (1) & (2)(a) & (c) OF THE
CONSTITUTION OF KENYA, 2010.

IN THE MATTER OF: THE ALLEGED CONTRAVENTION OF
ARTICLES 1, 2, 3(1), 4(2),
10, 19, 20, 21, 24, 73(1) & 2(b to e), 75(1), 232(e) & (f) &
(2) (a) & (b), AND 259(1) OF THE CONSTITUTION.

IN THE MATTER OF: THE COUNTY GOVERNMENT ACT NO.17 OF 2012

IN THE MATTER OF: THE ALLEGED CONTRAVENTION OF
SECTIONS 3, 4, 5, AND 6 OF THE FAIR
ADMINISTRATIVE ACTION ACT, 2015; SECTIONS 3,
4(1), 6, 7, 8, 10, 11 AND 13(1)(a), (b) & (c) OF
THE LEADERSHIP
AND INTEGRITY ACT, 2012; AND SECTIONS 7, 8,
9 AND 10 OF THE PUBLIC OFFICER ETHICS ACT
(CAP. 185B).

IN THE MATTER OF: THE DOCTRINES OF THE GOOD GOVERNANCE,
RULE OF LAW, AND LEGITIMATE EXPECTATIONS.

-BETWEEN-

FRANCIS KIIRIA.....PETITIONER

-VERSUS-

CHARLES KERICH.....RESPONDENT

-AND-

ETHICS & ANTI-CORRUPTION COMMISSION.....1ST INTERESTED PARTY

NAIROBI CITY COUNTY GOVERNMENT.....2ND INTERESTED PARTY

NAIROBI COUNTY ASSEMBLY.....3RD INTERESTED PARTY

THE CONTROLLER OF BUDGET.....4TH INTERESTED PARTY

PETITION

To: The Registrar,
High Court of Kenya
NAIROBI

The Humble Petition of FRANCIS KIIRIA residents of NAIROBI respectfully

SHOWETH THAT:

1. The Petitioner is a male adults of sound mind and concerned Kenyan Citizen.
2. The Petitioners' address for purposes of this Petition is care of Kenya Youth Organization Movement. kyom2016@gmail.com.
3. The Respondent is the current CEC in charge Finance and Economic Planing in Nairobi City County

THE LAW

1. **Article 2(1)** of the Constitution provides that the Constitution is the Supreme law of the Republic and binds all persons and all State organs at both levels of government. Sub-Article (2) further states that no person may claim or exercise State authority except as authorized under the Constitution.
2. **Article 3(1)** of the Constitution on Defense of the Constitution which Postulates that every person has an obligation to respect, uphold and defend this Constitution.
3. **Article 10 (2) (b)** of the Constitution provides for the national values and principles of governance which include: human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized.
4. **Article 27 (1)** of the Constitution provides that every person is equal before the law and has the right to equal protection and equal benefit of the law. Further, Article 27 (2) thereof states that equality includes the full and equal enjoyment of all rights and fundamental freedoms.
5. **Article 41(1)** of the Constitution provides that every person has the right to fair labor practices;
6. **Article 73** of the Constitution provides for the authorities assigned to a state officer and for the responsibilities of leadership.
7. The 1st Interested Party has been joined to these proceedings pursuant to Rule 2 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013, as entities that have identifiable stakes or legal interests or duties in these proceedings. It was established under Article 79 of the constitution of Kenya with the same status and powers as any other commission under Chapter Fifteen of the Constitution, mandated with the onus of ensuring compliance with, and enforcement of, the provisions of this Chapter Six of the Constitution.
8. **Article 226 (5)** of the Constitution provides that the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not.
9. **Article 258** of the Constitution provides that (1) Every person has the right to institute court proceedings, claiming that this Constitution has been contravened, or is threatened with contravention; (2) In addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by (a) a person acting on behalf of another person who cannot act in their own name; (b) a person acting as a member of, or in the interest of, a group or class of persons; (c) a person acting in the public interest; or (d) an association acting in the interest of one or more of its members.

9. **Article 259(1)** of the Constitution states that the Constitution shall be interpreted in a manner that; (a) promotes its purposes, values and principles; (b) advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights; (c) permits the development of the law; and (d) contributes to good governance.

FACTS LEADING TO PETITION

1. The Petitioner are Concerned Kenyans & Human Rights Activists under the aegis of Kenya youth organization based in Kilimani within Nairobi County.
2. The Petitioner noted overwhelming illegalities, irregularities and circumvention of the law that was done by the Respondent at his capacities
3. That the Respondent is serving as the CEC in charge of Finance and Economic Planning in Nairobi City County
4. That there was a complaint made by the office of the Controller of budget to the Respondent on payment procedures done by the Respondent with (REF:ALC/01/07/25).Annexed as DMK1, this complaint is part of the evidenced produced to this court to signify the illegalities and irregularities done by the Respondent.
4. Since the Respondent assumed office there have been allegations of payment of millions to non-existent companies.
5. The Respondent also paid nine companies that supplied nothing to the county government
6. Below is a set of companies that have benefited from the fraudulent payments from the respondent. The first set of companies are:

COMPANY	DATE PAID	AMOUNT
Lakev Enterprises	13/07/2023	15,478,448.30
Lakev Enterprises	13/07/2023	8,967,692.40
Yehg Logistics	13/07/2023	17,542,241.40
Brighton Pharmaceutical	13/07/2023	18,500,000.00
Istanbul Investment Ltd	13/07/2023	15,227,107.75
Remont Services Ltd	13/07/2023	13,226,000.00
Wesca Enterprises	13/07/2023	13,139,482.75
Zaas Enterprises	13/07/2023	13,184,335.85
Jowa Agencies Ltd	13/07/2023	14,078,017.25

Rar Awamimtech Ltd	13/07/2023	18,868,965.50
Duli Enterprises Ltd	13/07/2023	19,652,666.40
Northern Rock Investment	13/07/2023	19,652,172.40
Zafi Traders K Ltd	13/07/2023	19,654,091.40
Niftique General Suppliers Ltd	13/07/2023	19,652,715.50
Westrift Holdings Ltd	13/07/2023	17,345,984.50
Ultrasafe Enterprises Ltd	13/07/2023	29,086,018.95
Rafseq Traders Ltd	13/07/2023	17,075,431.05
Absit Enterprises	29-30/06/2023 ---	
TOTAL		290,331,364

Below is a second set of companies that also benefited from the fraudulent payments

COMPANY	AMOUNT
TREBER SOLUTIONS LTD -	7,250,000
JIGSAW CONSTRUCTION LTD -	7,386,975
SUPREME ICT SOLUTION LTD -	5,030,000
PRICELESS CLEANING SERVICES LTD-	8,480,504
NANE HOMES COMPANY LTD-	5,308,615
INVENTORY INVESTMENT LTD -	6,155,000
FREBERY CONSULTANTS	6,020,102
LENNOTA MERCHANT -	8,889,000
MALBE CONSTRUCTION LTD-	6,422,658
TOTAL PAID WITHIN THIS PERIOD	60,942,854

7. The details paint a picture of how City Hall loots without mercy to the suffering public and distraught city residents who are reeling from the poor leadership of the Respondent and other officials in the current administration of Nairobi County

8. The first set of companies cumulatively got paid Sh 290,331,364 million on 13/07/2023 at the time the county had received over 70 billion from treasury just before the end of the 2022/2023 Financial Year.

9. This was a record breaking money heist with an insider source revealing that the county may have lost close to Sh500 million in the same period as the finance department rushed to spend the money through irregular payments before the official start of the 2023/2024 FY.

10. A second set of companies whose directors and managers are well known to the respondent was also paid Sh 60,942,854 million.

11. Northern Rock Investment which was also paid 19,652,172.40 by the respondent for work that cannot be authenticated and City Hall was once flagged by the Auditor General over the same

12. The Respondent also paid Brighton Pharmaceutical with fictitious payments totaling to Sh 18,500,000.00 and it's not clear what the payments were for considering the county procures medicine directly from Kemsas.

13. A report by the Nairobi County Assembly's Select Committee implicated the Respondent and other senior officials in significant financial losses, including unauthorized payments of Ksh 77,684,054 and unsupported goods and services worth Ksh 28,147,580.60 which shows financial mismanagement

14. The Respondent is faced criticism for delays in paying employee salaries, leading to a tense workers' forum at City Hall. DMK2 Annexed below show as at the time of filling this petition the salaries were not paid and an official letter was done by the acting county secretary.

15. That on Financial statements submissions the County Assembly did note management's failure to submit a signed copy of the financial statements for the year ending June 30, 2023

16. That the Respondent have violated the Professional and statutory codes, that states that a public officer, who is a professional in the public service, shall be bound by, and observe, the professional code of conduct he or she might be required to subscribe to.

17. The Respondent has violated Chapter 183 of The Public Officer Ethics Act of 2003. A public officer shall— (a) be honest in the conduct of public affairs; (b) not engage in activities that amount to abuse of office; (c) accurately and honestly present information to the public; (d) not engage in wrongful conduct in furtherance of personal benefit; (e) not misuse public resources; (f) not falsify any private or public document

18. That the Respondents have violated the Professional and statutory codes, that states that a public officer, who is a professional in the public service, shall be bound by, and observe, the professional code of conduct he or she might be required to subscribe to.

19. The Petitioner state that the Respondent have broken the Rule of law that states that a public officer shall carry out his or her duties in accordance with the law

LEGAL FOUNDATION & MATRIX

1. Just as the Constitution of Kenya is the backbone of all laws of the land, the Constitution anchors the values and principles of public officers.
2. Public office in the context of the Constitution of Kenya, 2010 is all about integrity in leadership.
3. In the whole, the Respondents has disregarded the whole of chapter 6 of the Constitution which requires persons both state and public officers to uphold integrity.
4. It has been reiterated times above number that the terms of chapter six of the Constitution to the effect, it was not enacted in vain or for cosmetic reasons; that the authority assigned to a state/public officer is a public trust to be exercised in a manner that demonstrates respect for the people; brings honor to the nation and dignity to the office;
5. As a further commitment to ensuring integrity in leadership, the Constitution also creates an Ethics and Anti- Corruption Commission to enforce the above provisions. It commands the enactment of legislation on leadership and integrity, the Leadership and Integrity Act, 2012, which was enacted for the effective administration of chapter six of the Constitution. It obliges a State officer to respect the values and principles of the Constitution. The said Act establishes the General Leadership and Integrity Code, which is a code of conduct applicable to all State officers. In addition to the said Code, the Act requires each public entity to prescribe a specific leadership and integrity code for the State officers in those entities.
6. Removal from office is therefore the Constitution's final answer, a safety valve, to a State officer or a public servant who mistakes himself for a monarch. As they say, power corrupts, and the framers of the Constitution being cognizant of this fact, built guardrails against autocratic exercise of power by the leaders.
7. As a reason of the foregoing, the Respondent being a public servants may be removed from office for, among other transgressions, gross violation of the Constitution or of any other law; commission of a crime; abuse of office; gross misconduct; and violation of the Constitution or any other law like in the instant case.

CONCLUSION

This Honorable Court has jurisdiction to hear and determine the instant Petition for contravention and violation of the Constitution of Kenya, 2010 by the Respondent.

YOUR HUMBLE PETITIONER therefore humbly pray for:-

1. **AN ORDER OF DECLARATION** declaring that the Respondent actions are in violation of the constitution and other laws of the Republic

2. **AN ORDER MANDAMUS**, Directed to the 1st interested party barring them from issuing clearance certificate to the Respondent pending hearing and determination of this petition.
3. **AN ORDER MANDAMUS**, Directed to the 1st interested party under article 79 and 252 of the Constitution of Kenya to investigate his financial standings since he assumed office
4. **AN ORDER OF DECLARATION**, be issued that the Respondent is unfit to hold office and any other public office because they have grossly violated the constitution and other laws, and guilty of gross misconduct.
5. That the Honorable Court be pleased to issue and hereby issues a Permanent order of Prohibition prohibiting the Respondent from Holding their office/executing their duties pending hearing and Determination of this Petition.
6. That the Honorable Court be pleased to exercise its powers under Article 23(3) of the Constitution, to issue any other appropriate Relief.
7. An order that the Respondent do bear the cost of this Petition.

DATED at **NAIROBI** this 10TH day of SEPTEMBER 2025

FRANCIS KIIRIA



PETITIONER

DRAWN & FILED BY:

FRANCIS KIIRIA.

TEL.NO. 0729559509

NAIROBI

TO BE SERVED UPON:

1. CHARLES KERICH

P.O BOX 30075 GPO

NAIROBI

2. ETHICS & ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE

JAKAYA KIKWETE/VALLEY ROAD P.O. BOX 61130 – 00200

NAIROBI

3. NAIROBI CITY COUNTY GOVERNMENT

P.O BOX 30075 G.P.O

NAIROBI

4. NAIROBI COUNTY ASSEMBLY

P.O BOX 30075 G.P.O

NAIROBI

5. CONTROLLER OF BUDGET

P.O. Box 35616 00100

NAIROBI

OFFICE OF THE CONTROLLER OF BUDGET



REPUBLIC OF KENYA
Bima House, 12th Floor
Harambee Avenue
P.O Box 35616-00100
Nairobi, Kenya



Tel: 020 2211068/66/56/51, 0709910000,
0716274922, 0738466721
Website: www.cob.go.ke
Email: cob@cob.go.ke/info@cob.go.ke

Ref: COB/NBI/002/2/6(14)

8th July 2025

Mr. Charles Kerich
CEC Member - Finance and Economic Planning
Nairobi City County
NAIROBI

This Annexure Marked
by FRANCIS KIRIA
Sworn at NAIROBI
On the 10th Day of SEP 2025

Commissioner for oaths

Dear

RE: COMPLAINT ABOUT PAYMENT PROCEDURES AT NAIROBI COUNTY

This office has received a complaint from the Association of Local Contractors (ALC) of Kenya (Ref: ALC/01/07/25, dated 1st July 2025, copy attached) concerning the subject mentioned above.

The members of the association allege that the Nairobi City County Government has opaque, non-transparent, and ambiguous payment procedures when processing payments. Additionally, the association claims there is a lack of clarity regarding the criteria used to process these payments, as well as noticeable and frequent discrimination against certain suppliers and contractors.

To enable this office to address the complaint, please respond to the allegations in the letter and include any supporting information or documentation by 18th July, 2025 at the latest.

This request is based on Section 16 of the Controller of Budget Act, 2016, which states that failure to comply with a request from the Controller of Budget constitutes an offence.

Be reminded that Article 201 of the Constitution outlines the principles that should guide all aspects of public finance in the Republic, including the necessity for openness and accountability in financial matters. Furthermore,

Article 27(4) of the Constitution stipulates that the State shall not discriminate directly or indirectly against any individual on any grounds.

Yours

FCPA Stephen Masha, EBS
FOR: CONTROLLER OF BUDGET

Copy to:

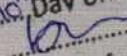
The Governor
Nairobi City County Government
NAIROBI

Principal Secretary
The National Treasury
NAIROBI

Commission Secretary/Chief Executive Officer
National Cohesion and Integration Commission
NAIROBI

Commission Secretary/Chief Executive Officer
The Commission on Administrative Justice (Office of
Ombudsman)
NAIROBI

✓ **Eng. Harrison Omari (A1778), MBA (UoN)**
Chairman, Association of Local Contractors, Kenya
P.O. Box 5925-00200
NAIROBI

This Annexure Marked
DMK1 of FRANCIS KIRIA
Sworn at NAIROBI
On the 10th Day of SEP 2025

Commissioner for oaths



NAIROBI CITY COUNTY

www.nairobi.go.ke

OFFICE OF THE GOVERNOR

County Secretary and Head of County Public Service

CIRCULAR

TO: ALL STAFF

REF: NCC/CS/GA/832

DATE: 9th SEPTEMBER, 2025



RE: DELAY IN PAYMENT OF AUGUST 2025 SALARIES

This is to notify all staff that the payment of August 2025 salaries will be delayed due to the late release of the equitable share disbursement from the National Treasury.

We fully appreciate that timely salary payment is critical in meeting personal and family obligations. Please be assured that Management is according this matter the highest priority and is actively engaging the relevant offices to ensure that salaries are credited to your accounts immediately upon release of the funds by the National Treasury.

We sincerely regret any inconvenience caused and greatly value your patience, dedication, and continued commitment to service during this period. We remain confident that this matter will be resolved promptly.

Thank you for your understanding and unwavering support.


GODFREY AKUMALI

AG. COUNTY SECRETARY AND HEAD OF COUNTY PUBLIC SERVICE

Copy to: H.E. The Governor
Nairobi City County

H.E. The Deputy Governor
Nairobi City County

County Executive Committee Member- Finance and Economic Planning
Nairobi City County

LET'S MAKE **NAIROBI** WORK