

REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA AT NAIROBI
PRESIDENTIAL ELECTION PETITION NO.OF 2022

BETWEEN

JULIAH NYOKABI CHEGE **1ST PETITIONER**
JOSEPH MUTUA NDONGA **2ND PETITIONER**
SIMON MWAURA NJENGA **3RD PETITIONER**

AND

INDEPENDENT ELECTORAL AND BOUNDARIES
COMMISSION **1ST RESPONDENT**
CHAIRPERSON, INDEPENDENT ELECTORAL
AND BOUNDARIES COMMISSION **2ND RESPONDENT**
HON. WILLIAM SAMOEI RUTO **3RD RESPONDENT**
HON. RIGATHI GACHAGUA **4TH RESPONDENT**

PETITION

*(Pursuant to Articles 163(3)(a) and 140 (1) of the Constitution of Kenya, 2010 and Section
12(1) of the Supreme Court Act, No. 7 of 2011;)*

The Honourable Judges
of The Supreme Court of Kenya,
Supreme Court Registry,
NAIROBI

The humble Petition of **JULIAH NYOKABI CHEGE, JOSEPH MUTUA DONGA and
SIMON MWAURA NJENGA** whose address for service for purpose of this Petition is care
of Kinoti & Kibe Company Advocates, Queensway House, 5th Floor, Kaunda Street, P.O. Box
29871-00202, **NAIROBI**.

A. INTRODUCTION

- 1) This Petition is presented by the pursuant to Article 140(1) of the Constitution of Kenya, 2010. It relates to the manner in which Kenya's Presidential Elections, 2022 were conducted and seeks redress for violations of various provisions of the Constitution and laws of Kenya whose effect was to undermine constitutional principles relating to elections and contravene fundamental rights resulting in the declaration of invalid presidential elections within the meaning of Articles 138 of the Constitution.
- 2) The Petition is structured in five main parts as follows:
 - a) Part A sets out the specific issues contended by the Petitioner.
 - b) Part B set out the point of law raised.
 - c) Part C sets out the facts necessary to enable the Court to properly decide the point of law raised.
 - d) Part D sets out the summary of grounds upon which the Petition is anchored.
 - e) Part E sets out the arguments in support of the grounds of the Petition;
 - f) Part F sets out the questions in relation to which the Court's intervention is sought; and
 - g) Part F sets out the reliefs sought.

B. SPECIFIC ISSUES CONTENDED BY THE PETITIONERS

- 3) The 1st Respondent – Independent Electoral and Boundaries Commission (IEBC) – conducted the General election of 9th August, 2022 in violation of the rights of a critical number of Kenyan citizens to a free and fair election based on universal suffrage. — 20
- 4) The presidential election held on 9th August, 2021 were not conducted in accordance with the general principles for the electoral system set out in Article 81 of the Constitution.

- 5) Contrary to its constitutional obligation under Article 21(1) read with articles 86 and 88(4) of the Constitution, the IEBC failed to ensure that the General Election conducted on 9th August, 2022 was not compromised unreasonable restriction in terms of the right of various categories of voters to exercise their political rights to vote.
- 6) During the subject General Election the IEBC failed – contrary to Article 86 of the Constitution – to ensure that –
- a) whatever voting method is used, the system is simple, accurate, verifiable, secure, accountable and transparent;
 - b) the votes cast are counted, tabulated and the results announced promptly by the presiding officer at each polling station; - 10
 - c) the results from the polling stations are openly and accurately collated and promptly announced by the returning officer; and
 - d) appropriate structures and mechanisms to eliminate electoral malpractice are put in place, including the safekeeping of election materials.
- 7) Contrary to Article 88(5) of the Constitution, in its conduct of the presidential election held on 9th August, 2022 the IEBC did not comply with the Constitution, Elections Act and the Regulations made thereunder in exercising its powers and performing its functions.
- 8) Whereas Article 38(10) of the Constitution gives the IEBC Seven days to tally and verify the votes counted in the polling stations, in relation to the subject presidential elections, - 20 the chairperson of the IEBC declared the result before all the constituency results had been announced and the process of verification completed.

- 9) Following the presidential elections of 9th August, 2022 the 3rd Respondent – Hon. William Samoei Ruto – was declared elected as President before it was publicly and transparently verified and confirmed that he had received more than half of all the votes cast in the said election.
- 10) On account of the failure by EBC to enable all the special categories of voters to exercise their constitutional rights to vote the result of the presidential election declared by the chairperson of IEBC Mr. Wafula Chebukati – the 4th Respondent herein – on 15th August, 2022 are not valid.
- 11) The 1st and 2nd Respondents discharged their constitutional obligations in such an opaque and fraudulent manner that the final results announced at around 5.00 p.m. on Monday 15th August, 2022 had started to circulate by 8.00 a.m. in the morning whilst results were being announced and the verification process was going on. – 10
- 12) Pursuant to Article 140(3) of the Constitution upon hearing this Petition, the Supreme Court should determine the election of President elect Hon. William Samoei Ruto is invalid.
- 13) Upon invalidation of the election of the 3rd Respondent, the fresh election envisaged in Article 140(3) should comply with Article 86 of the Constitution and specifically IEBC should ensure that facilities and arrangements are put in place to ensure that the special categories of voters have reasonable opportunity to vote.
- 14) The Supreme Court should specifically order the First Respondent to ensure that during the fresh elections the 1st Respondent shall make provision for the voting, by election officials, observers, patients admitted in hospital, older members of the society, members of the defence and security forces on duty, prisoners and nomadic pastoralists other – 20

persons who by reasons of any special need, including disability, are unable to access a polling station.

C. THE POINTS OF LAW RAISED IN THIS PETITION

- 15) The test applicable in determining whether the 1st Respondent discharged its duty under Article 38 to ensure the special category of voters envisaged by Regulation 90 of the Elections (General) Regulations, 2012 were able to vote during the General Elections held on 9th August, 2022.
- 16) Whether the 1st Respondent ensured that the presidential elections held on 9th August, 2022 complied with the general principles of the electoral system stipulated in Article 81 of the Constitution. - 10
- 17) Whether during the presidential election held on 9th August, 2022, the 1st Respondent complied with the standards of voting stipulated in Article 86 of the Constitution.
- 18) Whether during the presidential election held on 9th August, 2022, the 1st Respondent exercised its powers and performed its functions in accordance with the Constitution and the Elections Act during the presidential election held on 9th August, 2022.
- 19) The ingredients and/or standards of determining whether the voting method used during the presidential election held on 9th August, 2022 was simple accurate, verifiable, secure, accountable and transparent as envisaged under Article 86(a) of the Constitution.
- 20) Whether the First Respondent ensured that there were appropriate structures and mechanism to eliminate electoral malpractise were put in place, including the safekeeping of election materials during the subject presidential election as stipulated in Article 86(d) of the Constitution. - 20

- 21) The factors to be considered in determining whether the 1st Respondent discharged its duty under Article 138(2)(c) of the of the Constitution to tally and verify the votes cast in the subject presidential election.
- 22) The steps and procedures necessary to ensure that the 1st Respondent has performed and completed its function of tallying and verifying presidential votes as set out in Article 138(3)(c) before its chairperson declares the result of the election pursuant to Article 138(10(a) of the Constitution.
- 23) The appropriate procedures, factors and criteria applicable in determination of whether a candidate for president has received more than half of the votes cast in the election.

**D. THE BRIEF FACTS NECESSARY TO ENABLE THE COURT TO PROPERLY
DECIDE THE POINTS OF LAW RAISED** -10

24) In accordance with the provisions of Article 136 of the Constitution, the elections of the president were scheduled and held on 9th August, 2022, being the second Tuesday in August of the fifth year. The 1st Respondent, in exercise of its mandate under the Constitution and the law, undertook the following processes in preparation of the said presidential elections.

- a) vide Gazette Notice No. 430 of 2022, published in the Kenya Gazette Special Issue- Vol. CXXIV- No. 14 published on 20th January 2022, the 1st Respondent issued a Notice to the public that a Presidential election will be conducted on 9th August 2022; -20
- b) on 28th April 2022, vide Gazette Notice No. 4956 of 2022, appearing in the Special Issue of the Kenya Gazette Vol. CXXIV- No. 79 published on 28th April 2022, the

1st Respondent appointed the 2nd Respondent as the Returning Officer for the presidential elections; and

c) registered candidates wishing to participate in the presidential elections as by law required.

25) Following the nomination process referred to in 7 (c) above, the following candidates were cleared, registered and gazetted vide Gazette Notice 7995 of 2022 dated 30th June 2022, as published in the Special Issue of the Kenya Gazette Vol. CXXIV- No. 129 "A" of 1st July 2022 as presidential candidates and deputy presidential candidates respectively:

- i. William Samoei Ruto & Rigathi Gachagua nominated by United Democratic Alliance Party. - 10
- ii. George Luchiri Wajackoyah and Justina Wangui Wamae nominated by Roots Party of Kenya.
- iii. Raila Amolo Odinga and Martha Wangari Karua nominated by Azimio la Umoja-One Kenya Alliance Coalition Party; and
- iv. Waihiga Mwaure and Ruth Wambui Mucheru nominated by Agano Party.

26) The elections were conducted with significant improprieties, breaches of law and other moral blemishes detailed in the affidavit in support of this Petition.

27) In accordance with the Elections Act, the results of the elections were electronically transmitted and subsequently physically delivered by Returning Officers for the 290 Constituencies, being the respective Forms 34B alongside the Forms 34A, to the 2nd Respondent at the National Tallying Centre located at the Bomas of Kenya. - 20

28) The verification of the submitted results was undertaken at the national tallying centre by the 2nd Respondent, setting stage for the declaration of the Presidential Results.

- 29) The results from the various constituencies were announced by the 1st Respondent's Commissioners upon verification by the Commission in the presence of the election agents present.
- 30) At around 4.30 p.m. on 15th August, 2022 four of the seven commissioners of the 1st Respondent held a live television media conference at Serena Hotel in Nairobi during which they renounced the results set to be announced by the 2nd Respondent as indicated in the Notice aforementioned.
- 31) On 15th August 2022, at about 12 noon the 2nd Respondent gave notice that the presidential elections results would be declared at around 3 p.m. When this notice was given the 1st Respondent had not announced the results from all constituencies. — 10
- 32) The 2nd Respondent declared the 3rd and 4th Respondents as the President and Deputy President-Elect respectively at around 5.00 during a process that was characterized by acrimony, violence and public disorder.
- 33) The following results were declared for all the candidates in the presidential contest on 15th August 2022:

Candidate's Name	% of votes	Total votes	No. of Counties in which the candidate attained at least 25% of the total valid votes cast
Raila Odinga	48.85%	6,942,930	34
William Ruto	50.49%	7,176,141	39
George Wajackoyah	0.44%	61,969	0
Mwaure David	0.23%	31, 987	0

Total votes cast		14,213,137	
Total rejected votes		113,614	

- 34) By Gazette Notice no. 9773 of 2022, published on 16th August 2022, the 2nd Respondent informed the general public of the election of the 3rd & 4th Respondents as President-Elect and Deputy-President-Elect.

E. SUMMARY OF GROUNDS IN SUPPORT OF THE PETITION

- 35) During the General Election held on 9th March, 2022 the First Respondent violated the rights of special categories of voters protected by Article 38 of the Constitution read with Regulation 90 of the Elections (General) Regulations, 2012.
- 36) The 1st Respondent failed to ensure and demonstrate compliance with the general principles of the electoral system set out in Article 81 of the Constitution. —10
- 37) In contravention of Article 86(1) during the presidential election held on 9th August, 2021 the 1st Respondent failed to ensure the voting method used is simple, accurate, verifiable, secure, accountable and transparent.
- 38) The 1st Respondent failed to put in place appropriate structures and mechanisms to eliminate electoral malpractise including the safekeeping of election materials during the presidential election held on 9th August, 2022 in contravention election held on 9th August, 2022 in contravention of its obligations under Article 86 (d) of the Constitution.
- 39) The 1st Respondent did not exercise its powers and perform its functions in accordance with the Constitution and the Election Act, 2011 during the presidential election hold on 9th August, 2022 as required by Articles 88(5) of the Constitution. —20

- 40) Upon the conclusion of voting in the presidential election results from the polling stations were transmitted in a transparent, secure and simple manner understandable to the majority of citizens.
- 41) Notwithstanding the rights of the voters and other Kenyan to information and election results enshrined in Articles 35, 81 and 86 of the Constitution, the 1st Respondent failed to read all the results of presidential election from all of Kenya's 290 Constituencies.
- 42) The tallying exercise of the presidential election results of Bomas of Kenya was undertaken in an atmosphere fraught with opaqueness, intrigues, acrimony, pandemonium, harassment and actual violence contrary to the principles, values and legitimate expectations envisaged under Articles 10, 81 and 86 of the Constitution. — 10
- 43) Prior to issuing a notice to announced presidential results of 3.00 p.m. on 15th August, 2022 the 1st Respondent failed – in contravention of its duty under Articles 2(1), 35, 81 and 86 – to ensure that the Kenyan people had all the information critical to confirm the credibility, correctness and accuracy of the final presidential election result.
- 44) Prior to the declaration of presidential results, the 1st Respondent failed to undertake and complete the tallying and verification of presidential votes in contravention of its duty under Article 138(2)(c) of the Constitution read with Section 39 of the Election Act.
- 45) The 1st Respondent failed to deploy the appropriate procedure and apply the correct criteria in determining whether the 3rd Respondent had received more than half of all the votes cast in the election. — 20
- 46) The 2nd Respondent declared the 3rd Respondent as the president-elect before the 1st Respondent had ascertained and confirmed that he had met the threshold stipulated in Article 138(4) of the Constitution.

- 47) The 3rd Respondent was declared president – elect by the 2nd Respondent in violation of Article 138(3)(c) of the Constitution.
- 48) The 3rd Respondent was not lawfully gazette by the 2nd Respondent as president-elect on account of violation of Articles 138(3)(c) and (4) of the Constitution.
- 49) The 3rd Respondent was not lawfully gazetted by the 2nd Respondent as president-elect on account of violation of Articles 138(3)(c) and

F. ARGUMENTS IN SUPPORT OF THE GROUNDS OF THE PETITION

- 50) The Petitioner avers that the presidential elections held on 9th August, 2022 did not meet the requirements of Articles 38, 81 and 86 of the Constitution to the extent that:

- a) Political rights of a various categories of citizens to participate in the electoral process was infringed upon in the manner in which the election was organized by the 1st Respondent. In particular the categories of voters for which special voting is envisaged by Regulation 90 of the Elections (General) Regulations were disenfranchised. Such categories of voters include poll workers, workers in the security sector, persons who are in hospital, members of the defence and security forces on duty and older members of the society. -10
- b) The manner in which technology was deployed and utilized in that election rendered the election unaccountable and not transparent. As a result, it contravened the requirements for a system that ‘...is simple, accurate, verifiable, accountable and transparent’ across all the different categories of voters. -20

- c) The disparate application of technology and arbitrary departures from standard operating procedures undermined the integrity of the process and credibility of the election.
- d) The election was not conducted in an efficient, accurate and accountable manner as prescribed under Articles 86 of the Constitution.

Infringement of the political rights of voters to whom regulations on special voting apply

51) Article 38 of the Constitution provides that every adult citizen has the right to vote or to be a candidate in an election. For the full and proper enjoyment of these rights, the Constitution as read with section 109 of the Elections Act and Regulation 90 of the Election (General) Regulations provides for mechanisms and safeguards for ensuring the exercise of franchise by the citizenry and for the qualitative requirements encapsulated in Article 81 of the Constitution to be complied with. -10

52) In addition, the Constitution sets out the yardsticks for audits of elections, vide Articles 81 and 86. The yardstick for measuring compliance of the laid down principles is one that must be accessible and useful across the citizenry. Article 81 of the Constitution sets out the general principles for the Kenyan electoral system, they are-

(a) freedom of citizens to exercise their political rights under Article 38;

- (b) not more than two-thirds of the members of elective public bodies shall be of the same gender;
- (c) fair representation of persons with disabilities;
- (d) universal suffrage based on the aspiration for fair representation and equality of vote; and -20
- (e) free and fair elections, which are-

- (i) by secret ballot;
- (ii) free from violence, intimidation, improper influence or corruption;
- (iii) conducted by an independent body;
- (iv) transparent; and
- (v) administered in an impartial, neutral, efficient, accurate and accountable manner.

53) Kenya is also a party to several international instruments that safeguard civic/suffrage rights. These include the Universal Declaration of Human Rights, 1948 (UDHR). Article 21 of the UDHR declares that:

“The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.” — 10

54) The United Nations Covenant on Civil and Political Rights, (1966) [UNCCPR] and the African Charter on Human and Peoples’ Rights equally underscore the significance of the Will of the Electorate in forming the basis of authority of governments.

55) Being a fundamental right and freedom, the exercise of the political rights by the citizenry, “can only be limited by law in accordance with the threshold set out under Article 24 of the Constitution.” This includes, the limitation being only to the extent it is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom taking into account all relevant factors including, “the nature of the right or fundamental freedom; the importance of the purpose of the limitation and the relationship between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.” — 20

56) The Constitution envisages that in the exercise of the political rights to vote no citizen will be disenfranchised in the exercise of their right, notwithstanding the existence of factors which may affect their ability to be at polling stations. Such factors include the physical/health condition or the nature of work that they may be involved in during the period when elections are conducted. In this regard, under Regulation 90 of the **Elections (General) Regulations, 2012** the 1st Respondent is mandated to make provisions for special voting of the following categories of persons;-

“90. Special voting

(1) The Commission may make provision for the voting, by election officials, observers, patients admitted in hospital, older members of the society, members of the defence and security forces on duty, prisoners and nomadic pastoralists and other persons who by reason of any special need, including disability, are unable to access a polling station.

(2) The Commission may, from time, to time publish notices on the manner and procedure of the conduct of special voting and such notice shall be read as if part of these Regulations.”

57) The Petitioner avers that the 1st Respondent abdicated its responsibility as required under the said Regulation 90 by failing to make provisions for special voting of the categories of persons listed above.

58) As a result of this failure at least 500,000 (five hundred thousand) citizens, falling under the said category were deprived of their right to vote. This included;

a) At least 323,603 polling clerks, tasked with the counting of votes;

- b) Another 92,458 presiding officers and deputy presiding officers deployed across the country;
 - c) 94 county returning officers and deputy county returning officers;
 - d) 580 constituency returning officers and deputy constituency returning officers;
 - e) 290 ICT clerks & 290 logistics officers and;
 - f) 5,827 support electoral trainers (SETs).
- 59) In addition to the foregoing, at least 180,000 members of the security forces were engaged in the elections to offer security and were therefore unable to exercise their right to vote in the election.
- 60) The Petitioner aver that the failure by the 1st Respondent to create special provisions for voting by the persons categorised under Regulation 90 of the **Elections (General) Regulations, 2012** had a bearing on the legitimacy/propriety of the elections and by extension the declared results as they did not have a chance to express their will. This was in total contravention of Article 81(a) and (d) requiring an electoral system to comply with the principle of “freedom of citizens to exercise their political rights under Article 38 as well as universal suffrage based on the aspirations for fair representation and equality of vote. — 10

Technology deployed was opaque, unaccountable and not transparent

- 61) Further to the provisions of Article 86 of the Constitution that the voting method to be used in an election should be simple, accurate, verifiable, secure, accountable and transparent section 44 of the Elections Act provide for use of technology in elections. — 20
- This is through the use of “an integrated electronic electoral system that enables

biometric voter registration, electronic voter identification and electronic transmission of results.” The 1st Respondent is in this regard;

- a) required to develop a policy on the progressive use of technology in the electoral process; and
- b) ensure that the technology in use is simple, accurate, verifiable, secure, accountable and transparent.

62) The Petitioner avers that the principle of the public nature of elections emerging from Article 86 of the Constitution as read together with section 44 of the Elections Act requires that all essential steps in the elections are subject to public examinability unless other constitutional interests justify an exception. In this regard;

- a) when electronic voting machines are deployed, it must be possible for the citizen to check the essential steps as set out under the law and;
- b) the citizen must be able to ascertain the results reliably and without special expert knowledge.

63) The 1st Respondent deployed Kenya Integrated Electronic Management (KIEMS) kits for use in the process of identification of voters during voting and transmission of results. A total of 55,100 kits were deployed nationally to be used for the election exercise.

64) The Petitioner avers that the technology deployed by the 1st Respondent did not meet the requirements of simplicity and transparency as decreed under Article 86 of the Constitution as read together with section 44 of the Elections Act for the following reasons;

- a) the operations of the KIEMS kits would only be done by an IT competent personnel with the result that the simplicity requirement under article 86 of the Constitution,

aimed at ensuring that every citizen is able to understand the operations of the Kit was not complied with;

- b) in a number of polling stations, the KIEMS Kits failed forcing the 1st Respondent to revert to the manual register for purposes of identification of voters in those polling stations. The effect of this was that the transparency of the process was jeopardised; and
- c) it was not possible for any member of the public to examine the transmission of the results from the system and to check the essential steps on the transmission of the results thereby affecting the transparency of the process.

65) The technology deployed and the manner in which it was used incompatible with the principle of the public nature of elections as contemplated under Article 81 and 86 of the Constitution. With such a context, the vast majority of voters who lack technical ICT knowledge were impeded from understanding the functioning of the election technology and the technology would be susceptible to manipulation by those operating it. - 10

G. QUESTIONS/ISSUES FOR THIS HONOURABLE COURT'S DETERMINATION

- 66) The following are the Questions/Issues that the Petitioner proposes for the determination:
- a) Whether the failure by the 1st Respondent to establish special voting procedures for categories of persons listed under Regulations 90 of the **Elections (General) Regulations, 2012** disenfranchised a section of the voters and if so, whether the said disenfranchisement affected the validity of the presidential elections held on 9th August, 2022; - 20
 - b) Whether the technology deployed by the 1st Respondent in the conduct of the presidential elections held on 9th August, 2022 met the requirements of *inter alia*

simplicity; accuracy; verifiability and transparency as enshrined under Article 86 of the Constitution.

H. RELIEFS SOUGHT

67) The Petitioners seek the following relief from this Honourable Court:

A. **DECLARATION** be issued to declare that the failure by the 1st Respondent to make provisions for special voting for election officials, observers, patients admitted in hospital, older members of the society, members of the defence and security forces on duty, and other persons by reason of special need unable to access a polling station disenfranchised a section of the voters and was therefore in contravention of Regulation 90 of **Elections (General) Regulations, 2012;**

B. **A DECLARATION** be issued to declare that the failure by the 1st Respondent to make provisions for special voting for election officials, observers, patients admitted in hospital, older members of the society, members of the defence and security forces on duty, and other persons by reason of special need unable to access a polling station amounted to a violation of the provisions of Article 38 and 81(a) (d) and 86 of the Constitution. - 10

C. **A DECLARATION** be issued to declare that the failure by the 1st Respondent to make provisions for special voting for election officials, observers, patients admitted in hospital, older members of the society, members of the defence and security forces on duty, and other persons by reason of special need unable to access a polling station vitiated the presidential elections held by the 1st Respondent on 9th August, 2022 for being in violation to Articles 38 and 81 & 86 of the Constitution. - 20

- D. **A DECLARATION** be issued to declare that the technology deployed by the 1st Respondent in the conduct of the presidential elections held on 9th August, 2022 did not meet the constitutional and statutory requirement of simplicity; verifiability; accuracy and transparency as decreed under Article 86 of the Constitution and Section 44 of the Elections Act.
- E. **A DECLARATION** be issued to declare that the 1st and 2nd Respondents conducted the tallying, announcement and declaration of the presidential election results in violation of the principles, values and requirements set out in Article 1, 10, 38, 81, 86 and 138 of the Constitution.
- F. **A DECLARATION** be issued to declare that in light of Articles 1, 10, 38, 81, 86 and 138 of the Constitution read with Section 39 of the Elections Act, 2017 the 1st and 2nd Respondents were enjoined to announce the presidential election results from all the constituencies before declaring the successful presidential candidate as president-elect. -16
- G. **A DECLARATION** be issued to declare that the violation of Articles 1, 10, 38, 81, 86 and 138 of the Constitution by the 1st and 2nd Respondents has rendered invalid the declaration by the 2nd Respondent that the 3rd and 4th Respondents were duly elected as president-elect and deputy president-elect respectively.
- H. **A DECLARATION** be issued to declare that the 3rd Respondent did not receive more than half of the votes cast during the election for President held on 9th August, 2022. -20
- I. **A DECLARATION** be issued to declare that the 2nd Respondent was enjoined to inform the Kenyan voters and citizens all relevant details of presidential election

results under Article 138 of the Constitution before declaring the 3rd and 4th Respondents as President-elect and Deputy President-elect respectively.

J. **AN ORDER** be issued that the election process under Articles 81, 86 and 138 of the Constitution and the eventual results declared by the 2nd Respondent on the 15th August, 2022 declaring the 3rd and 4th Respondents as President and Deputy President Elect are invalid, null and void.

K. **AN ORDER** be and is hereby issued to invalidate the election of the 3rd and 4th Respondent's as President-elect and Deputy President-elect.

L. **AN ORDER** of mandamus be and is hereby issued to compel the 3rd and 4th Respondent to ensure that Regulation 90 of Elections (General) Regulations 2012 shall be complied with during the fresh elections envisaged under Article 140(3) of the Constitution. — 10

M. **AN ORDER** of mandatory injunction be issued to compel the 1st and 2nd Respondents to announce and publish the total votes cast during the presidential election held on 9th August, 2022.

N. Costs of the Petition.

Dated at Nairobi this 22nd day of August 2022



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C/O UNITED DEMOCRATIC ALLIANCE

HUSTLER CENTRE

MAKINDI RD

OFF NGONG RD

NAIROBI

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HON. RIGATHI GACHAGUA

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