



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (FOURTH SESSION)

THE SENATE

VOTES AND PROCEEDINGS

SPECIAL SITTING

THURSDAY, AUGUST 28, 2025 (MORNING SITTING)

1. The Senate assembled at Nine O'clock.
2. The proceedings were opened with Prayer said by the Speaker.

3. **QUORUM OF THE SENATE**

The Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was no Quorum, directed that the Bell be rung for ten minutes, pursuant to Standing Order 40;

And there being no Quorum at the expiry of the ten minutes, the Speaker directed that the Bell be rung for a further ten minutes;

And there being Quorum before the expiry of the further ten minutes, the Speaker invited the Clerk to call out the Orders of the day.

4. **HEARING AND DETERMINATION ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. (DR.) ERIC MUTAI, GOVERNOR OF KERICHO COUNTY**

The Senate resumed the hearing and determination of the proposed removal from office, by impeachment, of Hon. (Dr.) Eric Mutai, the Governor of Kericho County, as follows –

Presentation of the case of the County Assembly of Kericho

Counsel for the Assembly resumed the presentation of the case of the Assembly, by leading the following witness in presenting testimonies before the Senate –

Alfred Korir Kimutai - Head of the Information Communication Technology (ICT) department within the County Assembly of Kericho and the Internal Financial Management and Reporting system administrator

The witness was reminded that he was still under oath. He informed the Senate that: -

- a) he is the Head of the ICT Department at the County Assembly of Kericho and the Internal Financial Management and Reporting System Administrator, fully versed with all Assembly ICT operations and competent to swear his affidavit.
- b) he holds a Bachelor's degree in Business Management (Business Information Systems) from the University of Kabianga, a Diploma in Management of Information Systems from Multimedia University, is a Certified ICT Technologist (KASNEB), a CISCO Certified Network Associate, and is pursuing a Master's in Information Systems at the University of Kabianga.
- c) in 2018, the Assembly internally developed and fully transitioned to a digitized, paperless system which has effectively managed meetings, chamber sittings, payments, electronic voting, and record keeping, consistently demonstrating verifiability, accuracy, and operational credibility.
- d) all 47 Members of the County Assembly are registered in the system with unique identification numbers for official communication and access to electronic voting;
- e) he had access to the backend of the system but had no voting rights;
- f) on 15th August 2025, in compliance with Standing Order 77, the Speaker directed the ICT Department to facilitate electronic voting and notified members accordingly.
- g) at 1912 hours, login links were issued via official SMS to all members and verified by the Speaker; a second link was sent at 1914 hours for secure login using unique credentials.
- h) members logged in and voted between 1915 and 1926 hours, with system logs recording the date, activity, username, vote cast, time, and IP address.
- i) although all 47 members were present, only 33 voted; the system generated a log showing each member's name, ward, vote choice, and voting time.
- j) the voting process was livestreamed via YouTube, Facebook, the Assembly website, and displayed on the Chamber Indicator Board.
- k) the system was fully functional, accurate, verifiable, and transparent throughout, with each member accorded adequate time, 11 minutes and 44 seconds, to vote.

The witness was cross-examined by Counsel for the Governor and re-examined by Counsel for the County Assembly.

Thereupon, Senators sought clarifications on the testimony, following which the witness was discharged.

5. **COMMUNICATION FROM THE CHAIR ON THE RULING ON APPLICATION FOR CALLING FOR EXPERT EVIDENCE BY THE GOVERNOR**

The Speaker conveyed the following communication from the Chair-

“Honourable Senators,

At the start of the proceedings this morning, Counsel for the Governor, Messrs Katwa Kigen and Peter Wanyama made an application to be allowed to call the expert evidence of one Mr. Job Okuon Oguya, whom they claim to be an information technology (IT) expert. Counsel sought to be allowed to rely in evidence on behalf of the Governor, on the Report prepared by the said Mr. Oguya on 25th August, 2025 and his affidavit sworn at Nairobi on 27th August, 2025.

Counsel for the Governor asserted that they had served the Counsel for the County Assembly, by email, with the Report and affidavit sought to be relied on, and that hard copies were available for circulation to Honourable Senators.

Counsel for the County Assembly opposed the application arguing that this was an attempt by the Governor’s side to introduce new evidence at this late time during the impeachment trial, and that this would be prejudicial to the County Assembly’s case.

Honourable Senators,

You will recall that I undertook to make a ruling on the application after having sight of the documents sought to be relied on by the Governor. I have had sight of the documents. They are contained in a bundle titled “Volume 5 – H.E. Erick Kipkoech Mutai Defence, Response – Affidavit of Okuon Job Oguya.”

In the affidavit, Mr. Oguya depones that he holds a Bachelor of Science (Computer Science) Degree from Kenyatta University, having graduated in the year 2014, and that he is currently the Project Consultant-Security and Networks at Cyber Hubs Systems, with the mandate to provide high level threat detection penetration testing for clients.

He further depones that he was requested to analyze the extracts of system audit logs which are contained in Volume 4A of the County Assembly documents and was also given the affidavit of Mr. Alfred Kimutai Korir contained in Volume 2 of the County Assembly documents to make observations on the same.

Honourable Senators,

Mr. Oguya depones that he undertook a cybersecurity Audit of the Kericho County Assembly Electronic Voting System and made observations contained in a Report, which report was also attached.

Honourable Senators will recall that yesterday, in disallowing the preliminary objection raised by the Governor's side contesting the voting system and the threshold of the vote at the Kericho County Assembly, I ruled among other things, "*no summary determination of this matter is possible without these witnesses taking the stand to give evidence and being subjected to cross-examination in the usual manner.*" I further ruled that, "*the only way for the Senate to determine this question is to receive evidence on the matter, evaluate the same and make a finding one way or another based on the preponderance of evidence.*"

Honourable Senators,

Rule 10 of the Rules of Procedure for the hearing and determination of the proposed removal from office by Impeachment of a Governor provides as follows

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The Senate may, at the request of the County Assembly or the Governor, invite or summon any person to appear and give evidence before the Senate.

Rule 2 of the said Rules also makes it clear that the impeachment proceedings are an "investigation" to determine whether the particulars of the allegations against the Governor have been substantiated.

Honourable Senators,

On the basis of the importance of the question on the voting system and the voting process that was undertaken, and noting the ruling that I made yesterday, and on the strength of Rule 10 of the Rules of Procedure, I allow the application by Counsel for the Governor to admit the affidavit by Mr. Job Okuon Oguya and his Report on the cybersecurity audit on the Kericho County Assembly Electronic Voting System.

I find that the opposition by the County Assembly to the application is outweighed by the need of the Senate to get to the root of the voting system and the voting process. No prejudice will be suffered by the County Assembly if the Senate establishes the truth on this matter. I also note that for similar reasons, yesterday, I allowed the County Assembly's application to provide documentation which had been referred in its submitted documents but had not been attached.

Honourable Senators,

In allowing the Governor to call its expert witness, I direct that the Governor's side will have to accommodate the witness within its time as already allocated. The evidence of the witness will also be limited to matters raised in the evidence of the County Assembly. The witness will be subject to cross examination in the usual manner.

I also wish to make an additional ruling on this matter. It has become apparent from hearing the evidence so far adduced in this case and the examination, cross-examination and re-examination of Mr. Alfred Korir Kimutai, Head of Information Communication and Technology (ICT), Kericho County Assembly as well the request by the Governor's application to call their expert witness, that the Senate requires neutral impartial and dispassionate advice on this matter away from the witnesses of the parties. Indeed, this was referred to by Sen. Moses Kajwang', MP, when seeking clarification from the County Assembly witness. Sen. Kajwang' reminded the Senate of its power to summon any person to assist it in its investigation in an impeachment process. The Senate has indeed invoked this jurisdiction before.

For this reason, I direct the Office of the Clerk to immediately contact the Information Communication and Technology (ICT) Authority of Kenya and request the Authority to provide the Senate with two (2) ICT experts to come and assist the Senate in this matter. I direct that the Office of the Clerk provides facilities for the two experts from the ICT Authority to sit with the Head of ICT of the Kericho County Assembly and the ICT expert called by the Governor together with the representatives (whether Counsel or otherwise) of the County Assembly and the Governor and for the experts from the ICT Authority to prepare a report for the consumption of the Senate.

The Report which must be brief and concise should be submitted to the Office of the Clerk of the Senate not later than 6:00 p.m. today, Thursday, 28th August, 2025, and must answer the following questions –

- i. Did an electronic voting process take place using the system?
- ii. Is the number of MCAs who voted on the impeachment of the Governor verifiable?
- iii. Was it possible for any MCA or any other person who had a link to vote on the Motion on behalf of an MCA or another MCA?
- iv. How many MCAs voted in the affirmative on the Motion to impeach the Governor?
- v. Is there any evidence of multiple voting or other compromise of the voting system and/or any impropriety in the voting system or process?

It is so ordered.”

6. **HEARING AND DETERMINATION ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. (DR.) ERIC MUTAI, GOVERNOR OF KERICHO COUNTY**

The Senate resumed the hearing and determination of the proposed removal from office, by impeachment, of Hon. (Dr.) Eric Mutai, the Governor of Kericho County, as follows –

Presentation of the case of the County Assembly of Kericho

Counsel for the Assembly resumed the presentation of the case of the Assembly, by leading the following witness in presenting testimonies before the Senate –

Albert Kipkoech - Member of the Kericho County Assembly, Soliat Ward and the Chairperson of the Budget and Appropriation Committee

The witness took oath and informed the Senate that: -

- a) he is the Member of Kericho County Assembly representing Soliat Ward and the Chairperson of the Budget and Appropriation Committee;
- b) he was recently appointed as the Chairperson, Ad Hoc Committee on Fictitious payments;
- c) on 10th July, 2025, the Deputy Governor, His Excellency, Fred Kirui wrote a letter to the County Assembly concerning financial improprieties within the Assembly leading to the establishment of the ad hoc Committee;
- d) the Committee while undertaking its mandate, invited witnesses to give their evidence regarding the matter of financial improprieties in the County Assembly. The witnesses invited included –
 - i. the Deputy Governor;
 - ii. the County Executive Committee Member for Finance;
 - iii. the Director of Procurement;
 - iv. the Chief Executive Officer Agriculture;
 - v. the Chief Executive Public Works and Transport;
 - vi. the Chief Executive Water;
 - vii. the Chief Executive Health Services;
 - viii. CPA Keneth Omondi; and
 - ix. the Chief Officer, Education.
- e) the witnesses submitted procurement plans, local service orders, vouchers, requisitions, delivery notes, and other relevant accounting documents;

- f) the Committee concluded its work and prepared a report which identified financial irregularities within the Departments of Lands and Fiscal Planning, Roads, Agriculture, Water, Health, and Finance.

The witness was led in evidence by Counsel for the County Assembly and cross-examined by Counsel for the Governor.

The Speaker, for the convenience of the Senate, pursuant to Standing Order 34 (2A), adjourned the Senate at fifteen minutes past one O'clock, without Question put.

- 7. **SENATE ROSE** – at fifteen minutes past one O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Thursday, August 28, 2025 at 2:30 pm*

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