



**COUNTY ASSEMBLY OF BOMET
THIRD ASSEMBLY: THIRD SESSION**

REPORT

**OF THE SELECT COMMITTEE INVESTIGATING THE PROPOSED DISMISSAL OF
HON. JOSEPH KIPNGETICH KIRUI AS THE COUNTY EXECUTIVE COMMITTEE
MEMBER FOR ADMINISTRATION, PUBLIC SERVICE AND SPECIAL PROGRAMS**



AUGUST, 2024

Hon. Speaker
You may approve
Kipsurah
30.08.2024

Approved
[Signature]
20/08/2024



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CHAIRMAN'S FOREWORD

Hon. Speaker

Following the submission of a Special Motion by Hon. Vincent Mutai, the Honorable Member representing the minority, for the proposed removal of Hon. Joseph Kipngetich Kirui from his position as the County Executive Committee Member for Administration, Public Service, and Special Programs on grounds of gross violation of the Constitution or any other law, incompetence, and abuse of office, a select committee was established pursuant to Section 40(3)(a) of the County Governments Act, 2012. This committee was tasked with investigating the grounds stated in the resolution passed by the County Assembly.

On Tuesday, 6th August 2024, Hon. Vincent Mutai, in accordance with Section 40(2) of the County Governments Act, 2012, and Standing Order 72 of the County Assembly Standing Orders, issued a notice of the Special Motion seeking the County Assembly's resolution for the dismissal of Hon. Joseph Kipngetich Kirui as the County Executive Committee Member for Administration, Public Service, and Special Programs. The Special Motion was approved by the Hon. Speaker, who confirmed its compliance with the provisions of Section 40(2) of the County Governments Act, 2012, and Standing Order 72.

The County Assembly subsequently approved the Special Motion on Tuesday, 13th August 2024. Following this, on 21st August 2024, a Select Committee was constituted to investigate the matter. The Hon. Speaker, upon referring the matter to the Committee, directed that it carry out its investigations and report back to the County Assembly within ten (10) days, in line with Section 40(3)(b) of the County Governments Act, 2012, to determine whether the allegations against the County Executive Committee Member were substantiated.

In compliance with the Speaker's directive, the Committee held its inaugural meeting on

Thursday, 22nd August 2024, at 10:00 AM in the County Assembly Mini Chamber to elect its Chairperson and Vice-chairperson and to outline a program of activities.

Subsequently, the Committee conducted a series of meetings to investigate the proposed dismissal of the County Executive Committee Member for Administration, Public Service, and Special Programs.

The Clerk of the County Assembly communicated with both the Sponsor of the Special Motion and the County Executive Committee Member for Administration, Public Service, and Special Programs via letters dated 22nd August 2024, notifying them of the formation of the Select Committee and inviting them to a pre-hearing conference on Friday, 23rd August 2024, and a hearing on Monday, 26th August 2024. They were invited to attend either in person, by a legal representative, or both.

Both the Sponsor of the Motion and the legal counsel representing the County Executive Committee Member appeared before the Committee on 23rd August 2024 for the pre-hearing conference and on 26th August 2024 for the hearing.

The Committee then deliberated on the submissions from both parties, in accordance with the Constitution, the County Governments Act, 2012, other relevant laws, the County Assembly Standing Orders, and the Committee's rules on the conduct of the investigation.

COMMITTEE RECOMMENDATION

Pursuant to Section 40(2) of the County Governments Act, the Committee conducted hearings to investigate the allegations outlined in the Special Motion seeking the dismissal of Hon. Joseph Kipngetich Kirui as the County Executive Committee Member for Administration, Public Service, and Special Programs on three grounds: gross violation of the Constitution or any other law, incompetence, and abuse of office. Based on the findings, the Committee recommends to the County Assembly that, under Section 40(3)(b) of the County Governments Act, 2012, and Standing Order 72(9) of the County Assembly Standing Orders, the County Executive Committee Member should be granted an opportunity to be heard, following which the County Assembly should vote on whether

to approve the resolution for his dismissal.

ACKNOWLEDGEMENT

The Select Committee expresses its gratitude to the Offices of the Speaker and the Clerk of the County Assembly for their invaluable support in fulfilling its mandate.

The Committee also extends its thanks to the Sponsor of the Special Motion, Hon. Vincent Mutai, MCA, and to Hon. Joseph Kipngetich Kirui, the County Executive Committee Member for Administration, Public Service, and Special Programs, for sending his legal counsel to represent him during the hearings. Additionally, the Committee appreciates the media for their coverage of the proceedings.

Finally, I wish to convey my sincere appreciation to the Hon. Members of the Committee and the Committee Secretariat for their dedication and insightful contributions, which were instrumental in the preparation and production of this report.

On behalf of the Select Committee, I am privileged to present to this County Assembly the Report of the Select Committee on the Investigation into the Proposed Dismissal of Hon. Joseph Kipngetich Kirui as County Executive Committee Member for Administration, Public Service, and Special Programs.

HON. ERNEST KIPKEMOI ROTICH, MCA

CHAIRPERSON

**SELECT COMMITTEE INVESTIGATING THE PROPOSED DISMISSAL OF HON.
JOSEPH KIPNGETICH KIRUI AS COUNTY EXECUTIVE COMMITTEE MEMBER
FOR ADMINISTRATION, PUBLIC SERVICE AND SPECIAL PROGRAMS**

CHAPTER ONE

Introduction

1. On Tuesday 6th August, 2024, the Hon. Vincent Mutai, Nominated Member of the County Assembly representing the minority gave a notice of a special Motion dated 6th August, 2024 pursuant to Section 40(2) of the County Governments Act, 2012 and Standing Order 72 of the County Assembly Standing Orders. The Notice of the Special sought a resolution of the County Assembly for the dismissal of the Hon. Joseph Kipngetich Kirui as the County Executive Committee Member for Administration, Public Service, and Special Programs on the following grounds:
 - i. gross violation of the Constitution or any other law;
 - ii. incompetence; and
 - iii. abuse of office;
2. The Speaker was guided by the provisions of Section 40(2) of the County Governments Act, 2012 and Standing Order 72 of the County Assembly Standing Orders. Section 40(2) of the County Governments Act provides that "*A member of the county assembly, supported by at least one-third of all the members of the county assembly, may propose a motion requiring the governor to dismiss a county executive committee member on any of the following grounds —*
 - (a) gross violation of the Constitution or any other law;*
 - (b) incompetence;*
 - (c) abuse of office;*
 - (d) gross misconduct; or*
 - (e) if convicted of an offence punishable by imprisonment for at least six months.*
3. Procedurally, Standing Order 72(1) provides that "*Before giving notice of Motion under section 40 of the County Governments Act, 2012, the member shall deliver to the Clerk a copy of the proposed Motion in writing stating the grounds and particulars upon which the proposal is made, for requiring the Governor to dismiss a County*

Executive Committee Member on ground of a gross violation of a provision of the Constitution or of any other law; where there are serious reasons for believing that the County Executive Committee Member has committed a crime under national or international law; or for gross misconduct. The notice of Motion shall be signed by the Member and the Clerk shall submit the proposed Motion to the Speaker for approval.”

4. Additionally Standing Order 72(2) of the County Assembly Standing Orders provides that “A member who has obtained the approval of the Speaker to move a Motion under paragraph (1) shall give a three (3) days’ notice calling for dismissal of a County Executive Committee Member by the Governor.
5. Further Standing Order 72(3) provides that “upon the expiry of three (3) days, after notice given, the Motion shall be placed on the Order Paper and shall be disposed of within three days;”
6. Further to that, Standing Order 72(4) requires a list of signatures in support of the special motion to be deposited in the office of the Clerk and that the Speaker shall not allow the Special motion to be moved unless he is satisfied that the member proposing to move the Special motion has been supported by at least a third of the members.
7. Consequently, the Hon. Speaker found that the proposed Special Motion was in the prescribed form and met the threshold because it-
 - a. was signed by 26 Members of the County Assembly in support;
 - b. was in writing; stated the grounds and particulars upon which the sponsor proposed dismissal of the County Executive Committee Members; and
 - c. was signed by the member representing the Minority, Hon. Vincent Mutai.
8. Having found that the proposed Motion met the required threshold as to form and the admissibility of the grounds contained in the Special Motion, the Hon. Speaker allowed the Sponsor to give the Notice of Motion during the afternoon sitting of the County Assembly held on Tuesday 6th August, 2024.

The Special Motion

The contents of the Special Motion were as follows:

Dismissal of Hon. Joseph Kipngetich Kirui as the county executive committee member for administration, public service and special programs

9. **IN LIGHT OF** Section 40 of the County Governments Act, 2012, which specifies the grounds for the removal of a County Executive Committee Member, including gross violations of the Constitution or any law, abuse of office, severe misconduct, incapacity to perform duties due to physical or mental reasons, or incompetence.
10. **WHEREAS** Hon. Joseph Kipngetich Kirui, the County Executive Committee Member for Administration, Public Service, and Special Programs, has committed actions contrary to the expected conduct of a public officer as defined by our Constitution and other relevant laws;
11. **RECOGNIZING** that a State Officer, upon taking the oath of office as required by the Constitution, is obligated to maintain the dignity and respect associated with their position;
12. **UNDERSTANDING** the County Assembly's oversight role as specified in the Constitution of Kenya and the County Governments Act, 2012;
ALARMED by the allegations of severe misconduct, abuse of office, and legal violations that compromise the integrity and principles of public service required from such a high office;
13. **THIS COUNTY ASSEMBLY** Pursuant to the provisions of Section 40(2) of the County Governments Acts, 2012 and Standing Order 72 of the County Assembly Standing Orders, **RESOLVES** that the Governor Dismisses the Hon. Joseph Kipngetich Kirui from the office of the County Executive Committee Member for Administration, Public Service and Special Programs on the following grounds:
(a) Gross Violation of the Constitution or Any Other Law:

1. Failure to Compensate Casual Workers: As the Executive Member in charge of public service, Hon. Joseph Kipngetich Kirui has failed to ensure that his department processes payments for casual workers hired by the county government, in violation of the Employment Act, 2007, despite the availability of budgetary provisions.
2. Non-Payment of Village Managers: In his capacity as head of County Administration, Hon. Joseph Kipngetich Kirui has neglected to ensure the timely processing of payments for village managers, thereby violating financial accountability principles and the Employment Act, 2007.
3. Non-Remittance of Statutory Deductions: Hon. Joseph Kipngetich Kirui, overseeing the relevant department, has not ensured the timely remittance of statutory deductions as required by the National Social Security Fund Act and the National Hospital Insurance Fund Act. This has resulted in significant debt accumulation to NSSF and NHIF and caused distress among county staff.
4. Neglecting to Submit Annual Reports on Public Participation: Hon. Joseph Kipngetich Kirui has failed to ensure that the required annual report, as mandated by Section 28(1) of the Bomet County Public Participation Act, 2019, is submitted to the County Assembly. This omission also contravenes Article 10(2)(a) of the Constitution.

(b) Incompetence:

1. Incomplete Infrastructure Projects: Hon. Joseph Kipngetich Kirui has demonstrated administrative incompetence by not ensuring the completion of critical infrastructure projects, such as the Governor's residence and various ward offices, despite receiving budget allocations over five years, leading to ongoing delays.
2. Inadequate Working Conditions for County Staff: Hon. Joseph Kipngetich Kirui has not ensured adequate working conditions, including proper furniture, workspace, stipends, and field allowances for county staff in sub-county and ward offices, indicating a lack of administrative capability.

(c) Abuse of Office:

Improper Handling of Employment Contracts: Hon. Joseph Kipngetich Kirui attempted to circumvent the decision of the County Public Service Board, which had decided to release sub-ward administrators after their contracts lapsed. He invited these individuals to attend meetings related to their previous roles even after they had been formally released from service, thereby undermining established public service regulations and the authority of the Public Service Board.

14. Section 40(3) of the County Governments Act provides that-

“If a motion under subsection (2) is supported by at least one-third of the members of the county assembly—

- a) the county assembly shall appoint a select committee comprising five of its members to investigate the matter; and
- b) the select committee shall report, within ten days, to the county assembly whether it finds the allegations against the county executive committee member to be substantiated.

15. The County Assembly became seized of the matter when the Special Motion was supported by 26 Members of the County Assembly hence stood approved by the County Assembly.

16. Subsequently, the County Assembly resolved to appoint a Select Committee to investigate the allegations contained in the Special Motion pursuant to the provisions of Section 40(3)(b) of the County Governments Act and report to the County Assembly within ten (10) days of its appointment on whether it finds the allegations against the county executive committee member to be substantiated.

Establishment of the Committee

17. Section 40(3) (a) of the County Governments Act, 2012 provides for the appointment of a select committee comprising five members to investigate the allegations

contained in the Special Motion.

18. Further, Section 40(3)(b) of the County Governments Act, 2012 provides that the select committee shall report to the County Assembly whether it finds the allegations against the County Executive Committee Member to be substantiated.

Committee Membership

19. Following the approval of the motion for the proposed dismissal of Hon. Joseph Kipngetich Kirui as the County Executive Committee Member for Administration, Public Service and Special Programs, a select committee comprising of the following members was established by the County Assembly on Wednesday 21st August 2024-

- 1) Hon. Ernest Kipkemoi Rotich- Chair
- 2) Hon. Victor Rop- Vice Chairperson
- 3) Hon. Lily Cherotich
- 4) Hon. Rosaline Cheptoo
- 5) Hon. Kibet Ngetich

Committee Secretariat

20. The Select Committee was supported in the execution of its mandate by a Secretariat comprised of:

- 1) Joseph Mitei-Lead Clerk
- 2) AnnBetty Koros-The Clerk
- 3) Kenneth Langat- Legal Counsel
- 4) Timothy Korir-Researcher

CHAPTER TWO

Legal Framework

21. Section 40(2) of the County Governments Act, 2012 provides that "*A member of the county assembly, supported by at least one-third of all the members of the county assembly, may propose a motion requiring the governor to dismiss a county executive committee member on any of the following grounds —*

- a) gross violation of the Constitution or any other law;*
- b) incompetence;*
- c) abuse of office;*
- d) gross misconduct; or*
- e) if convicted of an offence punishable by imprisonment for at least six months.*

22. Procedurally, Standing Order 72(1) provides that "Before giving notice of Motion under section 40 of the County Governments Act, 2012, the member shall deliver to the Clerk a copy of the proposed Motion in writing stating the grounds and particulars upon which the proposal is made, for requiring the Governor to dismiss a County Executive Committee Member on ground of a gross violation of a provision of the Constitution or of any other law; where there are serious reasons for believing that the County Executive Committee Member has committed a crime under national or international law; or for gross misconduct. The notice of Motion shall be signed by the Member and the Clerk shall submit the proposed Motion to the Speaker for approval."

23. Additionally Standing Order 72(2) of the County Assembly Standing Orders provides that "*A member who has obtained the approval of the Speaker to move a Motion under paragraph (1) shall give a three (3) days' notice calling for dismissal of a County Executive Committee Member by the Governor.*

24. Further Standing Order 72(3) provides that "*upon the expiry of three (3) days, after notice given, the Motion shall be placed on the Order Paper and shall be disposed of within three days;*"

25. Further to that, Standing Order 72(4) requires a list of signatures in support of the special motion to be deposited in the office of the Clerk and that the Speaker shall not allow the Special motion to be moved unless he is satisfied that the member proposing to move the Special motion has been supported by at least a third of the members.

26. Additionally, the Committee was guided by the Constitution and the following statutes among others as it executed its mandate:

- 1) The County Governments Act, 2012
- 2) The County Assemblies Powers and Privileges Act, 2017
- 3) The Employment Act, 2007
- 4) The Penal Code, Cap 63;
- 5) The Evidence Act, Cap 80;
- 6) The Public Officer Ethics Act, Cap I 85B;
- 7) The Leadership and Integrity Act, Cap I 85C;
- 8) The Public Finance and Management Act, Cap 412A;
- 9) The Public Procurement and Asset Disposal Act, Cap 412C; and
- 10) The Fair Administrative Action Act, Cap 71 I.

27. The Committee was also guided by the County Assembly Standing Orders and its Rules on Conduct of Investigation.

Conduct of Committee Proceedings

Rules on Conduct of Investigation

28. In accordance with the directions of the Hon. Speaker, the Clerk of the County Assembly prepared draft Rules on the Conduct of Investigation which the Committee adopted on Friday 23rd August, 2024 during its second sitting. The Rules are attached to this report.

Meetings of the Select Committee

29. Following its establishment on Wednesday, 21st August 2024, the Select Committee held its First Sitting on Thursday 22nd August, 2024 at 10.00 Am Pursuant to Standing Order 171(1)(a) the Committee elected the Chairperson and Vice-Chairperson. The

Hon. Ernest Kipkemai ,MCA and the Hon. Victor Rop, MCA were unanimously elected as the Chairperson and Vice Chairperson of the Committee respectively.

- 30.The Committee considered and adopted the Rules on the Conduct of Investigation and its program. Further, the Committee appointed Friday 23rd August, 2024 and Monday 26th August, 2024 as the dates for the pre- hearing and hearing respectively.

Invitations to Appear

- 31.The Committee observed that Section 40(4) of the County Governments Act, 2012 provides for the right of the County Executive Committee Member to appear and be represented before the Select Committee during its investigations.
- 32.Having made this observation, and considering the strict statutory timelines, the Committee at its first meeting held on Thursday 22nd August 2024, resolved to invite the Sponsor of the Special Motion and the County Executive Committee Member to appear before the Committee for the pre-hearing conference and hearing. The invitations to Appear are attached to this report.

Pre-Hearing Conference

- 33.Pursuant to Rule 3.1 and 3.2 on the Rules of procedure, the Committee vide letters dated 22nd August,2024, invited the Sponsor of the Special Motion and the County Executive Committee Member to a pre-hearing conference on Friday, 23rd August 2024 at 9.00 Am at the County Assembly Mini Chambers, the letters are annexed to this report.
- 34.To this end, the Sponsor of the Special Motion and the legal counsel representing the County Executive Committee Member attended the pre-hearing conference on Friday 23rd August 2024. The purpose of the conference was to address and resolve any preliminary concerns or issues that may arise before the commencement of the investigation hearings ensuring a smooth and efficient process.
- 35.During the pre-hearing conference, the Sponsor of the Motion provided a list of documentary evidence that he would rely on and would be adducing during the hearing proceedings.

36. The parties promised to exchange their respective documents together with the evidence to be relied upon.

Reading of particulars of the allegations

37. Pursuant to Rule 6.2 on the Conduct of hearings, at the commencement of the hearing, the Chairperson invited the Sponsor of the Motion to read out, verbatim, the particulars of the allegations against the County Executive Committee Member as appearing in the Special Motion. In response to the allegations, the Legal counsel representing the County Executive Committee Member indicated that he wasn't in a position to plead to the charges and sought for more time to adequately respond to the allegations contained in the Special Motion.

Hearing of Evidence

38. The Committee held a sitting on Monday 26th August 2024 to hear the evidence and submissions of the parties. The verbatim evidence adduced is as recorded in the Hansard attached to this report.

39. The Sponsor of the Motion called one witness being one Mr. Joseph Kiplangat Koech of ID No. 0323903 to testify during the hearing.

40. Parties made their closing statements on Monday, 26th August 2024.

CHAPTER THREE

Conduct of Proceedings

41. Pre-Hearing Conference of Parties

Preliminary Issues

42. On Friday, 23rd August 2024, the Committee held a pre-hearing conference of parties to address and resolve any preliminary concerns or issues that may arise before the commencement of the investigation hearings ensuring a smooth and efficient process. The meeting was also meant to confirm the documentation and evidence served and received, be apprised of the applicable procedure and consider any preliminary questions relating to the proceedings of the Committee.
43. The Chairperson, Hon. Ernest Kipkemoi, began by welcoming the Hon. Members, the secretariat, counsel, and the public following the hearing on Facebook to the day's proceedings of the *Ad hoc* Committee against Dr. Kipngetich Kirui, the CECM in charge of Administration and Public Service. He then asked the Committee members and members of staff to introduce themselves.
44. The Chairperson then invited the counsel representing the CECM to introduce himself. The counsel introduced himself as Desmond Leteipa Silei, an advocate of the High Court of Kenya practicing in the South Rift region and had entered appearance for the Hon. CECM, Dr. Kirui, in the proceedings. The counsel informed the Committee that Dr. Kirui would not be participating in the hearing and that he had been instructed to explain the reasons behind his absence.
45. The Chairperson then reminded the public and the Committee that the process had begun on Friday 23rd August, 2024 with notifications sent to Dr. Kirui regarding the intention to remove him from office. He further noted that there had been a pre-hearing , during which the counsel appeared on behalf of Dr. Kirui. The Chairperson granted Leteipa the opportunity to explain why his client was not present.

46. The County Executive Committee Member through his Advocate Mr. Desmond Leteipa Silei, submitted that he was aware of the motion and affirmed receiving the notification from the office of the Clerk with the following documents: The order paper containing the approved motion on the proposed removal for your proposed removal from office, draft committee rules of procedure and approved committee work-plan and calendar. The legal representative indicated that he didn't have the contents of the motion on formation of select committees. He also informed the committee that he was not aware of the advertisement in the print media on the submission of written memoranda and confirmed receipt of the letter..

Preliminary Objections by The Counsel

47. The counsel submitted that Dr. Kirui's absence was due to three reasons: first, they had only received the charge sheet that morning, making it difficult to proceed without adequate preparation.

48. Secondly, the counsel submitted that his client (Dr. Kirui) had reservations regarding the proceedings, specifically relating to two existing orders concerning the substantive issue before the Committee.

49. Finally, Mr. Leteipa mentioned that he had been instructed to inquire whether the Committee was properly constituted.

50. The Chairperson, Hon. Ernest Kipkemai, addressed the Committee by confirming that it was properly constituted, explaining that the Committee was formed as a result of a Motion tabled before the Assembly. He pointed out that the Committee had met the required two-thirds gender rule, consisting of two female and three male members, which is in accordance with the Standing Orders of the County Assembly. He emphasized that the Committee's purpose was to determine whether the charges against Dr. Joseph Kipngetich Kirui warranted his removal from office. He noted that the Committee had invited Dr. Kirui to present his case, and after the hearing, the Committee would make a decision based on the evidence presented.

51. The Counsel, for Mr. Kirui requested for a ruling on three issues he had raised at the beginning of the hearing expressing a need for more time to examine the documents.

The Chairperson clarified that the committee hearing was a time-bound, quasi-judicial in nature and that since the counsel had not taken a plea, the process would proceed to the next charge.

52. When asked by the chairperson whether he would take deny or admit the charges on behalf of his client, the counsel responded that they were not taking a plea and would not participate further in the proceedings, instead he sought more time to prepare for a response. He also requested to be excused from the proceedings based on his client's instructions.

53. Before the counsel was excused he sought clarifications on the following –

Petition Number 3 of 2024 on a court order issued on 31st July 2024 and Petition Number 6 of 2024 before the Employment and Labor Relations Court in Kericho which involved the CECM against the County of Bomet.

54. The counsel argued that there were ongoing legal matters which in his view were related to the current motion and would impact or delay the proceedings within the County Assembly. He sought clarity from the chairperson on how these court cases should be considered within the current hearings, especially concerning the CECM's ability to defend himself or the legality of continuing the assembly's proceedings while these matters are still active in court.

Ruling on the preliminary objection raised by the counsel

55. The Chairperson inquired from Mr. Leteipa whether he had received the email detailing the charges over the weekend which he acknowledged receipt. The Chairperson emphasized that the process was time-bound and governed by law, not subject to the Committee's discretion.

56. With regard to the second issue, the Chairperson reiterated that the orders in question pertained to a different motion, not the one under discussion.

57. The Chairperson, further ruled that the committee was properly constituted, explaining that the Committee was formed as a result of a Motion tabled before the County Assembly. He pointed out that the composition of the Committee had met the required two-thirds gender rule, consisting of two female and three male members in

accordance with the Standing Orders of the County Assembly. He emphasized that the Committee's purpose was to determine whether the charges levelled against Dr. Joseph Kipngetich Kirui warranted his removal from office or not.

58. The Chairperson further outlined the hearing process stating that after the charges were read by the mover, the counsel would have the opportunity take plea on behalf of his client. The learned counsel for Dr. Kirui acknowledged that he had received the charge sheet and accompanying documents but raised concerns about accessing some of them. The Chairperson responded by emphasizing that most of the documents were accessible online or were in the possession of the CECM. He cautioned Mr. Leteipa against misleading the Committee by claiming difficulty in accessing these documents
59. The Committee engaged in a detailed deliberation on the issue of an extension of time, as requested by the legal counsel representing the County Executive Committee Member (CECM). The counsel sought additional time to prepare for the proceedings, citing concerns over the availability and preparedness of his client. In response, the Committee emphasized its commitment to adhering strictly to the legislative framework governing its operations. The Committee clarified that, under Standing Order 72(6) of the County Assembly Standing Orders, the Assembly is mandated to appoint a select committee to investigate the allegations outlined in the Special Motion within a strict timeline of seven (7) days.
60. Further discussions revolved around the motion moved and approved on 29th July 2024. The legal counsel sought clarification from the Chairperson regarding the status of this motion, particularly in light of the current proceedings. The Chairperson explained that the select committee was operating under the auspices of a new motion, with distinct rules and procedures, as well as a unique composition, separate from any prior motions or actions taken by the Assembly.
61. The legal counsel then expressed reservations regarding the proposed hearing date and time. He highlighted the uncertainty of his client's preparedness and attendance, pointing out the challenges faced due to his representation of multiple CECMs. Moreover, he noted that the CECM for Administration, Public Service, and Special

Programs was currently under suspension and thus lacked access to certain critical information without authorization from the County Secretary. Given these constraints, he requested that the hearing date be rescheduled to a day other than Monday, 26th August 2024.

62. The counsel also addressed the potential appearance of the CECM for Administration, Public Service, and Special Programs during the hearings. He requested the opportunity to confirm attendance after consulting with his client, stressing the importance of ensuring a fair and just hearing for all parties involved.
63. After thorough consultation with the select committee members, the Chairperson decided to accommodate the legal counsel's concerns by maintaining the original hearing date of Monday, 26th August 2024, but reiterated the need for promptness and readiness. The hearing was set to commence at 9:00 am as initially scheduled.
64. The legal counsel expressed his appreciation for the Committee's consideration and reiterated his client's expectation of a fair and impartial hearing process. He also highlighted the necessity for the Committee to adhere strictly to the Constitution and the Standing Orders, particularly if there were any perceptions of bias or unfair treatment among the Committee members. Furthermore, he underscored the importance of coordinating with the County Executive to facilitate the necessary preparations, considering the suspension status of the CECM in question.
65. After consultations with the Committee members, the Chairperson made the following directions on the issues raised by the legal counsel:
 - a) **Attendance Confirmation:** The legal counsel must confirm the attendance of the County Executive Committee Member (CECM) at the hearing by the close of business on the 23rd of August, 2024. This confirmation is crucial to facilitate proper logistical arrangements and ensure efficient planning for the hearing.
 - b) **Request for Documents:** All requests for documents should be formally submitted through the Office of the County Secretary. Should the legal counsel or their client encounter any difficulties in obtaining the necessary documents, these challenges must be promptly communicated to the Committee through the Office of the Clerk, in accordance with Rule XII (12) of the procedural rules.

- c) **Clarification on Motions:** Regarding the perceived similarity between the motions dated 23rd July 2024 and 6th August 2024, the Committee wishes to clarify that the current motion under deliberation is entirely distinct and separate from the previous motion. Each motion is being considered on its own merits and under its own set of rules and procedures.

66. Additionally, the Committee directed the legal counsel to refer to Part IX, Section 9.1 of the Hybrid Hearings guidelines. The Committee is prepared to accommodate a fair process by offering additional hearing opportunities through virtual means if deemed necessary, thereby ensuring that the proceedings are fully equitable and accessible to all parties involved.

67. Hon. Victor Rop raised a concern regarding Mr. Leteipa's practicing license, questioning its validity. The learned counsel confirmed that his license was active and provided his practicing certificate number, he invited the Chair to verify it. The Chairperson noted the importance of following the due process and he therefore requested the counsel to present the practicing certificate before the close of business that day.

Opening Statements

68. In line with its hearing program, the Committee invited the motion sponsor to make his opening statement.

69. The sponsor of the motion, Hon. Vincent Mutai, emphasized the critical importance of the role of a County Executive Committee Member (CECM) in ensuring the effective and efficient management of county affairs. He highlighted that a CECM's responsibilities are central to delivering vital services to our citizens and maintaining the smooth operation of our county's governance. He also stated that when an individual entrusted with such a significant position is found to have breached the very principles and standards they vowed to uphold, it becomes an imperative duty to act with resolve and accountability.

70. Hon. Mutai further elaborated that the motion for the removal of Hon. Joseph Kipngetchi Kirui, the CECM for Administration, Public Service, Devolution, and Special

Programs, is supported by substantial evidence and serious concerns. These grounds include:

1. **Gross violation of the Constitution or any other applicable laws.**
2. **Incompetence** in executing official duties effectively.
3. **Abuse of office**, including misuse of power and resources.
4. **Gross misconduct**, which undermines the integrity and efficacy of the office.

71. Hon. Mutai underscored that the allegations against Hon. Kirui are of a grave nature and warrant a full scrutiny and rigorous consideration. He stressed that it is essential for the Committee to address these issues with the utmost seriousness, ensuring that all aspects of the allegations are thoroughly examined to uphold the principles of justice and accountability within our county government.

Evidence by the Sponsor of the Special Motion

Witness 1: Hon. Vincent Mutai (Nominated Member representing the Minority) Sponsor of the Special Motion

72. On Monday 26th August 2024, the Sponsor of the Special Motion took oath and adopted the statements contained in the Motion approved by the County Assembly.

73. He outlined the charges against Hon. Kirui, focusing primarily on the alleged gross violation of the Constitution of Kenya, 2010 and other laws, specifically the failure to ensure payment of casual workers in the county. The mover submitted that despite budgetary allocations for casual labour of Kshs. 50 million for the financial year 2022/2023 and Kshs. 30.5 million for 2023/2024 many casual workers had not received their wages for over six months.

74. Hon. Mutai highlighted that this non-payment issue occurred despite a 100% absorption rate of devolved funds for recurrent expenditure, as reported by the Controller of Budget for the financial year 2022/2023. He argued that this negligence demonstrated a lack of interest by Hon. Kirui in addressing the welfare of casual workers, who are among the most vulnerable employees within the county.

75. He further referenced the Employment Act, 2017, which defines a casual worker as someone who should be paid at the end of each day and not engaged for more than 24 hours at a time. He pointed out that the engagement of these workers exceeded the stipulated time without appropriate payment, which further highlighted the gravity of the CECM's failure in upholding labour laws. It was the mover's submission that these serious allegations undermine the principles of good governance and the well-being of the county's workforce.
76. When asked to clarify on the above allegation, the mover reported that by the close of business on June 30, 2023, there was a 100% absorption on recurrent expenses and 98% on development expenditure, indicating full release of funds, which were misappropriated by Hon. Joseph Kipngetich Kirui. He also referred to the Controller of Budget's report for the financial year 2023/2024, ending in March 2023, which showed a 98.7% absorption on recurrent expenses and 100% on development. He stressed that this information vindicates him by showing that the allocated money was disbursed but not paid to casual workers.
77. That despite the budgetary allocations made in the financial years 2022/2023 and 2024/2025, the mover provided evidence, including a bank statement to support the claim that village managers had not been paid and requested one of the village managers, Mr. Joseph Kiplangat Koech, to testify before the committee.

Witness Statement

78. The witness, Mr. Joseph Kiplangat Koech, who was under oath confirmed that he was engaged as a village manager in April 2022 but had only been paid for 10 months out of the 29 months he has served.
79. The witness, testified that he received 5,000 shillings as his first payment, followed by 15,000 shillings for three months and 30,000 shillings for six months, covering a total of 10 months of service as a village manager. He confirmed that the County Government still owes him 19 months of unpaid salary, and that he continues to work as a village manager.
80. During the submissions by the mover, the learned counsel excused himself from

participating in the hearing process citing having received instructions from his client. The committee registered its dissatisfaction from the conduct of the counsel and that of his client. However, the chairperson urged CEC to reconsider his position and engage with the committee in the process.

81. Further, the Chair sensitized on importance of his client's participation and the committee's preference for a direct engagement to resolve these matters in a just and transparent manner.

82. The mover expressed his regret at the situation but stated that he felt obligated to continue. On charge three the mover alleged that Hon. Joseph Kipngetich Kirui had grossly violated the National Social Security Fund Act and the National Hospital Insurance Fund Act by failing to ensure the timely remittance of statutory deductions. This failure, he claimed, had caused the County Government of Bomet to accrue a significant debt to the NSSF and NHIF, thereby exposing county staff to distress.

83. He further referred to the Auditor General's report for the financial year 2022/2023 which highlighted the mishandling of statutory deductions under Hon. Kirui's watch. The report indicated that 7.8 million Kenyan shillings were not remitted to the NSSF by the County Government's Department of Administration during Hon. Kirui's tenure. After presenting this information, Hon. Mutai indicated his intention to proceed to charge number four.

84. The mover submitted that Hon. Kirui failed to prepare and submit annual reports on the status of public participation as required by section 28 (1) of the Bomet County Public Participation Act, 2019. He affirmed that the County Assembly had adopted a motion touching on the implementation status of the Act during Hon. Kirui's tenure.

85. Hon. Mutai submitted that the CECM in charge was required to prepare and submit an annual report on public participation, emphasizing the significant financial allocations involved. He explained that the report should include departmental quarterly, and annual summaries on public participation, detailing various aspects such as the level of stakeholder engagement, incorporation of public input, challenges encountered, and any proposed mitigation measures.

86. He further argued that the department was supposed to submit this report no later

than two months after the end of the financial year, and the report should then be tabled before the County Assembly and published within 14 days of receipt. Hon. Mutai asserted that Hon. Joseph Kipngetich Kirui violated this requirement.

87. Additionally, he referred to the budget allocations for the Department of Administration under Hon. Kirui's leadership, noting that the County Assembly allocated KES 39 Million for the financial year 2022/2023 and KES 33.5 million for financial year 2023/2024. He pointed out that despite these allocations, there has been no evidence of Implementation Status Reports, or any documentation submitted to the County Assembly, thus signifying a failure by Hon. Kirui's part to comply with the Act.

88. The mover submitted that another issue of concern was incompetence. He accused Hon. Kirui of failing to effectively oversee critical infrastructure projects, such as the Governor's residence and various ward offices, despite repeated budget allocations over five years. This resulted in ongoing delays. Hon. Mutai highlighted that during the Governor's inauguration speech, the intention to devolve the County's administrative structure to the ward levels was stated, and Hon. Kirui had committed to completing these projects during his vetting for the CECM position. He pointed out several stalled projects, including ward offices in Ndaraweta, Chesoan, and Mutarakwa, and mentioned that a committee report had analyzed these issues. Mutai requested to show a video of Kirui's commitment during his approval hearing as evidence

89. The mover, further presented pictorial evidence showing the poor status condition of the Governor's residence, indicating that the allocated funds had been misused. From the Auditor General's report for financial year 2022/2023, the mover submitted that the report detailed the project's delays and issues, including an extended contract period and incomplete work. Mutai pointed out that significant portions of the project remained unfinished, with deteriorating materials and increased costs of the project.

90. He also noted that despite the budget allocation for operations and maintenance, Hon. Kirui failed to provide adequate working conditions for county staff. Additionally, Hon. Mutai accused Hon. Kirui of abusing his office by improperly renewing employment

contracts, bypassing the County Public Service Board, and causing irregular payments and contract extensions.

Closing Statements

Closing Statements by the Hon. Vincent Mutai-The Sponsor of the Motion

91. In his closing statement, Hon. Vincent Mutai, MCA, expressed profound dissatisfaction with the absence of County Executive Committee Member, Hon. Joseph Kipngetich Kirui, from the committee proceedings. He also conveyed his frustration with the decision of Hon. Kirui's legal counsel to protest and withdraw from the hearing midway through the proceedings. Hon. Mutai underscored that the presence of Hon. Kirui, or his defense counsel, is crucial for a comprehensive and fair examination of the issues at hand, as it would allow for a detailed prosecution of his concerns and enable effective responses to the defense's arguments.
92. Hon. Mutai further explained that his motivation for sponsoring the motion stems from the significant adverse effects resulting from the alleged misconduct of Hon. Kirui. These charges have led to the mismanagement and loss of public resources, adversely impacted service delivery at the grassroots level, and undermined the overall success of our county.
93. He urged the Committee to remain focused and not be sidetracked by the distractions and excuses presented by the legal counsel. Instead, the Committee should concentrate on thoroughly analyzing and evaluating the merits and evidence presented in the motion.
94. Finally, Hon. Mutai emphasized that issues of corruption, incompetence, and abuse of office are pervasive problems that are deeply entrenched not only nationally but also within Bomet County. He encouraged the Committee to use this case as an opportunity to set a strong precedent for combating impunity, incompetence, and corruption, thus reinforcing the standards of accountability and governance in our county.

Closing Statements by the Chair-Hon. Ernest Kipkemai Rotich

95. The Chair expressed regret that the counsel was not present during the hearing

session but welcomed him back. The chairperson reiterated the committee's commitment to justice for both the Hon. CECM and the people of Bomet touching on the allegations.

96. The Chair addressed several concerns raised by Mr. Leteipa, counsel for Hon. Kirui, including issues with document service, preparation time, and the status of two motions before the County Assembly. The Chair acknowledged these concerns and announced an extension until Friday, August 30, 2024, for the defence to prepare. The committee would also accommodate the requests by the counsel for additional time, if necessary, and allowed flexible participation either in person or virtually.
97. The Chair clarified that there were no court orders preventing the continuation of the motion and that questions about the lapse of other matters were beyond the committee's jurisdiction. The Chair assured the counsel that any documents needed by the defense would be provided and invited the counsel to notify the committee of any missing or inaccessible documents.
98. The Chair concluded by emphasizing the committee's commitment to fairness and transparency and stated that the ruling as attached would be recorded in the Hansard. The chairperson adjourned the meeting to Friday August 30, from 3 p.m. to 4 p.m. to accommodate the prayers sought by Mr. Leteipa.

CHAPTER FOUR

Analysis of the Evidence

Background

99. The Committee meticulously examined the evidence submitted and carefully considered the arguments presented by all parties involved. Throughout its deliberations, the Committee was guided by the constitutional imperatives embedded in Kenya's legal framework. This included adherence to principles of fair hearing, ensuring fair administrative action, upholding natural justice, and fostering good governance. Additionally, the Committee remained focused on overarching considerations of public interest, ensuring that its proceedings and conclusions were in alignment with the highest standards of accountability and transparency.

100. In accordance with the provisions of Section 40(5)(b) of the County Governments Act 2012, the Committee is mandated to recommend the dismissal from office of County Executive Committee Member if the allegations in the motion are **substantiated**. As such, the deliberation of the Committee were centred on the crucial question of whether the allegations are levelled by the Sponsor have been sufficiently proved.

101. The grounds of the dismissal of a County Executive Committee Member from office are laid down in Section 40(2) of the County Governments Act 2012 as follows;

A member of the county assembly, supported by at least one-third of all the members of the county assembly, may propose a motion requiring the governor to
dismiss a county executive committee member on any of the following grounds
a) gross violation of the Constitution or any other law;
b) incompetence;
c) abuse of office;
d) gross misconduct; or
e) if convicted of an offence punishable by imprisonment for at least six months"

102. The sponsor of the Motion seeks a resolution to have the County Executive Member in charge of Administration, Public Service and Special programs dismissed on the

following grounds-

- a) Gross violation of the Consitution or any other law;
- b) Incopetence; and
- c) Abuse of office.

Ground One: Gross Violation of the Consitution or any other law

Failure to Compensate Casual Workers

103. Before examining the allegation under ground the Committee examined what amounts to the gross violation of the constitution or any other law. In the Kenyan context, a "gross violation of the Constitution or any other law" refers to a severe breach of the legal duties and responsibilities outlined in the Constitution of Kenya, 2010, or any other statutory laws. The term "gross violation" suggests that the breach is substantial, deliberate, or egregious, and goes beyond minor or technical infractions. Such violations can undermine the rule of law, constitutionalism, and the principles of governance.
104. The Committee further notes that the definition of gross violation of the consitution or any other law vary depending on the context and the nature of the offense. However, the underlying principle is to protect the Constitution, uphold the rule of law, and ensure that individuals who commit serious breaches of the law are held accountable.
105. The Sponsor alleges that Hon. Joseph Kipngetich Kirui, in his capacity as the Executive Member in charge of Public Service, failed to ensure that his department processed payments for casual workers hired by the county government. This failure constitutes a violation of the Employment Act, 2007, particularly since it occurred despite the availability of sufficient budgetary provisions to cover these payments.
106. To substantiate this allegation, the Sponsor presented several pieces of evidence before the Committee. The first set of evidence included a detailed analysis of the budgetary allocations for casual workers for the fiscal years 2022/2023 and 2023/2024—the two financial years during which Hon. Joseph Kipngetich Kirui served as the County Executive Committee Member in charge of Administration, Public

Service, and Special Programs. The Sponsor highlighted that, despite these allocations, there were numerous reports—widely available in the public domain—indicating that casual workers employed by various departments within the county had gone without pay for periods exceeding ten months. This is a direct violation of the Employment Act, 2007, which mandates that casual workers should be paid at the end of each day and should not be employed consecutively for more than twenty-four (24) hours without remuneration.

107. Furthermore, the Sponsor provided specific instances where multiple statements and questions were raised by members of the County Assembly regarding the non-payment of casual workers. Additional evidence was submitted to demonstrate that while all casual workers in the departments of Administration, Public Service, and Special Programs had not been remunerated, those engaged by the Department of Finance and Economic Planning had been remunerated.

108. The second set of evidence submitted by the Sponsor included expenditure reports from the Controller of Budget for the fiscal year 2022/2023 and the first nine months of the fiscal year 2023/2024. These reports indicated that although there were expenditures recorded against the funds allocated for the remuneration of casual workers, no actual payments were made towards these workers during the said periods.

109. There was no defence for the said allegation from Hon. Joseph Kipngetich Kirui

110. The Committee examined this allegation under the ground of violation of the Constitution, assessing the presented evidence to determine whether Hon. Joseph Kipngetich Kirui had indeed failed in his duties as per the legal requirements.

Non-Payment of Village Managers

111. On the second part of the allegation, the Sponsor contends that Hon. Joseph Kipngetich Kirui, in his role as County Executive Committee Member for Administration, Public Service, and Special Programs, neglected his responsibility to ensure the timely processing of payments for village managers. This neglect

constitutes a breach of financial accountability principles and a violation of the Employment Act, 2007.

112. The Sponsor highlighted that despite having adequate budgetary allocations for village administrators in both the fiscal year 2022/2023 and the fiscal year 2023/2024, Hon. Joseph Kipngetich Kirui failed to ensure their remuneration. Evidence presented by the Sponsor included reports from the Controller of Budget for the relevant periods, which indicated that while funds were allocated for these payments, there was a notable expenditure of these funds, yet the village managers had not received their salaries for periods exceeding ten months.
113. Additionally, the Sponsor introduced a witness from the village council to provide firsthand evidence. This witness testified that he had not been compensated for a cumulative period of 19 months, underscoring the severe impact of the payment delays on the village managers.
114. Despite the gravity of these charges and the substantial evidence presented, there was no defense or counter-argument offered by Hon. Joseph Kipngetich Kirui concerning this particular allegation.

Non-Remittance of Statutory Deductions

115. On the third allegation the Sponsor submits that Hon. Joseph Kipngetich Kirui, in his role as County Executive Committee Member for Administration, Public Service, and Special Programs failed to ensure timely remittance of statutory deductions as required by the National Social Security Fund Act and the National Hospital Insurance Fund Act which resulted in significant debt accumulation to NSSF and NHIF and caused distress among county staff.
116. The Sponsor provided verbal justifications for this allegation, highlighting that the approved budget for the fiscal years 2022/2023 and 2023/2024 included adequate funds allocated specifically for the payment of statutory deductions. The Sponsor emphasized that these budgetary provisions were sufficient to meet the legal requirements for such payments.
117. There was a conspicuous absence of any defense or counterarguments from Hon.

Joseph Kipngetich Kirui concerning this particular charge.

Neglecting to Submit Annual Reports on Public Participation

118. On the fourth allegation the Sponsor submits that Hon. Joseph Kipngetich Kirui, in his role as County Executive Committee Member for Administration, Public Service, and Special Programs failed to ensure that the required annual report, as mandated by Section 28(1) of the Bomet County Public Participation Act, 2019, is submitted to the County Assembly further contravening Article 10(2)(a) of the Constitution.

119. According to the Sponsor Section 28(1) of the Bomet County Public Participation Act, 2019, requires the County Executive Committee Member for Administration, Public Service, and Special Programs to submit Annual report. Section 28 of the Bomet County Public Participation, 2019 states as follows;

"The Department shall prepare quarterly reports and an annual report on public participation which shall contain among others—

(a) the number of public participation forums facilitated by each department or agency,

(b) the level of implementation of stakeholder engagement plan,

(c) the level of engagement by participants during public participation process,

(d) the level of incorporation of proposals made or issues raised by stakeholders or the public,

(e) challenges faced in the implementation of this Act and proposed mitigation measures, and

(f) any other prescribed matter

(2) The Department shall submit the report to the Executive

Member not later than 2 months after the end of each financial year

(3) The Report generated under this Section shall be tabled before the County Assembly and published within 14 days from the date of its receipt by the Executive Member

(4) For every public participation process a report shall be produced

providing details including the list of participants, a summary of the deliberations and the resolutions reached”

120. The Sponsor further presented evidence showing that the approved budget for the fiscal years 2022/2023 and 2023/2024 included substantial allocations specifically designated for public participation activities. This budgetary allocation was intended to ensure that public participation processes were adequately funded and could be carried out effectively.
121. In support of this claim, the Sponsor provided detailed documentation of the public participation events that were conducted, along with records of the associated expenditures. This evidence demonstrated that the allocated funds were intended for, and should have been used to support, these essential public engagement activities.
122. Despite the clear evidence and detailed documentation provided by the Sponsor, there was a notable absence of any defense or counterarguments from Hon. Joseph Kipngetich Kirui concerning this particular charge.

Incompetence

123. Before examining this charge it is prudent that we define incompetence in the Kenyan context. In the Kenyan context, "incompetence" generally refers to a lack of the necessary skills, knowledge, or abilities required to effectively perform a particular role or job. Incompetence can manifest in various ways, particularly in the public sector, where it may lead to poor performance, mismanagement, and failure to meet statutory or organizational responsibilities.

Incomplete Infrastructure Projects

124. On the first allegation, the mover submits that Hon. Joseph Kipngetich Kirui, in his role as County Executive Committee Member for Administration, Public Service, and Special Programs demonstrated administrative incompetence by not ensuring the completion of critical infrastructure projects, such as the Governor's residence and various ward offices, despite receiving budget allocations over five years, leading to ongoing delays.
125. The Sponsor submitted substantial evidence to support the allegations. This

included budgetary allocations for FY 2023/2024 and FY 2022/2023, detailing funds designated for the construction of both non-residential and residential buildings in the County. Additionally, photographic evidence were provided, illustrating the current state of the governor's residence and various ward offices. The Sponsor has also included expenditure reports from the Controller of Budget, showing the financial outlays for these programs during FY 2023/2024 and FY 2022/2023.

126. Moreover, the Sponsor presented video evidence from the approval hearing of Hon. Joseph Kipngetich Kirui, where he committed to completing all stalled non-residential and residential projects if approved.

127. Despite the comprehensive and detailed evidence provided by the Sponsor, there was a conspicuous absence of any defense or counterarguments from Hon. Joseph Kipngetich Kirui regarding these specific charges.

Inadequate Working Conditions for County Staff

128. On the second allegation of this charge, the Sponsor submits that Hon. Joseph Kipngetich Kirui, in his role as County Executive Committee Member for Administration, Public Service, and Special Programs failed to provide adequate working conditions, including proper furniture, workspace, stipends, and field allowances for county staff in sub-county and ward offices, indicating a lack of administrative capability.

129. The Sponsor provided the financial outlays for the operation and maintenance during FY 2023/2024 and FY 2022/2023 and submitted that despite the budget allocation for operations and maintenance, Hon. Kirui failed to provide adequate working conditions for county staff

Abuse of Office

Abuse of Office

130. On the allegation of this charge, the Sponsor submits that Hon. Joseph Kipngetich Kirui, in his role as County Executive Committee Member for Administration, Public

Service, and Special Programs attempted to circumvent the decision of the County Public Service Board, which had decided to release sub-ward administrators after their contracts lapsed. He invited these individuals to attend meetings related to their previous roles even after they had been formally released from service, thereby undermining established public service regulations and the authority of the Public Service Board.

131. The Sponsor made verbal submissions accusing Hon. Kirui of abusing his office by improperly renewing employment contracts, bypassing the County Public Service Board, and causing irregular payments and contract extensions of sub-ward administrators.

CHAPTER FIVE

Committee Observations

132. Having considered the allegations in light of the applicable law, the evidence before the Committee and the presentation by the parties, the Committee made the following observations.

(a) Gross Violation of the Constitution or Any Other Law Failure to Ensure Payment of Casual Workers

The Committee, upon thorough examination, determined that the failure to ensure the timely and proper payment of casual workers constitutes a gross violation of employment laws and regulations. This neglect has resulted in significant financial hardship for the affected workers, thereby undermining their livelihoods and well-being. Such a serious lapse in fulfilling legal obligations provides a substantial basis for recommending dismissal from office.

The Committee carefully reviewed the evidence presented, including Assembly reports and statements, which highlighted a failure in the responsibility of Hon. Joseph Kipngetich Kirui as the head of the department responsible for public service. The evidence presented confirms the severity of this failure, leading the Committee to conclude that Hon. Kirui did not fulfill his duties in accordance with the legal requirements. As the senior-most officer, it was incumbent upon him to prevent the engagement of casual workers without ensuring their proper payment and to oversee the effective implementation of the budget, thereby avoiding instances of unpaid casual workers.

Given the weight of this responsibility and the evidence provided, the Committee finds the charge against Hon. Kirui to be **substantiated**.

Non-Payment of Village Managers

133. The Committee determined that the non-payment of village managers represents a serious breach of legal and financial responsibilities. This failure not only violates contractual obligations but also demonstrates a disregard for the essential services provided by these managers. The evidence presented by witnesses before the

committee supported the facts of this allegation, leading the committee to conclude that this is a gross violation warranting removal from office. Therefore, the committee finds that this allegation is **substantiated**.

Failure to Remit Statutory Deductions

134. The Committee concluded that the failure to remit statutory deductions, such as those required under the National Social Security Fund Act and the National Hospital Insurance Fund Act, is a grave violation of statutory obligations. These deductions are critical for safeguarding employees' social security and healthcare benefits. However, the committee noted a lack of evidence presented by the sponsor of the motion to support this allegation. Consequently, the committee determines that this allegation is **not substantiated**.

Failure to Submit Annual Reports on Public Participation

135. The Committee concluded that the failure to submit annual reports on public participation is a serious violation of the Bomet County Public Participation Act, 2019. The submission of these reports is essential for maintaining transparency and accountability in governance. The committee noted that the sponsor of the motion provided compelling evidence, including budgetary allocations for public participation and Hon. Joseph Kipngetich Kirui's failure to submit the required reports. Based on this evidence, the committee determines that this allegation is **substantiated**.

(b) Incompetence

Incomplete Infrastructure Projects

136. The Committee found the failure to complete various infrastructure projects indicative of a lack of administrative competence. This negligence hampers the county's development and affects the delivery of public services. The committee received substantial evidence from the sponsor of the motion, including Hon. Joseph Kipngetich Kirui's commitments during his approval hearing to ensure the completion of these projects. Additional evidence showed sufficient budgetary allocation for the two financial years during which Hon. Kirui served, as well as presentations on the

poor state of the non-residential offices and the incomplete governor's office. Considering this, the committee determined that this allegation was **fully substantiated**.

Inadequate working conditions for County Staff

137. The Committee noted that the failure to provide adequate working conditions for county staff reflects incompetence in public administration, justifying dismissal from office. Adequate working conditions are crucial for maintaining staff morale and productivity. However, the committee observed that no evidence was presented by the sponsor of the motion to support this allegation. Therefore, the committee determines that this allegation is **not substantiated**.

(c) Abuse of Office

Improper handling of Employment Contracts

138. The Committee determined that the improper handling of employment contracts constitutes an abuse of office. Renewing employment contracts without adhering to proper procedures violates public service regulations and undermines the integrity of the office. However, the committee noted the absence of substantive evidence to substantiate this allegation. Given the lack of proof, the committee concludes that this allegation is **not substantiated**.

CHAPTER SIX

Committee Findings

139. The Committee finds that the allegations under Ground One on Gross Violation of the Constitution or any other law and Ground Two on Incompetence as outlined in the Special Motion are **substantiated**.
140. Furthermore, the Committee finds that the allegations under Ground Three on Abuse of Office in the Special Motion is **unsubstantiated**.

CHAPTER SEVEN

Committee Recommendation

141. Having considered the provisions of Section 40 County Governments Act, 2012, the relevant statutes and the County Assembly Standing Orders, the Committee **RECOMMENDS** to the ASSEMBLY as follows:

142. THAT pursuant to Section 40(5)(b) and Standing Order 72(9), the Committee having found that the allegations against the County Executive Committee Member in charge of Administration, Public Service and Special Programs are **substantiated**, therefore recommends that His Excellency the Governor **dismisses** Hon. Joseph Kipngetich Kirui as the County Executive Committee Member in charge of Administration, Public Service and Special Programs.



**COUNTY ASSEMBLY OF BOMET
THIRD ASSEMBLY: THIRD SESSION-2024**

**SELECT COMMITTEE INVESTIGATING THE PROPOSED DISMISSAL OF THE
COUNTY EXECUTIVE COMMITTEE MEMBER IN CHARGE OF
ADMINISTRATION, PUBLIC SERVICE AND SPECIAL PROGRAMS**

ADOPTION SCHEDULE

We, the undersigned Honorable Members of the Select Committee investigating the Proposed Dismissal of Hon. Joseph Kipngetich Kirui as County Executive Committee Member for Administration, Public Service and Special Programs, do affix our signatures to this **Report of the select committee investigating the proposed dismissal of Hon. Joseph Kipngetich Kirui as the County Executive Committee Member for Administration, Public Service and Special Programs** to affirm our approval and confirm its accuracy, validity and authenticity:-

S/NO	NAME	SIGNATURE
1.	HON. ERNEST KIPKEMOI ROTICH, MCA- CHAIRPERSON	
2.	HON. VICTOR ROP, MCA- VICE-CHAIRPERSON	
3.	HON. LILY CHEROTICH, MCA	
4.	HON. ROSALINE CHEPTOO, MCA	
5.	HON. KIBET NGETICH, MCA	

DATED THURSDAY 29TH AUGUST 2024