



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (THIRD SESSION)

THE SENATE

SUPPLEMENTARY ORDER PAPER III

AFTERNOON SITTING

THURSDAY, OCTOBER 17, 2024 AT 2.30 P.M.

PRAYER

1. Communication from the Chair.
2. **PROCEDURAL MOTION – TO HOLD SITTINGS ON SATURDAY, 19TH OCTOBER, 2024**
(The Senate Majority Leader)

THAT, AWARE THAT, the National Assembly on 8th October, 2024 resolved, with the support of 282 members, being at least two-thirds of all Members of the National Assembly, that pursuant to the provisions of Article 145(2) as read with Article 150(1)(b) and (2) of the Constitution and standing order 65(2) of the National Assembly Standing Orders, His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya be removed from office, by impeachment, on the grounds specified in the Special Motion;

WHEREAS by letter Ref: NA/DLP/TBO/MTS/2024/(025) dated 8th October, 2024 and received in the Office of the Speaker of the Senate on 9th October, 2024 the Speaker of the National Assembly informed the Speaker of the Senate of the approval of the Special Motion by the National Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the National Assembly;

AND WHEREAS, *vide* Kenya Gazette No. 13178 Vol. CXXVI – No. 163 dated 9th October, 2024, and Article 145(3)(a) of the Constitution, the Speaker of the Senate appointed Wednesday, 16th October, 2024 and Thursday, 17th October, 2024 as sittings convened for the purpose of hearing the proposed removal from office, by impeachment, of His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya in plenary;

...../Motion

FURTHER WHEREAS, pursuant to Article 145 as read with Article 150(1)(b) and (2) of the Constitution and standing orders 78 and 79 of the Senate Standing Orders, the Senate heard the National Assembly on the grounds for the proposed removal from office, by impeachment, of His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya;

AND FURTHER WHEREAS, pursuant to Article 145 as read with Article 150(1)(b) and (2) of the Constitution and standing orders 78 and 79 of the Senate Standing Orders, the Senate also heard Counsel for His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya during cross-examination of the witnesses for the National Assembly on the grounds of the proposed removal from office, by impeachment, of the Deputy President of the Republic of Kenya;

NOTING THAT His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya did not appear during the afternoon sitting of the Senate on Thursday, 17th October, 2024;

FURTHER NOTING THAT Counsel for His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya sought an adjournment of the Senate until Tuesday, 22nd October, 2024 at 9.00 am to allow His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya to appear and give evidence, if any, on the grounds for his proposed removal from office by impeachment;

FURTHER NOTING that pursuant to Article 145(4) of the Constitution, a proposed impeachment hearing for the removal from office of a Deputy President must be concluded within 10 days from the date of the reading of the charges, which period, in this case expires on Saturday, 19th October, 2024;

NOW THEREFORE, the Senate resolves –

- (i) to adjourn the afternoon sitting of Thursday, 17th October, 2024; and
- (ii) pursuant to Standing Order 34(4)(c) of the Senate Standing Orders, to hold sittings on Saturday, 19th October, 2024 commencing at 9.00 am until 1.00 pm and 2.30 pm until conclusion of business in the Order Paper of the day;

in order to conclude the hearing and determination of the proposed removal from office, by impeachment, of the Deputy President of the Republic of Kenya.

3. HEARING AND DETERMINATION ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HIS EXCELLENCY RIGATHI GACHAGUA, EGH, DEPUTY PRESIDENT OF THE REPUBLIC OF KENYA

4. Notice of Motion (as listed in the Appendix)

...../Motion

5. SPECIAL MOTION - PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HIS EXCELLENCY RIGATHI GACHAGUA, EGH, THE DEPUTY PRESIDENT OF THE REPUBLIC OF KENYA

(The Senate Majority Leader)

THAT, AWARE THAT, the National Assembly on 8th October, 2024 resolved, with the support of 282 members, being at least two-thirds of all Members of the National Assembly, that pursuant to the provisions of Article 145(2) as read with Article 150(1)(b) and (2) of the Constitution and standing order 65(2) of the National Assembly Standing Orders, His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya be removed from office, by impeachment, on the grounds specified in the Special Motion;

WHEREAS by letter Ref: NA/DLP/TBO/MTS/2024/(025) dated 8th October, 2024 and received in the Office of the Speaker of the Senate on 9th October, 2024 the Speaker of the National Assembly informed the Speaker of the Senate of the approval of the Special Motion by the National Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the National Assembly;

FURTHER WHEREAS, pursuant to Article 145 as read with Article 150(1)(b) and (2) of the Constitution and standing orders 78 and 79 of the Senate Standing Orders, the Senate heard the National Assembly on the grounds for the proposed removal from office, by impeachment, of His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya;

AND FURTHER WHEREAS, pursuant to Article 145 as read with Article 150(1)(b) and (2) of the Constitution and standing orders 78 and 79 of the Senate Standing Orders, the Senate also heard His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya on the grounds of his proposed removal from office, by impeachment, of the Deputy President of the Republic of Kenya;

NOW THEREFORE, pursuant to Article 145 as read with Article 150(1)(b) and (2) of the Constitution and standing orders 78 and 79 of the Senate Standing Orders, the Senate resolves to remove from office, by impeachment, His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya, on the following grounds-

- 1.** Gross violation of Articles 10 (2)(a), (b) and (c); 27 (4), 73 (1)(a) and (2)(b); 75 (1)(c), and 129 (2) of the Constitution and Article 147 (1), as read together with Article 131 (2)(c) and (d) of the Constitution;
- 2.** Gross violation of Articles 147 (1) and 152 (1) of the Constitution by undermining the President and the Cabinet and the effective discharge of the national government's executive mandate;
- 3.** Gross violation of Articles 6 (2), 10 (2)(a), 174, 186 (1), 189 (1) and the Fourth Schedule to the Constitution by undermining Devolution;

...../Motion

(No. Supp. 111) THURSDAY, OCTOBER 17, 2024 (AFTERNOON SITTING) (2099)

- 4.** Gross violation of Article 160 (1) of the Constitution on the Institutional and Decisional Independence of Judges;
- 5.** Gross violation of Articles 3 (1) and 148 (5)(a) of the Constitution on the fidelity to the Oath of Office and Allegiance;
- 6.** Serious reasons to believe that H. E. the Deputy President has committed crimes under sections 13 (1)(a) and 62 of the National Cohesion and Integration Act;
- 7.** Serious reasons to believe that H. E. the Deputy President has committed gross economic crimes under sections 45 (1), 46, 47A (3) and 48(1) of the Anti-Corruption and Economic Crimes Act and sections 2, 3, 4 and 7 of Proceeds of Crime and Anti-Money Laundering Act;
- 8.** Serious reasons to believe that H. E. the Deputy President has committed crimes by continuously misleading members of the public through false, malicious, divisive, and inciteful remarks that are contrary to the provisions of section 132 of the Penal Code and section 29 of the Leadership and Integrity Act;
- 9.** Gross misconduct that is incompatible with the high calling and dignified status of the Office of the Deputy President and a member of the Cabinet and the National Security Council. H. E. the Deputy President has publicly attacked and undermined the work of the National Security Intelligence Service and its Officers;
- 10.** Gross misconduct by openly or publicly insubordinating the President, who is the Head of State and Government; and
- 11.** Gross misconduct by persistently bullying state and public officers.

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APPENDIX

NOTICE OF SPECIAL MOTION - PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HIS EXCELLENCY RIGATHI GACHAGUA, EGH, THE DEPUTY PRESIDENT OF THE REPUBLIC OF KENYA.

(The Senate Majority Leader)

THAT, AWARE THAT, the National Assembly on 8th October, 2024 resolved, with the support of 282 members, being at least two-thirds of all Members of the National Assembly, that pursuant to the provisions of Article 145(2) as read with Article 150(1)(b) and (2) of the Constitution and standing order 65(2) of the National Assembly Standing Orders, His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya be removed from office, by impeachment, on the grounds specified in the Special Motion;

WHEREAS by letter Ref: NA/DLP/TBO/MTS/2024/(025) dated 8th October, 2024 and received in the Office of the Speaker of the Senate on 9th October, 2024 the Speaker of the National Assembly informed the Speaker of the Senate of the approval of the Special Motion by the National Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the National Assembly;

FURTHER WHEREAS, pursuant to Article 145 as read with Article 150(1)(b) and (2) of the Constitution and standing orders 78 and 79 of the Senate Standing Orders, the Senate heard the National Assembly on the grounds for the proposed removal from office, by impeachment, of His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya;

AND FURTHER WHEREAS, pursuant to Article 145 as read with Article 150(1)(b) and (2) of the Constitution and standing orders 78 and 79 of the Senate Standing Orders, the Senate also heard His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya on the grounds of his proposed removal from office, by impeachment, of the Deputy President of the Republic of Kenya;

NOW THEREFORE, pursuant to Article 145 as read with Article 150(1)(b) and (2) of the Constitution and standing orders 78 and 79 of the Senate Standing Orders, the Senate resolves to remove from office, by impeachment, His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya, on the following grounds-

1. Gross violation of Articles 10 (2)(a), (b) and (c); 27 (4), 73 (1)(a) and (2)(b); 75 (1)(c), and 129 (2) of the Constitution and Article 147 (1), as read together with Article 131 (2)(c) and (d) of the Constitution;
2. Gross violation of Articles 147 (1) and 152 (1) of the Constitution by undermining the President and the Cabinet and the effective discharge of the national government's executive mandate;

...../Appendix

(No. Supp. 111) THURSDAY, OCTOBER 17, 2024 (AFTERNOON SITTING) (2101)

- 3.** Gross violation of Articles 6 (2), 10 (2)(a), 174, 186 (1), 189 (1) and the Fourth Schedule to the Constitution by undermining Devolution;
- 4.** Gross violation of Article 160 (1) of the Constitution on the Institutional and Decisional Independence of Judges;
- 5.** Gross violation of Articles 3 (1) and 148 (5)(a) of the Constitution on the fidelity to the Oath of Office and Allegiance;
- 6.** Serious reasons to believe that H. E. the Deputy President has committed crimes under sections 13 (1)(a) and 62 of the National Cohesion and Integration Act;
- 7.** Serious reasons to believe that H. E. the Deputy President has committed gross economic crimes under sections 45 (1), 46, 47A (3) and 48(1) of the Anti-Corruption and Economic Crimes Act and sections 2, 3, 4 and 7 of Proceeds of Crime and Anti-Money Laundering Act;
- 8.** Serious reasons to believe that H. E. the Deputy President has committed crimes by continuously misleading members of the public through false, malicious, divisive, and inciteful remarks that are contrary to the provisions of section 132 of the Penal Code and section 29 of the Leadership and Integrity Act;
- 9.** Gross misconduct that is incompatible with the high calling and dignified status of the Office of the Deputy President and a member of the Cabinet and the National Security Council. H. E. the Deputy President has publicly attacked and undermined the work of the National Security Intelligence Service and its Officers;
- 10.** Gross misconduct by openly or publicly insubordinating the President, who is the Head of State and Government; and
- 11.** Gross misconduct by persistently bullying state and public officers.

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PARLIAMENT OF KENYA

THE SENATE

HEARING PROGRAMME IN PLENARY

**PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HIS
EXCELLENCY RIGATHI GACHAGUA, EGH, DEPUTY PRESIDENT OF THE
REPUBLIC OF KENYA**

**The Clerk's Chambers,
The Senate,
1st Floor, Main Parliament Building,
NAIROBI, KENYA**

OCTOBER, 2024

...../Hearing Programme

THURSDAY, 17TH OCTOBER, 2024

Venue: Senate Chamber, Nairobi

- 2.30 pm – 6.25 pm Evidence by His Excellency the Deputy President (Evidence of witnesses, if any, cross-examination and re-examination):
- His Excellency the Deputy President** - maximum of 2 hours for evidence of the witness and re-examination.
National Assembly – maximum of 1hr 55 minutes for cross-examination.
- 6.25 pm – 7.25 pm Questions/Requests for Clarification by Senators
- 7:25 pm – 8:25 pm Closing Statement on behalf of the National Assembly (60 minutes)
- 8:25 pm – 9:25 pm Closing Statement on behalf of His Excellency the Deputy President (60 minutes)
- 9:25 pm – 10:00 pm Closed session of the Senate
- 10:00 pm Special Motion on the proposed removal from office, by impeachment, of His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya:
- Debate by Honourable Senators.
 - Final Submission, if any, by His Excellency Rigathi Gachagua, EGH, Deputy President of the Republic of Kenya.
 - Voting on the charges.

Adjournment
