



## KEPSA Statement Ahead of the Repeat Presidential Elections



**Nairobi, October 24<sup>th</sup> 2017** – Over the last few weeks of this Presidential election, the Private sector in Kenya which is a major stakeholder in economy and country has through the Kenya Private Sector Alliance (KEPSA) and also through the individual business organizations that make up KEPSA speaking on behalf of more than 500,000 large companies and SMEs, consistently sent out the following message to Kenyans:

1. That independent institutions, including and especially the Independent Electoral and Boundaries Commission (IEBC) and the Judiciary, be allowed to execute their mandates, and in turn that these institutions remain and be seen to be non-partisan.
2. That all Kenyans have rights but those rights come with responsibilities, and that the Government ensures security is provided for all during and after this election.
3. That any aggrieved parties' use our established disputed resolution mechanisms, principally the Judiciary, to seek redress.
4. That in all we do, we follow the Constitution, the law, and any Court orders relevant to this election.
5. That the election uncertainty, and the episodes of violence we have seen accompanying anti-election protests, have harmed and continue inflicting real damage to the economy, with potentially disastrous consequences for growth, jobs and livelihoods.
6. That beyond the election, all of us need to think through the wider goal of building a cohesive, united and prosperous Nation.

On the eve of the October 26 2017 election, the private sector wishes to repeat and re-emphasize this message. In our last statement of October 13 2017 we made clear our support for the IEBC's decision to have the election on October 26 2017. This support is predicated on the IEBC's constitutional mandate to organize and oversee elections, and we stand by this statement. We cannot be a country that makes acceptable the disregard and disobedience of Court orders, no matter how inconvenient or disagreeable these may be. The Supreme Court was very clear in its orders that the IEBC organize an election within 60 days of September 1 2017 and, until the Supreme Court vacates this Order, it behoves all Kenyans to obey it.

We are aware of the issues raised by those who do not support the holding of this election. These Kenyans have a right to hold these views. We repeat our call to all such Kenyans, and to any others Kenyans who may feel aggrieved for whatever reason, to resort to the Judiciary to address their grievances, as indeed several individuals and groups have already done during this election. We urge all to abide by any rulings that come out of the various Presidential election-related cases now in progress

The private sector shares Kenyans' pain from any damage that comes from election-related chaos. Our SME members bear the brunt of such damage, but all Kenyans also suffer, as the economy is buffeted by the uncertainties arising both from the election itself, and from any associated chaos. This is why we have consistently called Kenyans' attention to the disastrous economic consequences of the present uncertainty which affects all Kenyans. The Private Sector having reviewed the loss and has estimated it to be about 10 per cent of the GDP equivalent to Kshs 700 Billion. In doing so we have been acutely sensitive to Kenyans' hard won rights of protest, of gathering and of picketing, but have also called for the rights of other Kenyans equally to be respected. In this regard we appeal once again to our security forces to ensure that in keeping or restoring public order, they remain sensitive to the need not to stifle genuine and peaceful protests, and always to bear in mind their operating orders to use minimal force.

This election has raised fundamental questions about where Kenya is headed, and it is clear to us that, regardless of the outcome of the Presidential election, when it's over, Kenya is overdue a national conversation. We all thought we decided once and for all our national direction when the current Constitution was promulgated in 2010, but it is now evident that there are a significant number of Kenyans dissatisfied with the outcome of the unfolding of this Constitution. This is not unusual; constitutions embody a people's hopes and dreams, and these evolve, and can and do change over time. Ours is a living Constitution, and contains avenues for change. However, in looking at whether the Constitution is fit-for-purpose, we must ensure we act within its confines, not outside it, and within our existing laws. We cannot afford to be a lawless country.

In closing, may we wish all Kenyans, those who wish to vote and those who choose, for whatever reason, not to vote, a peaceful Election Day, during which we will demonstrate our maturity by allowing all to proceed as the wish to do, without infringing on the rights of others.

**Eng. Patrick Obath**

**KEPSA Trustee**

[Pobath@gmail.com](mailto:Pobath@gmail.com)

