



COUNCIL OF GOVERNORS

16th September, 2020

PRESS STATEMENT ON THE IMPENDING CLOSURE OF COUNTY GOVERNMENTS

The Council of Governors would like to clarify the reasons surrounding the decision to shut down Counties. First and foremost, we would like to set the record straight that the shutdown is not a decision made by the Chairman of the Council, however this follows a Resolution made by the full Council on 8th September 2020. This has been occasioned by the delay to pass the County Allocation of Revenue Act 2020 hence a delay in disbursement of the equitable share of revenue.

More than three (3) and a half months into the financial year 2020/21, County employees have continued to work and offer services without receiving their salaries and allowances. Some of these employees have been thrown out of their houses due to lack of payment of rent, no money to buy food, no money to even pay for their utilities. For your information, they have no health insurance cover because the County Governments have not received money to pay for their Cover. Further, the Health Facilities have no medicine, no money to replenish non-

pharmaceuticals, no money to pay for food, electricity bills and no money to pay for water. Further, County Governments owe Kenya power bills exceeding Ksh. 2 Billion for financial 2020/21. As you are aware, the National Assembly already appropriated resources to the National Government which has continued to provide services and has paid employees.

Allow me to give a chronology of actions leading to the decision to close down;

- On 3rd August 2020, a meeting was convened by the CS Treasury attended by Speaker of Senate, Minority and Majority Leaders of Senate, Majority and Minority WHIP, Chair Finance Committee of Senate, Controller of Budget, Council of Governors-Chair, Vice Chair, WHIP, Chair Finance Committee and member and a representative from the Office of the Attorney General. It was resolved that:-
- Borrowing from Supreme Court advisory No 3 of 2019, paragraph 80 & 81, National Treasury to seek authorization from Parliament, to withdraw 50% of County Allocation for the Financial Year 2019/2020 from Consolidated Fund and disburse to County Revenue Fund using the current formula as provided by Article 217(7) of the Constitution.
- Despite the above resolutions the National Treasury still failed to disburse the funds as agreed instead they wrote to the Attorney General seeking for an opinion on the modalities of disbursement of the funds.

- Owing to this, the Council wrote to the National Treasury to ask for a release of 50% of the sharable revenue to the Counties. This is in line with the Supreme Court Advisory Reference No. 3 of 2019 which allows for the disbursement of up to 50% of the sharable revenue pending the passage of the County Allocation of Revenue Act.
- Further, in our press statement made on 3rd September 2020, we informed the Senate and the general public of the impending shutdown.
- Despite the notice and the appeal to the Senate to resolve the revenue impasse, the Senate has to date failed to pass the formula leaving the Counties no choice but to close down. We have also called upon the National Treasury to release at-least 50% of the equitable share of revenue as is allowed by Section 134 of the Public Finance Management Regulations 2015.
- We note with regret that despite the law having a general presumption of constitutionality, the Attorney General has misadvised the country citing the regulation as unconstitutional. This power we hold is solely vested in the High Court.

It is absurd that despite their constitutional mandate, the Senate has failed to protect the interest of the Counties and their Governments.

- The County Allocation of Revenue Act 2020 is yet to be passed to date in view of the confusion that been displayed

by the senate whenever they convene to consider the same.

It seems like the Senate has just woken up from their slumber that they have been in for 5 years. They knew about the formula 5 years ago, yet they have continuously treated the country to theatrics during the ten times that they have convened to consider the formula.

- Enough is enough.
- Institutions need to step up to their mandate and stop apportioning blame to the Council of Governors who have continued to offer solutions to unlock the funds to the go to the Counties.

We hope that this stalemate will be resolved expeditiously to avoid uninterrupted service delivery to the citizens.

Signed

H.E. Hon. FCPA Wycliffe Ambetsa Oparanya, EGH, CGJ
Chairman, Council of Governors