TRANSPARENCY INTERNATIONAL KENYA

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TRANSPARENCY INTERNATIONAL KENYA MEMORANDUM

ON

THE PROPOSED THIRD REMUNERATION AND BENEFITS REVIEW CYCLE 2021/2022-2024/2025 FOR STATE OFFICERS AND ALL OTHER PUBLIC OFFICERS BY THE SALARIES AND REMUNERATION COMMISSION

To:
The Commission Secretary/Chief Executive Commission
Salaries and Commission
P.O. Box 43126-00100
Nairobi

Date: 13th July 2023

Organization

Transparency International - Kenya (TI-Kenya) is a not-for-profit organization founded in 1999 in Kenya with the aim of developing a transparent and corruption free society through good governance and social justice initiatives. TI-Kenya is one of the autonomous chapters of the global Transparency International movement that are all bound by a common vision of a corruption-free world. The vision of TI-Kenya is that of a transparent, accountable and corruption-free society.

Introduction

The Salaries and Remuneration Commission (SRC) is currently undertaking the third remuneration review cycle 2021/2022-2024/2025 for State Officers and all Other Public Officers. In lieu of this and in line with the constitutional requirement for public participation, SRC has invited the public to make submissions on their proposed salaries review framework.

TI-Kenya recognises SRC's mandate under the Constitution[1] to review remuneration and benefits of State and public officers every four years.2 In light of the existing laws governing SRC's mandate, TI-Kenya wishes to make the following observations and recommendations pursuant to the invitation;

1. On the quality of Public Participation, sensitization and availability of information.
   Under Regulation 5, the Commission has an obligation to precede the review, a year before, with a study which *inter alia* needs to survey prevailing economic situation.
   TI-Kenya notes and protests the absence of prior economic situation review, a proper sensitization forum and lack of easily accessible information on the remuneration review cycle and outcomes despite an undertaking from the Commission to conduct a sensitization forum on 6th July 2023. This absence of critical information greatly hinders the ability of

[1] Article 230(4) 2010 Constitution of Kenya.
[2] Regulation 4(1) SRC Regulation No. 10 of 2011

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the public to give quality, informed and objective input which is essential to quality public participation.
It is our recommendation that the commission postpones the deadline for submission of comments by the public to allow it time to provide adequate information to enable the citizens to make informed submissions.

2. On time given for public input
TI-Kenya also notes and protests the limited amount of time given for public input. Whereas the message from the Commission chair as shared on email is dated 1st July 2023 which gives an insufficient two weeks' notice, the notification for public participation was only made via email on 5th July 2023 which gives a mere 5 working days' window for the public to submit input.
It is our recommendation that the commission extends the deadline for submission of public input. The High Court was clear in the case of the *Republic v County Government of Kiambu ex parte Robert Gakuru & another [2016] eKLR* that reasonable time ought to be offered to the public to go through the information provided and provide their input.
3. On the wage gap
TI-Kenya disagrees with the justification for increasing wages of State Officers and some senior public officers. It is our position that the country has a very huge gap in public office. Kenya's average monthly gross salary according to the Review Report is Kshs. 90, 153 which is 8-12 times lower than the rates of basic monthly salaries for State Officers and even much higher when measured against the minimum wage.
Furthermore, remuneration for State Officers in Kenya is substantial. MPs' salaries for instance are 9 times higher than Kenya's GDP per capita. This raises questions on the methodology used by the commission in its comparative analysis.
It is preposterous to propose any further increments that will widen this gap and stands against the constitutional principles of fairness and equality.
4. On the wage Bill
TI-Kenya also notes the huge government wage bill. Accordingly, the SRC report takes cognisance of the fact that the wage bill has consistently surpassed the limit set in the Public Finance Management Act at 35% of total government revenue and stands at 46.26% in the FY 2021/22. It should therefore be prudent for SRC to focus on ensuring the country's wage bill fits within the provisions of the PFM Act. (On this point; does the SRC have control over the State departments' and organs' budget?)
5. On the state of the economy and fiscal sustainability
In performing its functions article 230 (5) of the Constitution requires SRC to be cognizant and ensure that the total public compensation is fiscally sustainable. Overall, Kenya is on a weak sustainable fiscal path due to the failure of the government's revenue to fully finance government expenditure. SRC's proposal is above an already expanded total wage Bill both at the national and county government.
Further, is public knowledge that in the recent past, hitherto, the country experienced economic shocks that have placed more burden to the citizens thereby increasing the cost of life. We also note that the Regulations require the Commission to conduct a review across all the public sector which we humbly opine to be impractical owing to the foregoing economic concerns.

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This difficult economic period has had greater negative impacts on low-income earners as compared to high income earners most of whom fall within the category proposed for salary increments. State officers and senior public officers have greater protection from economic downturn partly though the additional allowances and benefits entitled to their offices such as provision of housing and housing allowances, motor vehicles, vehicle loans and fuel allowances, paid leaves, etc. It is therefore disingenuous in such tough economic times to propose salary increments for highest income earners in the society.

6. On the Allowances

   A 2019 study by SRC identified 247 allowances paid to public officers, which accounted for 48 per cent of the total wage bill as of 2019. Following the 2019 Public Wage Bill Conference, SRC committed to rationalize and reduce these allowances to manageable levels. It is our recommendation that SRC needs to operationalize the commitment through the allowances policy, to consolidate allowances to achieve a proportion of basic salary to gross salary that is no less than 60 per cent, while considering the impact on pension.

Conclusion

We are strongly opposed to the Commission's proposal to increase salaries, benefits, and allowances for state officers until the economic situation in the country improves sufficiently to sustainably support such remuneration. State officers and senior public officers enjoy a myriad of benefits that shield them from the struggling economy. Implementing an additional Kshs 50 million in wage bill to an already struggling economy at the expense of the common mwananchi is ill advised.

Further, we demand that the Commission makes information necessary to this remuneration review process publically available and extends the timelines for public participation to enhance quality input by the citizens.

In discharging its mandate, SRC is guided by principles set out in Article 230(5) of the constitution, ie, the need to ensure that the total public compensation bill is fiscally sustainable; transparency and fairness. The current efforts to review the remuneration are against the above two principles and should be abandoned.

Signed

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Sheila Masinde
Executive Director
Transparency International Kenya