FACT SHEET

IMPLEMENTATION OF THE 2023 FINANCE ACT

The purpose of this fact sheet is to provide a comprehensive overview of the ongoing anti-government demonstrations in Kenya, led by the opposition (Azimio La Umoja Coalition), in response to the 2023 Finance Act.

The fact sheet aims to share accurate and reliable information to counter the implications of the proposed halting of the implementation of the 2023 Finance Act by the opposition for the safeguarding of peace, security, and democratic governance in the country.

BACKGROUND

- The 2023 Finance Act, which proposes tax changes aimed at expanding the tax base and raising revenue to meet the government's budget of KES 3.6 trillion for 2023/2024, has been met with concerns particularly from the Azimio Coalition, about its impact on Kenyan citizens' ability to afford basic necessities.
- Following a petition by Busia Senator Okiya Omtatah and six others, the High Court of Kenya through Judge Mugure Thande, suspended the implementation of the controversial Finance Act, a few days after His Excellency President William Ruto signed it into law. The Act was originally scheduled to take effect from July 1st, 2023.
- Despite the suspension, the Energy and Petroleum Regulatory Authority (EPRA) proceeded to enforce the recalculated fuel prices, considering the VAT at 16 per cent as stipulated in the Act.
- The matter was then forwarded to the Court of Appeal and on Thursday, July 20th, 2023, the Court declined to lift the High Court's order to suspend Finance Act 2023.
- The Court directed parties to appear for a ruling on July 28th, 2023 where court will determine whether the conservatory orders suspending the implementation of the Finance Act will be lifted, as sought by Treasury CS Prof Njuguna Ndung'u.
- This direction by the Court of Appeal was preceded by the selection of a three-judge bench by Chief Justice Martha Koome on July 18th 2023 consisting of High Court judge David Majanja (Presiding Judge), Lady Justice Christine Meoli and Justice Lawrence Mugambi to hear and determine petitions challenging the Act.
- The Court of Appeal on 28th July, 2023 lifted the orders barring implementation of Finance Act 2023 pending hearing and determination of the appeal.

COUNTER MEASURES

- The proposed Finance Act in Kenya has resulted in significant public discontent and social unrest due to concerns over its potential impact on citizens' affordability of basic necessities. Legal challenges surrounding the Act add to the uncertainty regarding its implementation. The demonstrations have the potential to disrupt economic activities, raise security concerns, and deepen political divisions.
- To maintain peace, security, and democratic governance during the ongoing demonstrations in response to the Finance Act 2023, various countermeasures including engaging in dialogue, respecting citizens' freedom of expression, promoting transparency in decision-making, upholding the rule of law, fostering inclusive governance, considering economic support measures, promoting peaceful conflict resolution, and strengthening relevant institutions can play a key role.

As the Finance Act faces legal challenges, it is essential for all parties to exercise patience and respect the judicial process. The High Court's decision to suspend the implementation of the Finance Act until the matter is heard by the Court of Appeal should be regarded with deference. Patience in awaiting the Court of Appeal's ruling demonstrates a commitment to the rule of law and the democratic principles that underpin Kenya's governance.