

LAWS OF SOUTH SUDAN

LEGAL TRAINING INSTITUTE ACT, 2012

Act No.27

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LEGAL TRAINING INSTITUTE ACT, 2012

Arrangement of Sections

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LAWS OF SOUTH SUDAN

LEGAL TRAINING INSTITUTE ACT, 2012

In accordance with the provisions of Article 86 (2) (3) read together with Article 55 (2) (3) (b) of the Transitional Constitution of the Republic of South Sudan, 2011, the National Legislative Assembly, ratifies and promulgates the following into law-

CHAPTER I

PRELIMINARY PROVISIONS

1. Title and Commencement.

This Act may be cited as “South Sudan Legal Training Institute Act, 2012” and shall come into force on the date of its signature by the President.

2. Repeals and Saving.

Any existing legislation governing the subject of this Act is hereby repealed; provided that any orders issued or regulations made thereunder, except to the extent they are cancelled by or are otherwise inconsistent with provisions of this Act shall continue in force and effect until repealed or amended by this Act.

3. Purpose.

The purpose of this Act is to provide a legal framework for the establishment of a legal training institute, to make provision for its constitution, management and functions and for related matters.

4. Authority.

This Act is made in accordance with the provisions of Articles 38 (1) (a) and paragraphs 47 and 56 of Schedule A and paragraph 2 of Schedule C-of the Transitional Constitution of South Sudan, 2011, as part of the effort to create minimum standards in respect of regulation of the legal profession, regulate professional associations and create the necessary qualified cadres for development.

5. Interpretation.

In this Act, unless the context otherwise requires, the following words and expressions shall carry the meanings assigned to them:

“**Assembly**” means the National Legislative Assembly;

“**Auditor General**” means the head of the Audit Chamber appointed pursuant to the South Sudan Audit Chamber Act, 2011;

“**Board**” means the Management Board established under section 11 of this Act;

“**Chairperson**” means the chairperson of the Board;

“**Financial Year**” means the financial year of the Government;

"Government" means the Government of South Sudan;

"Institute" means the South Sudan Legal Training Institute established under section 6;

"Minister" means the Minister of Justice;

"Ministry" means the Ministry of Justice;

"President" means the President of the Republic of South Sudan;

"Principal" means the principal of the Institute.

CHAPTER II

ESTABLISHMENT, FUNCTIONS AND POWERS OF THE INSTITUTE

6. Establishment of the Institute.

- (1) There is hereby established a legal training institute to be known as the South Sudan Legal Training Institute.
- (2) The Institute shall be a body corporate with perpetual succession and shall have the right to:
 - (a) acquire, hold and dispose of movable and immovable property;
 - (b) sue and be sued; and
 - (c) do all acts and things a body corporate may lawfully do.

7. Seal of the Institute.

- (1) The official seal and logo of the Institute shall be in a form to be decided and determined by the Board.
- (2) The seal of the Institute shall be authenticated by the signature of the Chairperson or of any other two members of the committee authorized by resolution of the Board generally or especially to act in that behalf.
- (3) The signature of the Chairperson or other members of the Board shall be independent of the signing by any other person as witness.
- (4) Every document purporting to be an instrument made or issued by or on behalf of the Institute and to be sealed with the seal of the Institute shall be authenticated in the manner provided by subsection (1) or shall be signed or executed by the Chairperson or other members of the committee authorized to act in that behalf.
- (5) Every document purporting to be a certificate such as is mentioned in subsection (3) shall be received in evidence and be deemed, without further proof, to be so made or issued or to be such a certificate, unless the contrary is shown.

8. Custody and use of the Seal.

The common seal of the Institute shall be kept in such custody as the Board directs and shall not be used except on the order of the Board.

9. Functions of the Institute.

- (1) The Institute shall:
 - (a) provide training for the acquisition of legal knowledge, professional skill and experience to persons intending to practice law in South Sudan;
 - (b) provide training to other persons dealing with justice and law-related activities with the aim of promoting a better understanding of the law;
 - (c) organize and conduct continuing in legal education training;
 - (d) organize and conduct such other training as the Board may from time to time prescribe;
 - (e) assist in the preparation of reprints of the Laws of South Sudan in accordance with any law for the time being in force;
 - (f) undertake and promote widespread research related to law;
 - (g) collaborate with other higher learning and research institutions within and outside South Sudan in academic research fields aimed at promoting law and justice;
 - (h) hold seminars and conferences on matters and problems in law;
 - (i) publish periodicals, bulletins, digests or other written material concerned with law; and
 - (j) support any other initiative aimed at promoting justice and law.
- (2) The Institute shall have such other functions as the Minister may, from time to time, specify by statutory instrument.

10. Powers of the Institute.

The Institute shall have all the power necessary or expedient for the performance of its functions under this Act and in particular, the Institute shall have power to:

- (a) conduct examinations and confer diplomas, certificates and prizes in accordance with any law in force;
- (b) charge such fees for any examinations, courses, seminars or conferences conducted or held as may be approved by the Board;
- (c) charge such amounts for any publications sold or distributed as may be approved by the Board;
- (d) charge such amounts for services provided as may be approved by the Board;
- (e) control, supervise and administer the assets of the Institute in such manner and for such purposes as shall best promote the purposes for which the Institute is established; including the taking, purchasing or otherwise acquiring, holding, charging and disposing of both movable and immovable property;
- (f) receive any grants, gifts, donations or endowments and make legitimate disbursements there from;
- (g) enter into any contract or other transaction;

- (h) enter into association with other bodies or organizations within or outside South Sudan as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Institute is established; and
- (i) do or perform all other things or acts necessary for the proper performance of its functions under this Act which may be lawfully done by a body corporate.

CHAPTER III

GOVERNANCE OF THE INSTITUTE

11. Management Board and Membership.

- (1) The governing body of the Institute shall be a Management Board consisting of the following:
 - (a) one representative of the Judiciary of South Sudan to be appointed by the Chief Justice;
 - (b) two representatives of the Ministry of Justice one of whom shall be the Director of Training and Research;
 - (c) the head of the school of law of a recognized university in South Sudan;
 - (d) Representative of the South Sudan Lawyers Association ;
 - (e) Representative of the ministry responsible for higher education;
 - (f) three other members appointed by the Minister .
- (2) The Principal of the Institute shall be the Secretary to the Board.

12. Functions of the Board.

- (1) The Board shall be responsible for policy formulation and strategic direction of the Institute.
- (2) The Board shall particularly be responsible for the following :
 - (a) participating in the elaboration of the Institute's academic policy and following up its implementation;
 - (b) approving the Institute's internal rules and regulations;
 - (c) approving the Institute's plans and budget proposal;
 - (d) approving the recommendations as to the appointment of teaching and research personnel and conferring of academic awards within the Institute;
 - (e) making proposals to the minister responsible for higher education concerning the establishment of centers, faculties and departments of the Institute;
 - (f) approving donations, grants and aid that are accorded to the Institute;
 - (g) submitting annual activity and financial reports to the Minister;
 - (h) approving agreements entered into between the Institute and higher learning, research institutions and other institutions in general;
 - (i) performing any other activity that would help the Institute achieve its objectives.

13. Disqualification from Membership of the Board.

No person shall be appointed a member of the Board who:

- (a) is a paid employee of the Institute;
- (b) is an insolvent or bankrupt person;
- (c) is not resident in South Sudan; or
- (d) has been convicted of an offence involving fraud or dishonesty.

14. Chairperson of the Board.

- (1) The Minister may, in consultation with the Board, appoint any member of the Board other than the Principal to be Chairperson of the Board.
- (2) The Chairperson shall hold office for a period of four years renewable for one term only.

15. Term of Office of Members.

- (1) An appointed member of the Board shall hold office for a period of four years renewable for one term only.
- (2) A person who ceases to be an appointed member or ceases to be Chairperson under subsection (2) shall not be eligible for reappointment to the Board.
- (3) If any appointed member of the Board, other than the Chairperson, is for any reason unable to exercise the powers or perform the duties of the office, the Minister may, subject to section 11, appoint another person to be a temporary member of the Board during the absence or incapacity of that member.

16. Removal and Resignation of a Member.

- (1) The Minister may remove any member of the Board at any time upon complying with the procedure set out in this section if he or she is satisfied that the member:
 - (a) is a paid employee of the Institute;
 - (b) is or has become an un-discharged bankrupt or has made any arrangement with his or her creditors;
 - (c) is or has been found or declared to be of unsound mind under any law in force in South Sudan;
 - (d) has ceased to be qualified to continue as a member, or is disqualified from continuing as a member;
 - (e) incompetence and inefficiency;
 - (f) gross misconduct;
 - (g) has been absent without permission or sufficient cause from three consecutive meetings of the Board;

- (h) has been convicted of an offence involving dishonesty, fraud or moral turpitude; or
 - (i) is otherwise unable or is, in the opinion of the Minister, unfit to discharge the functions of a member or is unsuitable to continue as a member.
- (2) The Minister shall not remove a member of the Board unless a notice in writing has been sent to the member that it is proposed to remove such member on any one or more of the foregoing grounds which shall be accompanied by full particulars relating to the proposed grounds for removal, and the member proposed to be removed shall be afforded an opportunity of making representations against the proposal for removal.
- (3) A member of the Board, by notice in writing under his or her hand, addressed to the Minister through the Chairperson, may resign his or her membership, and the Chairperson may, by like notice to the Minister, resign his or her office as Chairperson.
- (4) Where a member of the Board vacates office by death, resignation or other cause, the Minister shall, having regard to the provisions of section 11, appoint another suitable person in such a the place of such a member, and the person so appointed shall hold office for the remainder of the terms of office of the succeeded member.

17. Filling of vacancy.

Subject to the provisions of section 11 above, if any vacancy occurs on the Board by death, resignation, lapse of tenure or otherwise, the vacancy shall be filled by the Minister.

18. Powers and Conduct of the Business of the Board.

- (1) In the discharge of its functions under this Act, the Board may, without any prejudice to the generality of the functions of the Institute described in section 9 of this Act:
- (a) advise the Minister on policy for giving effect to the objectives and purposes of the Institute and generally of this Act, including but not limited to:
 - (i) reviewing, advising on, revising if necessary and adopting a national strategy for promoting the quality of legal training in South Sudan;
 - (ii) reviewing, advising on, revising if necessary and adopting such curriculum as is proposed by the Principal of the Institute; and
 - (iii) submitting written statements to Government quantifying the obstacles relating to legal training activities, suggesting steps which should be taken in order to remove such obstacles;
 - (b) direct the Principal to furnish the Board with any information, report or other documents which the Board considers necessary for the

- performance of its functions; and shall:
- (i) monitor the extent to which Board recommendations are being implemented;
 - (ii) monitor progress in the implementation of the operational strategy of the Institute; and
 - (iii) approve the budget of the Institute and periodically review its operational and financial performance;
- (c) guide the Principal in the management of the Institute and direct any action to be taken by the Principal or other officers with regard thereto; and
- (i) help fortify the institutional status of the Institute by supporting organizational growth, retention of competent staff and development of core competencies; and
 - (ii) ensure the operational efficiency of the Institute,
- (d) make such regulations as may be necessary for the efficient and effective implementation of the provisions of this Act.
- (2) The Board may, for the discharge of the functions of the Institute, appoint sub-committees of the Board comprising members of the Board or non-members or both, and may, by resolution, either generally or in any particular case, assign to the sub-committee such functions as the Board may determine except that a sub-committee composed entirely of non-members may only advise the Board.
- (3) A member of the Board who has any interest, direct or indirect, in any matter to be considered by the Board, shall disclose the nature of his or her interest to the Board and such disclosure shall be recorded in the minutes of the Board and the member shall not take part in any deliberation or decision of the Board relating to that matter.
- (4) A member who contravenes subsection (3) shall be guilty of misconduct and liable to removal from the Board.

19. Meetings of the Board and Sub-committees.

- (1) The Board shall hold its meetings on such dates and at such time and place as the Board may determine, but shall meet at least once every quarter of every calendar year.
- (2) The provisions of the Schedule shall apply to the meetings of the Board or its duly appointed sub-committees and other matters provided for in that Schedule without prejudice to the Public Service regulations.

CHAPTER IV

MANAGEMENT OF THE INSTITUTE

20. Principal and Directors of the Institute

- (1) The Board shall, with the approval of the Minister, appoint a Principal of the Institute for such period as the Board may determine who shall be responsible for the day-to-day administration of the Institute and the implementation of the decisions of the Board.
- (2) The Board shall appoint a Director of Diploma in legal Practice (DLP), Director Continuing Legal Education, and Director Research of the Institute for such period as the Board may determine who shall be responsible for
 - (a) coordinating respective academic, research and publications activities of Institute;
 - (b) supervising the academic and research staff;
 - (c) engaging, in consultation with the Board, such consultants, experts and advisers as he or she may require for the efficient discharge of the functions of the Institute; and
 - (d) performing any other duty which is related to his or her attributions as may be assigned to him or her by the Principal.
- (3) The Board shall appoint a Director of Finance and Administration of the Institute for such period as the Board may determine who shall be responsible for:
 - (a) serving as the chief administrator responsible for the day to day implementation of decisions of the Board and supervision of the staff;
 - (b) supervising generally the implementation of the provisions of this Act, control the operations and staff of the Institute;
 - (c) submitting, three months before the beginning of each new financial year, to the Board a work plan for the next financial year, setting out as a minimum all major objectives and activities of the Institute for the year, as well as estimates of expenditure and revenue related to the work plan for the next financial year;
 - (d) presenting a report within three months after each financial year to the Institute with regard to the activities of the Institute in the preceding financial year; and
 - (e) performing any other functions and duties that may be assigned to him or her by the Principal.

21. Functions and Duties of the Principal.

- (1) Management of the Institute shall be under the direct responsibility and duty of the Principal as its chief executive. The Principal shall be assisted in the day-to-day management functions and duties by such deputies as the Board may from time-time appoint.

- (2) Without prejudice to the generality of subsection (1) of this section, and subject to this Act and to the general supervision and control of the Board, the Principal shall have administrative, financial and technical powers required for the performance of the work of the Institute, including, but not limited to:
- (a) representing the Institute in official functions and occasions, in South Sudan, nationally, regionally and internationally;
 - (b) initiating policies and framework documents of the Institute;
 - (c) approving project and programme activities proposed by the committees and/or directorates;
 - (d) overseeing the use of the funds of the Institute;
 - (e) providing periodic reports to the Board and to the Minister;
 - (f) appointing, within budget limitations, the officers and support staff of the Institute;
 - (g) initiating internal policies and procedures including job-descriptions of the staff referred to in section 24 of this Act;
 - (h) monitoring and evaluating the performance of the Institute;
 - (i) the development of an operating plan to guide the Institute in achieving its objectives;
 - (j) being the Secretary to the Board;
 - (k) the development of an economic, efficient and cost effective internal management structure;
 - (l) proposing and implementing the strategic plan, business plan and annual plan of the Institute;
 - (m) providing advice as required on all matters within the Institute's responsibility.
 - (n) undertaking research to determine the impact of the Institute's programs on judicial and legal training in South Sudan and propose strategies to enhance judicial and legal –training in South Sudan.
 - (o) proposing for Board approval, plans and strategies for improving the quality of legal training , knowledge and application of the law in South Sudan.
 - (p) performing such other duties as the Board may determine.
 - (q) The Principal in the performance of his or her functions shall be answerable to the Board.

22. Eligibility of appointment as Principal.

The Principal shall be selected from persons of high moral reputation and integrity and shall:

- (a) hold a Bachelor's Degree (or equivalent) in law; and
- (b) have at least ten years of experience in the field of legal practice, administration or training.

23. Tenure, Resignation and Removal of the Principal.

- (1) The Principal shall hold office for a term of three years and is eligible for reappointment for one more term.

- (2) The Principal may resign by a letter addressed to the Board.
- (3) The Principal shall be removed from office upon a resolution passed by a two-thirds majority vote of the Board after a hearing.
- (4) Reasons for removal under subsection (3) shall include:
 - (a) ineligibility for appointment under section 22 of this Act;
 - (b) inability to perform the functions of the office due to mental or physical infirmity;
 - (c) gross misconduct;
 - (d) incompetence and inefficiency;
 - (e) absence without permission or sufficient cause from three consecutive meetings of the Board; and,
 - (f) having been convicted of an offence involving dishonesty, fraud or moral turpitude; or,
 - (g) death.
- (5) Where the Principal is removed from office, resigns or dies, a replacement shall be made under the same conditions and in the same manner as the appointment was made in accordance with section 20 of this Act.

24. Staff of the Institute.

- (1) The staff of the Institute shall comprise the following categories:
 - (a) teaching and research staff;
 - (b) administrative and technical staff;
 - (c) support staff.
- (2) The Principal shall be assisted in his or her functions by full time staff with specialist knowledge that shall possess ability to render to the Institute services as prescribed by the Board.
- (3) Appointment as a staff member shall be made by the Board.
- (4) The Board shall appoint such other officers and employees as the Institute may require for the effective implementation of its functions.
- (5) A person who holds judicial office may be appointed Principal of the Institute without relinquishing that office, but shall not be required to perform his or her duties as the holder of that office while serving as Principal of the Institute.

25. Remuneration of Staff.

- (1) The Board may pay to the Secretary, officers and other employees of the Institute such remuneration and allowances as may be permitted by its standing orders and in conformity with Government regulations on staff remuneration.

- (2) The Board may grant pensions, gratuities or other retirement allowances to the Secretary, officers and other employees of the Institute as may be permitted by its regulations in accordance with the law.

CHAPTER V

FINANCE, AUDIT AND REPORTING

26. Operational Principle.

The Institute shall manage its finances in accordance with sound financial principles and best practices and shall in that respect and ensure that its revenues are sufficient to meet its expenditures, including payment of operational cost.

27. Sources of Funding.

- (1) Operations of the Institute shall be funded by an approved and allocated budget in accordance with the Public Finance Management and Accountability Act, 2011 and other sources and shall include, but not limited to:
 - (a) sums as may be appropriated by the Assembly in the Government Annual Budget; and,
 - (b) any other source that may be approved by the President or authorized by law.
- (2) The Institute shall prepare and submit for approval an annual budget proposal in accordance with Public Finance Management and Accountability Act, 2011 in connection with the Government budget process for the following financial year. Such budget proposal shall be subject to review, revision and approval by the Minister.

28. Bank Accounts.

The Institute shall open and maintain bank accounts as may be necessary for the performance of its functions and duties in accordance with the Public Finance Management and Accountability Act, 2011.

29. Surplus Funds.

Funds belonging to the Institute, not immediately required for any purpose provided for in this Act, may be invested in accordance with the Public Finance Management and Accountability Act, 2011.

30. Accounts.

- (1) The Principal shall keep and maintain proper books of accounts and records of all funds received and spent by the Institute during the financial year.

- (2) The Principal shall prepare and submit a financial report to the Board, not later than three months from the end of the previous financial year. The report shall include:
 - (a) a financial statement of income and expenditure during the financial year;
 - (b) a statement of assets and liabilities of the Institute for the financial year, prepared in accordance with generally accepted accounting principles
 - (c) a financial audit report.

31. Audit.

- (1) The Principal shall ensure that, for each financial year the accounts of the Institute are audited by the Auditor-General or such other audit firm approved by the Auditor-General in writing and authorised by the Board.
- (2) The Board shall ensure that within four months from the end of the financial year, or such other period as the Government may require in writing, an audited statement of accounts, in accordance with the provisions of section 30 above, is submitted to the Minister and the Ministry of Finance and Economic Planning.
- (3) The Auditor-General shall have access to all the books of accounts, vouchers and other records, and shall be entitled to any information and explanation required in relation to those and any other records of the Institute.

32. Annual and other Reports.

- (1) In addition to the Financial Audit Report, required by section 30, when required by the Ministry of Finance, the Institute shall also prepare a report of its activities during the financial year. The report required under this subsection shall be known as the Annual Report.
- (2) The Annual Report shall, *inter alia*, include the following information:
 - (a) a copy of the auditor's report;
 - (b) a statement of financial performance and of cash flows, budget performance and balance sheet;
 - (c) the budget for the coming financial year;
 - (d) a description of the activities of the Institute during the previous year;
 - (e) an analysis of the extent to which it has met its objectives of the previous year;
 - (f) an evaluation as to the extent to which the advice and directives of the Institute have been complied with;
 - (g) its objectives for the coming year; and
 - (h) any recommendations on the matters governed by the provisions of this Act.
- (3) The Institute shall publish and disseminate widely the Annual Report, along with its audited accounts. In the event the Institute fails to distribute the

Annual Report, it shall be distributed by the Ministry of Finance and Economic Planning.

- (4) The Board shall submit to the Minister and the Assembly such other reports on its activities or any other matter as may from time to time be required.

CHAPTER VI

MISCELLANEOUS

33. Regulations.

- (1) The Board may propose regulation for approval by the Minister regarding the management and conduct of the Institute or any matter connected with the functions or the proper exercise, discharge or performance by the Board of its functions under this Act, and such regulations may provide for:
- (a) the salary structure of the Principal, Directors and staff of the Institute;
 - (b) the appointment, discipline and dismissal of the Directors and staff of the Institute;
 - (c) the provision of pensions, gratuities and other such payments for retirement;
 - (d) rules for contributory arrangements to any fund or pension scheme by the employees of the Institute;
 - (e) books of account to be kept by the Institute; and
 - (f) the allowances and expenses to be paid to members of the Board and subcommittees of the Institute.
- (2) All regulations made under the above subsection shall be subject to the prior approval of the Minister.

34. Amendment of Schedules.

The Minister may by order published in the *Gazette* amend the Schedule.

SCHEDULE

PROVISION AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

1. Meetings of the Board

- (1) The first meeting of the Board shall be convened by the Chairperson and subsequently, the Board shall meet as often as necessary for the transaction of business at such places and at such times as may be decided upon by the Board but it shall meet at least once every three months.
- (2) The Chairperson shall preside at every meeting of the Board and in his absence the members present may appoint a member from among themselves to preside at that meeting.
- (3) The Chairperson or in his absence a member appointed by the Board to act in his place, may at any time call a special meeting upon a written request by a majority of the members.
- (4) Notice of every meetings of the Board shall be given in writing to each member at least five days before the day of the meeting.

2. Quorum

- (1) Subject to subparagraph (2) below, –one half of members –shall constitute a quorum for the conduct of business at any meeting of the Board.
- (2) When there is no quorum at, or for the continuation of, a meeting of the Board only because of the exclusion of a member from the deliberations on a matter in which he has disclosed a personal interest, the other member present may if they deem it expedient so to do:
 - (a) Postpone the consideration of that matter until there is a quorum without that member, or
 - (b) Proceed to consider and decide the matter as if there was a quorum

3. Decisions of the Board

- (1) All matters proposed at a meeting of the Board shall be decided by a simple majority of the votes of the member's presents and in the event of an equality of votes, the person, presiding shall have a casting vote in addition to his deliberation vote.
- (2) A decision may be made by the Board without a meeting by circulation of the relevant papers among the members of the Board and by the expression of the views of the majority of the members in writing but any member shall be entitled to require that the decision be deferred and the matter on which a decision is sought be considered at a meeting of the Board.

4. Minutes of proceedings

- (1) The Board shall cause the minutes of the all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the Board at the next meeting of the Board and signed by the Chairperson or the persons presiding at the meeting.
- (2) The Chairperson of the Board shall submit to the minister a copy of the minutes of each meeting of the Board as soon as the minutes have been confirmed.

5. Board to regulate its own Procedures

Subject to this Schedule, the Board shall regulate its own procedure.

6. Co-opting to the Board

The Board may co-opt any person to participate in its deliberations, but a person so co-opted shall have no right to vote.

7. Sub-Committees of the Board

- (1) The Board may appoint sub-committees of the Board to:
 - (a) inquire into and advise the Board on any matter concerning the functions of the Institute as the Board may refer to the committee;
 - (b) exercise such powers or performs or such functions of the Institute as the Board may delegate or refer to the committee.
 - (2) A sub-committee appointed under subsection (1) above shall consist of a Chairperson and other persons, whether members of the Board or not, as the Board may determine.
 - (3) The Board may require a sub-committee appointed under this section to act jointly or in cooperation with any other sub-committee.
 - (4) Members of a sub-committee appointed under this section may be paid such allowances as the Board may, with approval of the Minister, determine.
 - (5) Subject to any direction given by the Board, a sub-committee appointed under this section may regulate its own procedure.
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Issued under my hand in Juba on this 5 day of June in the year, 2012

A handwritten signature in black ink, consisting of a large, stylized loop at the top, followed by the letters 'K I H' in a cursive script.

Gen. Salva Kiir Mayardit
President of the Republic