CPIA Detailed Report

Pays: Kenya

Année de l'exercice: CPIA Exercise 2023

Currency: Kenyan Shilling (KES)

Ville: Nairobi

Groupe de revenu: Lower middle income

Catégorie de prêt: Blend

Score CPIA final: 4.277

(A) Economic Management

Score du cluster: 4.167

01. Fiscal Policy

Score du critère: 4

1. Fiscal Policy

Type de score	Valeur
Score de brouillon	4.0
Score révisé	4.0
Score de deuxième brouillon	4.0
Score final	4.0

Notes du pays:

Kenya has pursued prudent fiscal policy in recent years. The fiscal deficit narrowed to 6.3% of GDP in 2022 from 8.2% in 2021, higher than the regional and continental averages of 4.3% and 4.0% of the GDP, respectively. Interest payments are among the important factors contributing to increase in government expenditure and by implication to fiscal deficit implying the need for improved debt management to create fiscal spaces. Government revenues, expenditures and fiscal deficit averaged 17%, 25% and 8% between 2018 and 2022, respectively. Improvements in fiscal balances since 2021 can be attributed to adherence to quantitative targets of the fiscal consolidation path. The ongoing fiscal consolidation program was introduced in 2021. It is anchored on a positive primary balance. Several revenue enhancement and expenditure rationalization measures have been introduced since then with the objective of raising Government revenue collection, rationalizing Government expenditure, and meeting fiscal deficit target of the fiscal consolidation path (e.g., 4.4% of GDP in the FY 2023/24.

The Finance Bill 2023 encapsulates one of the important fiscal measures taken by the Government to support the fiscal consolidation program. The Bill plans, among other things, reducing government expenditure by freezing hiring of public servants, restructuring public servant in the ratio of 70% technical to 30% support services; imposing benchmarks on State Owned Enterprises (SOE) operations to address contingent liabilities among other things Kenyan Airways, Kenya Power Limited Company (KPLC), etc.,. And on the revenue fronts, the Bill aims at meeting the revenue to GDP target of 17.8% in the FY 2023/24 and 18% in the medium term by among other things, expanding the tax base by formalizing the informal sector (revenue collection potential of Ksh 2.4 trillion), raising taxes(e.g., increasing VAT on fuel, decreasing the list of zero-rated items and increasing income tax), improving tax administration (e.g., by integrating KRA with Telecom Companies, etc.,. In general, the bill is expected to increase revenue collection by $1.5 billion.

The improved fiscal balance is happening amid fiscal pressures arising from shocks. The Russia’s invasion of Ukraine is one example. It adversely impacted revenue collection and raised government expenditure. The latter due to increase in Government subsidies on fuel and food. The liquidity crunch in the international financial market that arose following shifts in monetary policies in advanced economies is another example. it limited Kenya's access to the international financial market.

Minimizing fiscal vulnerability would entail, among other things, growth-enhancing structural reforms and improved debt management. Should the external shock persist, the fiscal adjustment cost is expected to further increase. This might entail debt restructuring (because debt service accounts for 45% of total revenue) to create additional fiscal spaces. According to available estimates, the fiscal deficit is projected to narrow to 6.1% and 5.4% of GDP in 2023 and 2024, respectively. This is expected to happen on the back of a projected decline in the primary deficit, lower interest payments, and exchange rate stabilization due to expected slowdown in monetary policy tightening in advanced economies. Risks to the outlook could emanate from persistent global financial tightening. This could be mitigated by deepening a growth friendly fiscal consolidation program and debt restructuring.

The fiscal deficit narrowed to 6.3% of GDP in 2022 from 8.2% in 2021, higher than the regional and continental averages of 4.3% and 4.0% of the GDP, respectively. Interest payments are among the

important factors contributing to increase in government expendigure and by implication to fiacal deficit implying the need for improved debt management to create fiscal spaces.   in Kenya. They accounted The share of interest payment accounted for [i]. Government revenues, expenditures and fiscal deficit averaged 17%, 25% and 8% between 2018 and 2022, respectively. Improvements in fiscal balances since 2021 can be are attributed to adherence to quantitative targets of the fiscal consolidation path. [ii]. The ongoing fiscal consolidation program was introduced in 2021. It is anchored on a postive primary balance. Several revenue enhancement and expenditure rationalization measures have been introduced since then with the objective of raising Government revenue colleciton, rationalizing Government expenditure and meeting fiscal deficit target of the fiscal consolidation path (e.g., 4.4% of GDP in the FY 2023/24. Recent examples includedThe Finance Bill 2023 encapsulates one of the important fiscal measures taken by the Government to suppor the fiscal condolidaiton program. The Bill plans, among other things, reducing government expenditure by freezing hiring of public servants, restructuring public servant in the ratio of 70% technical to 30% support services; imposing benchmarks on State Owned Enterprises (SOE) operations to address contingent liabilities among other things Kenyan Airways, Kenya Power Limitted Company (KPLC), etc.,. And on the revenue fronts, the Bill aims at meeting the revenue to GDP target of 17.8% in the FY 2023/24 and 18% in the medium term by among other things, exapnding the tax base by formalising the informal sector (revenue collection potential of Ksh 2.4 trillion), raising taxes(e.g., increasing VAT on fuel, decreasing the list of zero-rated items and increasing income tax), improving tax administration (e.g., by integrating KRA with Telecom Companies, etc.,. In general, the bill is expected to increase revenue collection by $1.5 billion.   The improved fiscal balance is This has happening ed amid fiscal pressures arising from shocks. Tthe effects of Russia’s invasion of Ukraine is one example. It adversely impacted revenue collection and raised government exependiture. The latter due to increase in Government subsidies on fuel and food. The   [iii] and recently liquidity crunch in the international financial marke that arose following shifts in monetary policies in advanced economies is another example. it limitted Kenya's access to the international financial markett[iv]. From 2023, the GoK has introduced additional fiscal policy measures[v] to meet the increase in financing needs. Minimizing fiscal vulnerability would entail, among other things, growth-enhancing structural reforms[vi] and improved debt management. Should the external shock persist, the fiscal adjustment cost is expected to further increase. This might entail debt restructuring[vii]to create additional fiscal spaces. The fiscal deficit is projected to narrow to 6.1% and 5.4% of GDP in 2023 and 2024, respectively. This is expected to happen on the back of a projected decline in the primary deficit, lower interest payments, and exchange rate stabilization[viii]. Risks to the outlook could emanate from persistent global financial tightening. This could be mitigated by deepening a growth friendly fiscal consolidation program and debt restructuring.[i]Interest payments accounted on average for about 48.6% of the fiscal deficit during the CSP period.[ii] The fiscal consolidation path was introduced in 2021. It is anchored on a positive primary balance. Several fiscal measures have been introduced since then to meet adjustment costs that new shocks entailed e.g., Russia’s invasion of Ukraine and narrowing liquidity in the international financial market.[iii]The impact of Russia’s invasion of Ukraine on Kenyan economy was large and it negatively affected both GoK revenue, household income elevating energy and food prices. The GoK subsidies on fuel mitigated food and energy prices with negative effects on fiscal side. The rural households are more affected relative to urban households (for details see Ndong Ntah et al., 2023). [iv] In 2020, Kenya benefited from budget support from the MDBs and the IMF. IN 2021 and 2022 the additional costs of the shocks to the fiscus were financed by increases in revenue collection, the removal of tax cuts introduced in 2020, and revenue enhancement measures.[v] Finance bill 2022 and 2023[vi] They include, among other things, rationalizing spending, improving the efficiency of government expenditure, and improving tax compliance (currently estimated at 70%).[vii] Ddebt service payment accounts for significant percentage of total government expenditure and 45% of total revenue.[viii] Due to an expected slowdown in monetary policy tightening in advanced economies.

02. Monetary Policy

Score du critère: 5

2. Monetary Policy

Type de score	Valeur
Score de brouillon	5.0
Score révisé	5.0
Score de deuxième brouillon	5.0
Score final	5.0

Notes du pays:

Between 2018 and 2021, the Central Bank of Kenya (CBK) was able to contain headline inflation at an average of 5.3%, falling within the target band of 2.5% to 7.5% but higher than the Eatern Africa Monetary Union Convergency crieteria on inflaiton of less than 5%. In 2022 and 2023, however, inflation fluctuated between 5.3% in January 2022 and 9.1% in July 2023, higher than CBK's upper target band, but lower than the regional and continental averages of 14.2% and 28.9%, respectively. The sharp rise in inflation was attributed to, among other things, Russia's invasion of Ukraine, the weakening in the Kenyan shilling (KES) and the drought. Food inflation accounted for 54% of the change in headline inflation, fuel inflation (32%) and core inflation (14%). The exchange rate depreciated by 41% from KES100 per US dollar in December 2019 to KES141 per US dollar in July 2023. The weak shilling could be attributed to tight global financial market conditions which resulted in an increase in foreign investors' outflow[i]. According to data from CBK, Kenya lost over $345 million worth of foreign direct investment and other investments in the first quarter of 2023. A 34% drop compared with same period in 2022. This includes shifts in forieng investors equity investments from the Nairobi Security Exchange. This could be attributed to tight internatinal financial market conditions which has caused dollar shortages and cost of living related civil disobedience.

The CBK hiked the policy rate several times from 7.0% in December 2021 to 10.5% in August 2023. it cut the policy rate to 7% in 2020 from 9% in 2019 to stimulate the economy following COVID-19[ii] to 10.5% in August 2023. It also implemented Open Market Operation (OMO) and [iii] and sale of forex (Annex 9.1, Fig. 3c). They aimed respectively at moping up excess liqudity in the system and minimizing pass through effect of exchange rate depreciation to domestic inflation. The interest rate hike also aimed at [iv]. A prudent monetary policy is is expected to be pursused in the medium term. As a result, headline inflation is projected to fall back to the CBK target band of 2.5% and 7.5% in the medium term[v]. On the supply side, pressures on the exchange rate are assumed to recede. This is expected to follow decline in global risk averse sentiments thus narrowing the interest rate di

[i] According to data from the CBK, Kenya lost over $345 million worth of foreign direct investment and other investments in the first quarter of 2023. A 34% drop compared with same period in 2022. This includes shifts in foreign investors equity investments from the Nairobi Securities Exchange. This could be attributed to tight international financial market conditions which has caused dollar shortage and cost of living related civil disobedience.

[ii] The CBK cut the policy rate to 7% in 2020 from 9% in 2019 to stimulate the economy following COVID-19.

[iii] Growth in money supply (M3) was stable during the period. This could be attributed to the OMO. Money supply grew on average by 9% while credit to the national government and the private sector grew by 26% and 12% respectively. This is equivalent to 64% and 52% of the growth in money supply during the period respectively.

[iv]The interest rate hike also aimed at narrowing the interest rate differentials to reverse portfolio investment outflows. However, its effectiveness would depend on its impact on the high-risk premiums that global risk aversion sentiments have caused - a difficult call for a small economy such as Kenya. Therefore, Kenya should consider increasing its external position through concessional borrowing (e.g., budget support) to narrow the interest rate differentia.[v] On the supply side, pressures on the exchange rate are assumed to recede. This is expected to follow decline in global risk averse sentiments thus narrowing the interest rate differentials, increasing foreign exchange inflow, and in the process reducing imported inflation. On the demand side, demand for foreign exchange is projected to be suppressed by pick up in global demand (in 2024), decline in oil prices, and improved public saving owing to the ongoing fiscal consolidation program. Regardless, monetary policy response is expected to be constrained by the narrowing policy space. The CBK should continue enhancing efficiency in monetary policy transmission and anchoring inflation expectations.

03. Debt Policy

Score du critère: 3.5

3. Debt Policy

Type de score	Valeur
Score de brouillon	3.5
Score révisé	3.5
Score de deuxième brouillon	3.5
Score final	3.5

Notes du pays:

Public debt reached Ksh. 10.1 trillion (70.2% of GDP) as at end June 2023 compared with Ksh. 5.8 trillion (62% of GDP) in the corresponding month of 2019 (Fig., 1). Total debt is higher than the Ksh. 10 billion debt ceiling of Ksh. 10,000,000. Public debt is made up of external debt of Ksh. 5.4bilion (53% of total debt) & domestic debt of Ksh. 4.8 billion (47% of total debt). External debt is made up of bilateral (24%), multilateral (51%), commercial Banks (25%) and suppliers’ credit (1%).

The shares of bilateral and commercial loans in total external loan have decreased while that of multilateral increased since June 2019. This could be attributed to the Medium-Term Debt Management Strategy. The strategy aims, among other things, shifting towards concessional external borrowing and lengthening of maturity structure of the domestic debt; scale down on use of commercial debt; minimizing refinancing risk by lengthening the Average Time to Maturity (ATM) for domestic and total debt; benchmarking the Treasury bond programme through medium to long term instruments as the main source of domestic financing; deepening the domestic financial market etc.

Public debt accumulation is driven by primary balance, interest payments and exchange rate depreciation. The effect of the former has moderated in recent years thanks to the fiscal consolidation program anchored on a positive primary balance. However, the impact of the Debt Management Strategy in arresting debt accumulation has been limited. This is demonstrated by increase in total debt service payments[1]. The share of domestic debt service in total debt service increased from 57% in 2019 to 67% in 2023 while that of external debt service declined from 43% to 33%. This could be attributed to the increase in domestic financing of fiscal deficit due to worsening internatinal financial maket conditions. Total debt service increased to Ksh. 1.2 trillion in June 2023 from Ksh. 850 billion in June 2019, a 41% increase (Fig. 2)[2].

It is driven, among other things, by an increase in interest payments and depreciation of the Kenyan Shillings. The share of interest payments in total debt service (principal plus interest) surged from 44% in June 2019 to 55% in June 2023. The weak Kenyan Shilling also played a part; it depreciated by about 40% during the same period. Tight international financial market conditions due to shifts in monetary policy stances in advanced economies and downgrades of Kenyan sovereign credit by credit rating agencies were behind the recent surges in cost of borrowing (debt service payments). The Moody's, S&P and Fitch downgraded Kenya on solvency and liquidity grounds while according to the IMF, Kenya's debt carrying capacity diminished from strong in 2019 to medium 2020 through 2023 while risk of debt distress from moderate in 2019 to high from 2020 through 2023[3]. The IMF projects, deb sustainability would be challanged on solvency grounds by export as the PV of external debt to export is projected to remain above its sustainability threshold of 180%; liqudity grounds as debt service to export and debt service to revenue ratios are projected to be higher than their respective sustainability threshold levels of 15% and 18%. Furthermore, projections indcate that overall debt would be higher than 55% debt sustainability threshold implying the need to arrest growth in the cost of domestic debt among ohter things by expanding the domestic debt market for government securities.

Increase in debt service continues to impact the fiscal space - interest payments accounts for about 38% of overall fiscal deficit (Fig 3) while primary deficit for the balance. The share of the latter to the overall fiscal deficit and by implication to debt accumulation has recently decreased thanks to the ongoing fiscal consolidation program. This suggests the need for having a prudent debt management strategy to reign in increasingly debt management driven debt accumulation. The impact debt service is exerting in government fiscal operations is evident from the ratio of debt service payments to ordinary revenue which has been on the rise since June 2020. It increased from 41% in June 2020 to 52% in June 2023. Therefore, while ensuring fiscal sustainability by deepening the ongoing fiscal consolidation program (see annex 13a through 13c for Bank support) the Bank could scale up its support in the area of Debt Management. The Debt Management Office at the National Treasury and Planning has benefited from two Bank financed Technical Assistance projects namely Public Debt Management Support (PDMS) project and National Treasury Capacity Strengthening (NTCSP) Project.

Public debt is projected to stabilize in the medium term owing to the continued implementation of the fiscal consolidation program. According to IMF's 2021 Debt Sustainability Analysis (DSA), public debt in present value terms is expected to decline to 60.0% and 57.8% of GDP in 2023 and 2024, respectively, and is projected to fall below the sustainable threshold of 55% by 2026[4]. Risks to the outlook could emanate from persistent global financial tightening. This could challenge debt sustainability by raising the adjustment cost of stabilizing debt. Therefore, while deepening the fiscal consolidation program and enhancing debt management a preemptive external debt restructuring may be considered to ensure debt sustainability.

[1] The share of domestic debt service in total debt service increased from 57% in 2019 to 67% in 2023 while that of external debt service declined from 43% to 33%. This could be attributed to the increase domestic financing of fiscal deficit due to worsening international financial market conditions.

[2]The total public debt service is projected to increase to Ksh. 1,625,274 in June 2024 and Ksh. 1,899,715 million by end of June 2027.

[4] The IMF projects, debt sustainability would be challenged on solvency grounds by export as the PV of external debt to export is projected to remain above its sustainability threshold level of 180%; liquidity grounds as debt service to export and debt service to revenue ratios are projection to be higher than their respective sustainable threshold levels of 15% and 18%. Furthermore, projections indicate that overall debt (domestic and external) would be higher than the 55% debt sustainability threshold implying the need to arrest growth in the cost of domestic debt among other things by expanding the domestic debt market for government securities.

(B) Structural Policy

Score du cluster: 4.278

04. Policies and Institutions for Economic Cooperation, RI and Trade

Score du critère: 3.667

4.a. Regional Integration and Economic Cooperation

Type de score	Valeur
Score de brouillon	4.0
Score révisé	4.0

Score de deuxième brouillon	4.0
Score final	4.0

Notes du pays:

Kenya is a member of the East African Community (EAC), Common Market for Eastern and Southern Africa (COMESA), the Horn of Africa Initiative, World Trade Organization, and recently the AfCFTA. According to the Africa Regional Integration Index (ARII), Kenya is the second most integrated nation in Africa behind South Africa. Kenya fares well in the regional trade blocks in the following dimensions: free movement of persons, and infrastructure, productive and trade integration. Kenya’s major export destinations between 2018 and 2022 were Africa (38.3%), Asia (26.0%), and Europe (26.0%) of total exports. Asia alone accounted for about 65% of Kenya’s total imports. Kenya’s trade balance is in surplus only with East Africa and exports to Africa are dominated by food and beverages, thus, AfCFTA is expected to improve Kenya’s market access and reduce competition[i]. The free trade area is expected to eliminate tariffs on most goods and increase trade in the region by 15-25% in the medium term. According to the World Bank estimates, the AfCFTA could increase exports by 29% by 2035, increase real income by 7% and bringing 30 million out of exterme poverty.

The following factors, among others, continue to hinder regional integration: regional infrastructure, cumbersome custom procedures, non-tariff barriers, and certificate of origin. Despite these challenges, Kenya has complied with both COMESA and EAC treaty requirements.

[i]The free trade area is expected to eliminate tariffs on most goods and increase trade in the region by 15-25% in the medium term. According to World Bank estimates, the AfCFTA could increase exports by 29% by 2035, increase real income by 7% and bringing 30 million people out of extreme poverty. See The African Continental Free Trade Area (worldbank.org).

4.b. Trade restrictiveness

Type de score	Valeur
Score de brouillon	3.5
Score révisé	3.5
Score de deuxième brouillon	3.5
Score final	3.5

Notes du pays:

Kenya’s trade policy is relatively the most liberalized in the region although foreign ownership in some sectors is restricted. Further, its strong membership to regional and continental trade groups; its level of trade openness, measured by trade to GDP ratio; its outward looking trade policy; and its adoption of a free-floating exchange rate regime makes it one of the strong proponents of regional integration on the continent.

According to the WTO, Kenya's average applied MFN tariff rate for all partners was 13.2% in 2021. Key products such as machinery face low or zero tariffs. Kenya's agriculture sector has the highest average tariff of 20.4% while non-agriculltural products 12.1%. Tarif is high on dairy (52%). Kenya, as an EAC member country, abides by the EAC Common External Tariff (CET) made up of three bands: 0% (raw materials and capital goods); 10% (intermediate goods); and 25% (finished goods). The EAC undertook a review of its CET, and Partner States have adopted a four-band structure (0%, 10%, 25% and a rate above 25%. The EAC Gazette Notice No. 14 of 2021 on 30 June 2021, published changes to the EAC Customs Management Act, 2004 (EACCMA) and the CET which affect both individual EAC Partner States and the EAC region with effect from 1 July 2021. For example, there is a general stay of application of the EAC CET and/or revocations for: (i) motorcycle spares (since 2013), (ii) textiles, garments and footwear manufacture equipment, (iii) and for goods originating from COMESA and SADC imported between 1 July 2021 to 30 June 2022 with a valid certificate of origin. The East African Council also granted duty remission for various raw materials and industrial inputs for the manufacture of finished goods when imported by manufacturers from Kenya for one year (other countries have been granted remission as well). This covers goods such as inputs for the assembly and manufacture of mobile phones, hard wheat, inputs for the manufacture of roofing tiles, raw material for the manufacture of energy saving stoves and specific metal products. At the time of writing, a comprehensive review of CET is expected, in order to promote trade and industrialization in the region and the growth of domestic industries.

EAC Partner States have implemented significant reforms in the free movement of Capital, Goods and Services that are enshrined in the Common Market Protocol (CMP) to enhance intra-EAC trade and participation in the AfCFTA and the COMESA-EAC-SADC Tripartite negotiations. During 2020/2021, key trade reform milestones included: completion in May 2021 of the review of the NTBs Act, 2017. This proposes a more efficient regional dispute resolution mechanism, with the possibility of compensation; national and regional consultations to monitoring and resolve NTBs; operationalization of the EAC mechanism for removal of restrictions on Trade in Services, and; implementation of the Export Promotion Strategy 2020-2025 which seeks to promote exports, market access and competitiveness. Other notable milestones during 2020/2021 include the development of an EAC Strategy for implementation of the AfCFTA; harmonization of over 145 standards for the commonly traded goods in over 16 sectors; implementation a Regional Standardization Plan (RSP) and the Standardization, Quality Assurance, Metrology, Testing (SQMT) Strategic Plan; finalising the review of the SQMT Act 2006, and; development of the frameworks and guidelines to facilitate cross border trade through mutual recognition of the product quality marks and test certificates especially in areas such as food and cosmetic products where there have been persistent NTBs. To enhance implementation of the Single Customs Territory, during the review period Kenya accredited 135 operators under the Regional Authorized Economic Operator program contributing 11% on revenue collected at regional level. It supported the operationalization of the 13 One Stop Border Posts (OSBPs); enhanced interconnectivity of Customs Systems maximized efficiency in Customs Administrations and other agencies; strengthened Customs institutional capacity, and; enhanced measures to mitigate the emergence and re-occurrence of Non-Tariff barriers.

However, barriers remain in all the three areas. The following gives summary of these challenges:

1. EAC partner States have often complained about the wide imposition of non-tariff barriers (NTB) by Kenya. While NTBs may be justified because of health, safety and security considerations and the need to protect infant industries and safeguard revenue sources, they may nevertheless affect negatively on

businesses if not properly managed. The NTB that Kenya is often accused of imposing on Partners States include (i) cumbersome customs and administrative documentation procedures; (ii) inspection of transit cargos, (iii) cumbersome inspection requirements; (iv) police road blocks and weighbridges - queues can take between one to two hours at each of the six weighbridges along the Northern Corridor; (v) varying cumbersome, and costly transiting procedures; (vi) duplication in the functions of agencies involved in verifying the quality, quantity and dutiable value of imports and export cargo; and (vii) business registration and licensing. These measures impose restrictions on the free flow of trade across many sectors. Even for food, where Kenya has a major deficit, the country still has imposed too many restrictions that ultimately raise domestic prices and hurt consumers (WB, 2012). The Report of the Council to the EAC Summit for the period February 2019 to February 2021 states that for the period 2019-2020, a total of 16 NTBs were resolved through bilateral meetings, national monitoring committee, the online monitoring and elimination of NTBs platform etc, while 16 NTBs remained unresolved amongst Partner States.

2. EAC members adopted the new tariff schedule and accompanying rules of origin in 2015. The Kenya National Chamber of Commerce and Industry (KNCCI) is responsible for issuance of Certificates of Origin and Preferential Certificates of Origin – which is used for exports to regions where Kenya has a preferential trade arrangement like the African Growth and Opportunity Act (AGOA), COMESA, EAC and the European Union. . The issuance of Certificates of Origin was centralized in Kisumu and Nairobi, but KNCCI partnered with TradeMark East Africa (TMEA) in 2016, to launch a trade portal that automated issuance of the certificate of origin. The KNCCI trade portal isintegrated to the Kenya Electronic Single Window.

3. The outbreak of Covid-19 pandemic and the restrictions in movement of people and goods put in place by the governments strained the relations among some of the EAC partner States. The requirement for Covid-19 tests for truck drivers, delayed cross border clearance and restrictions on airspace especially between Kenya and Tanzania are some of the measures that became very contentious and strained the relations. These measures attracted complains and retaliatory measures by some of the EAC partner states.

To improve openness and the climate for investment in industry, an SEZ Policy and Bill was developed, approved by the Cabinet and is awaiting approval by parliament [status needs verification]. SEZs are open to both manufacturers and service providers, unlike the Export Processing Zones regime which is open to manufacturers only. A total of 9,000 acres of land have been designated for SEZs including areas such as Greater Mombasa, Lamu, Kisumu, Naivasha industrial park, and Machakos. At least ten licensed SEZs are operated by both government and the private sector. In 2020, the Ministry for Industrialization announced expanded and simplified tax incentives for SEZs in a bid to attract investment into those zones. Proposals include removal of customs import duties, other charges and trade-related restrictions, including quantitative restrictions, on imports of any goods or services to an SEZ. Also proposed that SEZ enterprises shall not be subject to minimum export requirements, minimum quotas or minimum quantitative restrictions when selling the goods originating in the areas, whether to other areas outside or within the customs territory. With support from IFC, in 2021, Kenya's SEZ Authority launched a one-stop-shop web portal to boost communication, transparency, and service provision for current and potential investors in the SEZs. This is expected to help the SEZ Authority with its investor outreach, retention, and after-care.

Kenya’s trade policy is relatively the most liberalized in the region. Further, its strong membership to regional and continental trade groups; its level of trade openness, measured by trade to GDP ratio (which dropped from 38% in 2016 to 33% in 2019); its outward looking trade policy; and its adoption of a free-floating exchange rate regime makes it one of the strong proponents of regional integration on the continent. According to the WTO, Kenya’s average applied MFN tariff rate for all partners was 13.4% in 2019. Key products such as machinery face low or zero tariffs. Kenya’s agriculture sector has the highest average tariff of 20.3%, and relatively high tariffs on dairy (51.7%), animal products (23.1%), and cereals (22.2%). Kenya, as an EAC member country, abides by the EAC Common External Tariff made up of three bands: 0% (raw materials and capital goods); 10% (intermediate goods); and 25% (finished goods). EAC Partner States have implemented significant reforms in the free movement of Capital, Goods and Services that are enshrined in the Common Market Protocol (CMP). However, barriers remain in all the three areas. The following gives summary of these challenges:1. EAC partner States have often complained about the wide imposition of non-tariff barriers (NTB) by Kenya. While NTBs may be justified because of health, safety and security considerations and the need to protect infant industries and safeguard revenue sources, they may nevertheless affect negatively on businesses if not properly managed. The NTB that Kenya is often accused of imposing on Partners States include (i) cumbersome customs and administrative documentation procedures; (ii) inspection of transit cargos, (iii) cumbersome inspection requirements; (iv) police road blocks and weighbridges - queues can take between one to two hours at each of the six weighbridges along the Northern Corridor; (v) varying cumbersome, and costly transiting procedures; (vi) duplication in the functions of agencies involved in verifying the quality, quantity and dutiable value of imports and export cargo; and (vii) business registration and licensing. These measures impose restrictions on the free flow of trade across many sectors. Even for food, where Kenya has a major deficit, the country still has imposed too many restrictions that ultimately raise domestic prices and hurt consumers (WB, 2012). Overall, the EAC Common market Scorecard 2016 (the latest available) reports that only half of reported NTBs in EAC were actually resolved by Member States. 2. EAC members adopted the new tariff schedule and accompanying rules of origin in 2015. However, the EAC Single market Scorecard (2016) reports that there continues to be a lack of recognition of Rules of Origin Certificates among EAC partners States.3. The outbreak of Covid-19 pandemic and the restrictions in movement of people and goods put in place by the governments strained the relations among some of the EAC partner States. The requirement for Covid-19 tests for truck drivers, delayed cross border clearance and restrictions on airspace especially between Kenya and Tanzania are some of the measures that became very contentious and strained the relations. These measures attracted complains and retaliatory measures by some of the EAC partner states.To improve openness and the climate for investment in industry, an SEZ Policy and Bill was developed, approved by the Cabinet and is awaiting approval by parliament [status needs verification]. SEZs are open to both manufacturers and service providers, unlike the Export Processing Zones regime which is open to manufacturers only. A total of 9,000 acres of land have been designated for SEZs including areas such as Greater Mombasa, Lamu, Kisumu, Naivasha industrial park, and Machakos. At least ten licensed SEZs are operated by both government and the private sector. In 2020, the Ministry for Industrialization announced expanded and simplified tax incentives for SEZs in a bid to attract investment into those zones. Proposals include removal of customs import duties, other charges and trade-related restrictions, including quantitative restrictions, on imports of any goods or services to an SEZ. Also proposed that SEZ enterprises shall not be subject to minimum export requirements, minimum quotas or minimum quantitative restrictions when selling the goods originating in the areas, whether to other areas outside or within the customs territory. With support from IFC, in 2021, Kenya's SEZ Authority launched a one-stop-shop web portal to boost communication, transparency, and service provision for current and potential investors in the SEZs. This is expected to help the SEZ Authority with its investor outreach, retention, and after-care.

4.c. Customs/trade facilitation

Type de score	Valeur
Score de brouillon	3.5

Score révisé	3.5
Score de deuxième brouillon	3.5
Score final	3.5

Notes du pays:

The objective of the Government is to improve customs procedures and enhance the domestic capacity for compliance with international standards. Specific measures include: establishing a national enquiry point for trade-related information (such as the KenyaTradePortal and InfoTradeKenya); enhancing the functioning of the single window for trade; and expanding and modernizing Kenya's points of entry and exit, and goods clearance efficiency. Kenya ratified the WTO Trade Facilitation Agreement (TFA) in December 2015 and has notified its category A commitments (to be implemented upon entry into force of the TFA).

The TFA entered into force on 22 February 2017 and contains provisions for expediting the movement, release and clearance of goods at the borders, including goods in transit. It sets out measures covering, inter alia, cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues, publication and availability of information, disciplines on fees and charges imposed on importation and exportation, measures to enhance impartiality, non-discrimination and transparency, release and clearance of goods, formalities connected with importation and exportation and transit and freedom of transit. Kenya's current rate of implementation of commitments under the WTO TFA stands at 7.6% (Category A commitments) with a time-frame spanning from February 2017 to June 2033. No commitments under Category B have yet been reported to be implemented during the review period.

Kenya, as a driver of economic cooperation within the EAC, it is playing an active role in trade facilitation through investments in requisite regional infrastructure such as transport corridors (ports, roads, cross-border electricity transmission lines, water, etc). Examples include investments in Mombasa and Lamu ports to improve connectivity to landlocked neighbors by tracking trade facilitation bottlenecks at the port, in transit and at border posts. Further, Kenya has invested heavily in regional transport corridors. Examples include investments in multinational road projects connecting Kenya with Ethiopia; road connecting Kenya with Tanzania; regional power projects (with Ethiopia, Tanzania, etc.); and East Africa's One-Stop Border Post (OSBP) among others. These investments have resulted in significant decreases in travel time and transportation costs. For example, the Mombasa-Nairobi-Addis corridor resulted into reduced processing of documents at customs by 4 hours from previously 6 hours to 2 hours; transport fares reduced between Nairobi and Kenya from initially KES 2500 to KES 1500; and travel time between Nairobi and Moyle reduced from 3 days to 1 day; while the "One Stop Border Post" project has given a much-needed boost to commercial and tourism activities between Kenya and Tanzania. The entire development has helped increase trade, tourism and stimulated the regional economy. Kenya is also participating in various regional trade facilitation reform initiatives aimed at strengthening revenue collection for governments at the borders, increased security and higher incomes for small-scale cross-border traders, institutional capacity building, improved border infrastructure and better data collection and monitoring. Initiatives include the COMESA Cross-Border Trade Initiative, the EU-EAC Market Access Upgrade Programme (MARKUP). There have been cross-border trade and efficiency improvements from AfDB-supported OSBPs e.g Namanga (Kenya-Tanzania border). In terms of ease of doing business across borders (time and cost to export), there have been improvements on documentary requirements owing in part to customs digitalization and the recent implementation of a Maritime Single Window (MSW) system, which went live on 2 June 2021. Port clearance times improved from 6.3 days to 4.2 days. However, generally-speaking, the costs and time to import, particularly at land borders, remain higher that the sub-Saharan African average.

Kenya planned to fully roll out its long?delayed new digital customs system – the Integrated Customs Management System (iCMS) – in October 2021. The Kenya Revenue Authority (KRA) has been piloting the iCMS system in phases at the Port of Mombasa beginning in 2019. It started with clearing of motor vehicles, bulk cargo and export cargo. Fully digitalized clearance of container cargo was expected from October 22, 2021. Thereafter all imports and exports will be cleared using the iCMS system, which will replace the MMS/Simba system, whose noted weaknesses had resulted in tax evasion – with KES68 billion (US$619.8 million) in annual revenue losses – and prolonged down time, which caused extensive delays in cargo movement from the port of Mombasa. The iCMS is expected to improve efficiencies, reduce clearance times at the Port of Mombasa and along the Northern Corridor. It will allow KRA to receive goods declarations before vessels arrive at the port. It will be allow for automated evaluation of cargo values, addressing the problem of cargo undervaluation, and should help address other weaknesses in the Simba system that were prone to abuse. The iCMS will also be integrated into the Regional Electronic Cargo Tracking Platform, that allows regional partner countries to monitor cargo movements from Mombasa port to final destination.

05. Financial Sector Development

Score du critère: 5

5.a. Financial stability

Type de score	Valeur
Score de brouillon	5.0
Score révisé	5.0
Score de deuxième brouillon	5.0
Score final	5.0

Notes du pays:

According to the 2022 Financial sector stability report (published in July 2022), Kenya's financial sector rebounded in 2021 and 2022 from the effects of COVID–19 pandemic. However, this was affected by other shocks such as Russia's invasion of Ukraine, climate change effects among others. In the post

COVID-19 pandemic, the banking sector has been stable with strong growth, underpinned by market–based consolidation, sufficient capital and liquidity buffers, repeal of the interest rates capping law and gains following reforms undertaken since 2015. . Despite the good performance, credit risks remain elevated due to increase in non-performing loans to gross loans at 14.1%. The asset quality was varied with large banks having the lowest NPL relative to small banks. Just like banks, the microfinance banks are also vulnerable to shocks that affect their operations. The asset quality for microfinance banks reduced from 13.6% in 2021 to 14.5% in 2022.

To mitigate the adverse socio-economic and financial impact of COVID–19 pandemic and other shocks such as Russia's invasion of Ukraine, the Government and financial sector regulators instituted fiscal, monetary and financial policy measures, which have positively impacted economic recovery and safeguarded stability such as the reduction of the income tax and value added tax rates, lowering of the turnover rate, reduction of the Central Bank rate and asking banks to renegotiate loan terms and restructure loans for borrowers facing difficulties. In the recent period the CBK rate has increased to mitigate the effects of Russia's invasion of Ukraine that elevated energy and food prices. They have also contributed to economic and financial inclusivity, especially those that targeted vulnerable groups. These measures have played a central role in fostering financial sector resilience and stability, while mitigating the impact of the pandemic on households' livelihoods and firms' incomes. Kenya's financial sector is expected to remain stable and resilient in 2021, underpinned by adequate capital and liquidity buffers, coordinated policy reforms and improved regulatory oversight.

The financial sector is dominated by the banking sector which according to soundness indicators performed well. As at end December 2022, the capital adequacy ratio at 19.0% compared to 19.5% in 2021. Despite being above the statutory requirement, the decline in 2022 shows vulnerability of the financial sector in Kenya to withstand the strengthening of financial sectors of major economies such as the US. The liquidity to asset ratio at 62.9% in 2022 against statutory threshold of 15%; and credit risk indicator such as non-performing loan picked up to 14.1% in 2022, up from 14.6% in December 2021 from0. Non-performing loan declined from 14.4% in 2021 to December 2020 13.7% in 2021[1], due to resilience of the economy. According to the June 2021 IMF Country Report, regulatory tier 1 capital to risk-weighted assets was equal to 16.5% in March 2021, slightly above the March 2020 level of 16.4%. The total capital to total assets ratio was at 14.5%. According to a Kenyan Banking Association (KBA) survey of 2023 shows that banking sector asset quality was affected by building and construction 23.8% and agriculture at 21.9%.

Within the financial sector, the stock market was among the most adversely affected by the shocks such as COVID-19 and Russia's invasion of Ukraine. By end September 2022, the NSE 20 fell by 21% Y/Y to 1947 points while market capitalization by 3% to KSH 2151 billion. The pension schemes and insurance companies, big investors in the market, were among the big losers in value and marke. The former lost about 19% of its asset while the latter experienced drop in Capital Adequacy Ratio due to increased claims in medical, travel and life insurances. The government has introduced several prudential measures. In addition to spillover effects, the capital market continues to be adversely impacted by foreign investment outflows, poor performance of some companies listed on the Nairobi Securities Exchange Market (NSE).

[1] Kenya Bankers Association Survey: State of the Banking Industry Report of 2023.

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5.b. Sector's efficiency, depth, and resource mobilization strength

Type de score	Valeur
Score de brouillon	5.0
Score révisé	5.0
Score de deuxième brouillon	5.0

Score final	5.0

Notes du pays:

Kenya's financial sector is the most developed in the Eastern Africa region. It has benefited from many years of sustained and rapid growth. This is thanks to the broader macroeconomic fundamentals of the country's economy. It is composed of the banking, capital market, insurance and pension. The Banking sector is the largest in the financial sector. It comprises 42 commercial banks, 1 mortgage finance company, 13 microfinance banks, 8 representative offices of foreign banks, 73 foreign exchange bureaus, 19 money remittance providers, 8 non-operating bank holding companies and 3 credit reference bureaus. Earning and profitability in the banking sector remained stable, with return on assets (ROA) and returns on equity (ROE) averaging at 3.7% and 26.3% in 2022, respectively. These were slightly higher than the 2021 avaerages at 2.1% and 22.4% respectively. It is however important to note that performance of ROA and ROE improved in 2022 largely due recovery and residence of the economy. The Capital market has also benefited from many years of sustained economic growth. The Nairobi Stock Exchange (NSE) host equities, spread-out across the main board. The NSE also trades government bonds of different maturity, commercial bonds, etc. The NSE All Share Index and market capitalization have declined from 146.9 and 2.26 trillion in 2020 to 95.1 and 1.49 trillion in 2022. According to the 2022 Financial Sector Stability Report, the capital market is still dominated by foreign investors despite the significant exit of foreign investors in 2020 on the account of Covid-19 uncertainties. The average foreign investor participation to total equity turnover declined from a 12-months' average of 66.1% in 2021 to 63.2% in 12 months to December 2022. The market has however recovered in 2022 recording a balanced flow between foreign purchases and sales, at about KES 33 billion

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5.c. Access to financial services

Type de score	Valeur
Score de brouillon	5.0
Score révisé	5.0
Score de deuxième brouillon	5.0
Score final	5.0

Notes du pays:

Financial inclusion depends on government commitment, mobile capacity, regulatory environment and adoption of traditional and digital financial services. According to the 2022 Financial Access Household Survey, 92 percent of Kenyans can access any form of financial services made up of 84.6 percent formal and 10.4 percent informal. At the County level, financial inclusion varies with 95% of Nairobi being financially included and West Pokot at 57.7%. The survey covered all the 47 Counties of Kenya with focus on financial literacy, inclusion among other factors. The survey further provides financial inclusion by region (e.g. exclusion is the higher in rural than urban areas), gender (e.g. female more excluded than men), education (e.g. financial exclusion inversely related with level of education), livelihood and wealth quintile. The report ranked Kenya 3rd in terms of access to formal financial services in the region next to Seychelles (at 95 percent) and South Africa (90%). The high access is supported by widespread mobile banking, agency banking, internet banking, mobile apps, and digital finance. Kenya also has a vibrant microfinance sector made up of deposit taking Micro Finance Institutions (MFIs), Non-governmental organizations, Church based organizations, Rotating Savings and Credit Associations (ROSCAs), accumulative savings and credit associations (ASCAS) and investments groups. The MFIs cater for the financial needs of MSMEs. Nevertheless, MSME financing remains constrained by high cost of borrowing, limited diversification of financial products, collateral requirements, and long-term finance. Efforts are underway to address these challenges on the demand side, including de-risking MSMEs through guarantee schemes, enhancing Banking sector liquidity and on the demand side, diversifying financial products. According the 2022 state of digital lending report, most kenyans preferred digital lending platforms due to their flexibility to provide financial support when in need. This increasing trend highlight the key role of the Central Bank of Kenya to ensure better regulation of the sector. However, the digital lending platforms are associated with higher cost of credit, compared to the traditional lending avenues.

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06. Business Regulatory Environment

Score du critère: 4.167

6.a. Regulations affecting entry, exit, and competition

Type de score	Valeur
Score de brouillon	4.5
Score révisé	4.5
Score de deuxième brouillon	4.5
Score final	4.5

Notes du pays:

There is no direct restriction on entry, exit and competition for local and foreign investors in Kenya. Local and foreign investors can do business in all sectors. Nevertheless, as is common elsewhere, there are rules regulating company ownerships by foreigners that vary from sector to sector. The Kenyan Constitution prohibits foreign nationals and foreign controlled corporations a freehold interest in land; it allows them only a lease tenure up to 99 years. In addition, foreign ownership is restricted in Joint Venture construction projects (30% ownership by local company); mining sector (Local Equity Participation of at least 35% of the mineral right and that mineral dealer's permit is issued to a company where locals hold 60% of the shares); insurance company (at least 25% stake reserved to locals); and insurance industry (one third of the controlling interest held by locals and citizens of the East African Community).

The Insolvency Act 2015 provides procedures relating to bankruptcy of natural persons and corporate insolvency matters under one Act. The Act seeks to redeem insolvent companies (whose financial positions are redeemable) through administration as opposed to subjecting them to liquidation to enable them to continue operating as going concerns and meet their financial obligations to the satisfaction of their creditors.

Kenya has a competition law guided by the Competition Act, 2010. The Act prohibits unfair competition practices that lead to concentration of economic power. The competition law is enforced by the Monopolies and Prices Commission (MPC). In addition, the Competition Authority of Kenya (CAK) has put in place guidelines and policies dealing with anti-competition practices, consumer protection, mergers and acquisitions and abuse of buyer power, among others. Kenya has consistently improved its position in World Bank's Ease of Doing Business ranking; it improved from 96 in 2016 to 56 in 2020 (before the report was suspended). Similarly, its ranking in Global Competitiveness Index has improved from 95th position in 2019 to 93rd in 2020. In 2018 and 2017, Kenya rand 93rd and 91st respectively.

6.b. Regulations of ongoing business operations

Type de score	Valeur
Score de brouillon	4.0
Score révisé	4.0
Score de deuxième brouillon	4.0
Score final	4.0

Notes du pays:

Kenya has a liberal market economy. Its goods market is free from state intervention in the form of direct subsidies or price controls. Only prices of fuel and electricity are regulated. Attempt was made to address perceived irregularities in the financial market by introducing an interest rate capping law in September 2016. The law was repealed in January 2020 for limiting financial market development (e.g. private sector credit growth and decrease in banking sector profitability) and monetary policy effectiveness. All other business operations are open and competitive guided by the Competition law, Land Law and a Business Regulation Legislation. In addition, Kenya has introduced several regulatory reforms to improve the business environment. There are several government institutions put in place to ensure fair competition and consumer protection in various sectors in the country, including Competition Authority of Kenya, Communication Authority of Kenya, and Energy and Petroleum Regulatory Authority, among others. Consequently, there has been improvement in the country's ranking to 56 in 2020 from about 92 in 2016, according to the WB Doing Business Report. Before the WB Doing Business Report was suspended, the GoK envisaged further improvements of the country's ranking to 45th by 2022, on the account of the additional and ongoing initiatives to improve business environment.

Ongoing operations of interest include that by the Kenya Revenue Authority (KRA) in making paying taxes easier by digitizing tax administration (with the objective of enhancing tax compliance and growing tax revenue). This has affected both domestic and international transactions involving taxes. Notable improvements on VAT include evolution from Electronic Signature Devices (ESD) and Electronic Tax Registration (ETR), introduced in 2005, to e-filing system that introduced iTax. And recently, the plan to require businesses with sales transactions more than KES5 million per month to install a Control Unit (CU) on the ETR or Point-of-Sale devise (PoS). The CU enables validation and singing of invoice data by taxpayers' businesses before it is transmitted to government supplied terminal for electronic submission (i.e. Tax Invoice Management System (TIMS)). The TIMS creates on the one hand a unique identification number and return it to the to the taxpayer business to be included on sales invoices for issuance to the customer and on the other passes the reports to the KRA's iTax System in real time. The system was being piloted and launched in 2020. The ongoing tax policy measures aimed at improving efficiency in tax administration are further supported under the new IMF program approved in April 2021. Other notable improvements by the KRA in tax administration include the rollout of new integrated customs management system to replace the Simba system to save revenue lost due to tax evasion estimated by some experts at KES68 billion a year. Considering trends in other revenue authorities, a lot of ground remains to be covered. Areas to consider, among others, include investing in technology solutions with cognitive computing to identify possible tax evasion and use of data analytics to detect inconsistences in taxpayers' declarations.

6.c. Regulations of factor markets (labor and land)

Type de score	Valeur
Score de brouillon	4.0
Score révisé	4.0
Score de deuxième brouillon	4.0
Score final	4.0

Notes du pays:

Labor market distortions are among the factors identified as constraints for structural transformation and by implication jobless growth in Kenya. The Kenyan labor market is characterized by higher rate of youth unemployment; the informal sector is important in job creation accounting for over 83% of the labor force; noncompliance to labor regulations by formal and informal labor markets and flaws in meeting international standards (e.g. the rights to organize, collective bargaining and strike). The government is considering reviewing labor laws, among others, the wage regulation and youth employment. There are several labor organizations in Kenya. They operate freely in line with the provisions of the 2010 constitution and relevant labor laws. Nevertheless, they have not achieved much in new membership. Trade unions density of employment remains flat at 15% since 2018, up from about 10% in 2017. Kenya scored 4.7 in labor market efficiency in the Global Competitiveness Index; a significant improvement in labor market efficiency compared to previous years.

Kenya has a National Land Commission responsible with the regulation of private ownership of land in line with the 2010 Constitution. Several laws and amendments have been passed by the Parliament since then to regulate the land market: the environment and land Act 2011; the land Act 2012; the Land Registration Act 2012; the National Land Commission Act 2012; the Community Land Act of 2016; etc. Nevertheless, the land market still suffers from, among others, irregular land transactions (several litigations ongoing), Nevertheless, the land market has been responsive to the growing demand for land by the real estate sector which until recently has been major driver of growth. The profession of real estate agents is developing. It is making information on plots available to the public in several private and public web pages.

(C) Policies for Social Inclusion/Equity

Score du cluster: 4.607

07. Gender Equality

Score du critère: 4.167

7.a. Promotion of equal access for men and women to human capital development opportunities

Type de score	Valeur
Score de brouillon	4.5
Score révisé	4.5
Score de deuxième brouillon	4.5
Score final	4.5

Notes du pays:

The 2010 constitution and the Kenya Vision 2030's 4th 3rd Medium Term Plan (MTP-IVII) make provisions for affirmative action to promote gender equality and women's empowerment in the country. Article 27(3) of the Constitution states that ***"Women and men have, the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres."*** The constitution requires that at least 30% of the state officers in different categories must be of a different gender. This is also a requirement for employment in public service. The government has put in place policy programs that address women's economic empowerment issues. One such policy is the Public Procurement Act which reserves 30% of public procurement opportunities for women, youth and persons with disabilities. However, the government is yet to achieve these milestones. This is also reflected in the legislative and the judicial arms of government. For example, in 2020, the Chief Justice of Republic of Kenya advised the president to dissolve parliament for failing to enact the 'two-thirds gender rule'. Furhtermore, signficant efforts have been put in place to promote gender equality. For example, the current Chief Justice of the Supreme Court of Kenya and her deuputy are both women.

Nevertheless, some progress has been made. In 2019, the government, through the Ministry of Public Service, Youth & Gender Affair, developed and published the National Policy on Gender and Development. The goal of the policy is to "achieve gender equality and women's empowerment in national development so as to enhance participation of women and men, boys and girls, vulnerable and marginalized groups for the attainment of sustainable development". The policy sets, legislative and administrative measures to address the existing gaps in the realization of gender equality and women's empowerment. To ensure that gender equality and women's empowerment is integrated into sectoral policies, planning and programs, the policy identifies key thematic areas, namely: labor and employment, education, health, land, housing, agriculture, environment and natural resources, peace and security, governance, power and decision making, information and communications technologies, respect for the human rights, Sexual and Gender Based Violence; the girl child and the boy child, intersectional discrimination, media and access to justice. The policy recognizes that achievement of gender equality and women’s empowerment requires the concerted effort of all actors. In this respect, the policy calls upon the National and County Governments, Constitutional Commissions and Independent Offices, Faith Based Organizations (FBOs) and Civil Society Organizations (CSOs) and the private sector to work together in ensuring its implementation. Partnership with development partners will complement national efforts in this noble cause.

The National Gender Equality Commission (NGEC) is a constitutional entity established by an Act of Parliament in 2011. The Commission is a successor to the Kenya National Human Rights and Equality Commission pursuant to Article 59(4) of the Constitution, established to promote gender equality and freedom from discrimination in line with Article 27 of the Constitution of Kenya 2010. The over-arching goal for NGEC is to contribute to the reduction of gender inequalities and the discrimination against all; women, men, persons with disabilities, the youth, children, the elderly, minorities and marginalized communities. In its 3rd and current Strategic Plan 2019-2024, the commission sets an ambitious five-point thematic areas matrix namely: compliance, monitoring and reporting, investigations and redress, public education and mainstreaming, research and knowledge management and institutional capacity that will guide its strategic interventions in discharging our mandate. The thematic are have aligned with the Government’s Big Four Agenda items with the aim of ensuring Special Interest Groups are part and parcel of the development and implementation of national goals.

Some of the NGEC achievements so far include: review and provision of advisory in more than 300 pieces of legislations, policies and administrative guidelines to County and National Governments; formation of robust facilitative technical working groups at both levels of government to support the Commission in monitoring compliance and integration of principles of equality and inclusion; facilitation in development of guidelines and handbooks for promoting equality and inclusion; audit of programs and status of special interest groups including social protection, basic education, county interventions in infrastructure water and health prior to receipt of equalization fund; and ensuring that gender and equality indicators were included in the national and county government annual performance management systems, among others. The commission is faced with a number of challenges such as: limited financial resources which hampered effective discharge of the Commission’s mandate; inadequate human resource, especially in technical areas, which affected effective implementation of planned programs; and limited awareness of the functions of the Commission, hence few citizens seeking assistance from the Commission even when the complaints and needs fall within the functions of the Commission.

The government has shown committment to propotion of gender equality and freedom from discrimination by consistently increasing its budgetary allocations to NGEC over the years. The Commission’s financial support from the Government increased steadily from KES. 234m in 2013/14 to KES 483 million in 2023/24. The absorption rate remained between 95% and 100%.

Education: While there is near gender parity in basic education school enrolment, disparities still remain in education. Boys tend to outnumber girls as the level of education increases. The tertiary level has the highest level of inequality regarding the ratio of girls to boys*.* Since 2019, the Gender Parity Index (GPI) for enrollment in basic education (primary and secondary) had almost reached universal access, signifying an almost equal enrollment for both boys and girls. At the tertiary education level, 59.5% of university enrolment were male students, reflecting a widening gender gap at the tertiary education level.

Health indicators highlight gender disparities in Kenya with statistics on access to health showing mixed results. While males do better than females in infant mortality and HIV/AIDS, women do better than men in the other indicators. More female than male children below one year are likely to die before their first birthday, but for the under-five mortality rates, more male than female children are likely to die before their fifth birthday. Life expectancy has also improved since 2008 for both sexes: women are likely to live longer for 66.5 years than men at 60.6 years. Maternal mortality rate has decreased from 364 per 100,000 live births in 2013 to 342 per 100,000 live births in 2017 (still way above the SDG 3 target of 30 per 100,000 births by 2030). Also, antenatal care and birth attendance by skilled provider, and overall numbers of births occurring in a health facility have improved over the years. With respect to HIV/AIDS, the prevalence is higher among females compared to males.

7.b. Promotion of equal access for men and women to productive and economic resources

Type de score	Valeur
Score de brouillon	4.0
Score révisé	4.0
Score de deuxième brouillon	4.0
Score final	4.0

Notes du pays:

The ILO estimates total rate of unemployment at 6.2% in 2019. Women unemployment was at 7.7%, above that of men at 4.8%. Youth unemployment rate is also higher for female at 19.1% compared to that of male at 16.2%. The Global Gender Gap Index 2020 placed Kenya at 109 out of 153 countries. Kenya scored 0.671 (the highest possible score is 1), a deterioration from a rank of 71 out 142 with a score of 0.694in 2017Kenya's score has declined progressively from 0.726 in 2014. The decline in the index had to do with a decline in sub-indices on economic opportunity and political empowerment during the period. The index also showed some gains in education attainment and health survival sub-indices. The gains mainly arose from the free education policy in primary and secondary education and health related interventions.

The GoK has introduced a number of policies since 2010 to bridge the gender inequality gap. It has implemented a number of policies in the economic and political spaces to bridge the gender gap. However, challenges still remain. The notable interventions to improve gender inequality and women empowerment include the one-third gender rule of the 2010 constitution to increase the number of women in leadership positions across all political and other establishments at the national and county levels; the Public Procurement Act of 2015 that reserves 30% of public procurement opportunities for women, youth and Persons with Disabilities (PWD); the Uwezo Fund, Women Enterprise Fund (WEF), and Youth Enterprise Development Fund (YEDF) were launched by the Government with the aim of boost women's and youth economic empowerment by eradicating extreme poverty and hunger and promoting gender equality and empowering women.

The following give summary of some of the recent achievements by the women entrepreneurship and employability programs.

1. WEF Trainings: In 2021/203, 5500 women were trained in 8 regions across the country on value addition on various products: dairy, poultry, fish, groundnut, assorted vegetables etc.; Exchange programs were organized for the groups to learn best practices from accredited institutions; and in 2022/2023, 6,000 women were trained and linked to larger institutions to network, learn best practices and access markets for their products.

2. WEF Loan Disbursements: In 2023/2024 affordable loans amounting to KES. 278.74 million was disbursed to 30,592 beneficiaries across the country (mainly engaged in horticulture, bee keeping, maize/ potato/ vegetable farming, tea & coffee production etc.; and in 2018/2019, KES. 418 million was disbursed to 70,000 beneficiaries. This was also supported by the Husltre dung.

3. The Uwezo Fund benefited a total of 920,162 people. It allocated a total of KES5.9 billion of which 5.5 billion disbursed, with a repayment rate of 26%. The beneficiaries were the youth aged between 18-35 years; Women; and persons living with disabilities

4. In 2022/23, Uwezo Fund financed 6,357 groups of youth, women and persons living with disabilities with loans amounting KES 651 million.

5. As at end of June 2022, Uwezo Fund had loaned KES 6.9 billion to 74,884 groups comprising 47,720 women groups, 25,264 youth groups and 1,900 PWD groups. Out of which, KES 2.357 had been paid back.

To further support youth and women empowerment, the government has made the following allocations in 2023/24 budget: KES 10 billion to the Hustler Fund; KES 182.8 million for Women Enterprise Fund; and KES 192.0 million for Uwezo Fund.

7.c. Men and women equal status and protection under the law

Type de score	Valeur
Score de brouillon	4.0
Score révisé	4.0
Score de deuxième brouillon	4.0
Score final	4.0

Notes du pays:

Kenya has established a largely gender-responsive legal and regulatory framework, but effective implementation is lagging, and important gaps remain. In addition to the 2010 Constitution, the Government of Kenya has taken several laws to explicitly outlaw discrimination against women. The legislative measures the country has undertaken towards attaining gender equality include, the Children's Act of 2001, the Sexual Offences Act of 2006, the HIV Prevention and Control Act of 2006, the Employment Act of 2007, the Counter-Trafficking in Persons Act of 2010, and the Prohibition of Female Genital Mutilation Act of 2011, Matrimonial property Act 2013, Marriage Act 2014 and the Prevention against Domestic Violence Act 2015.

Besides, Kenya is a signatory to a number of regional and international instruments on gender equality and women's empowerment. Among these are: Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) signed in 1981 and ratified in 1984, Sustainable Development Goals, 2000, Beijing Platform for Action, 1995, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol); African Charter on the Rights and Welfare of the Child, the Treaty Establishing the East African Community, which commits the EAC to the mainstreaming of gender in all its endeavors and the enhancement of the role of women in cultural, social, political, economic and technological development, and is committed to the African Union's Agenda 2063.

However, studies acknowledge that gender sensitive legal reform has not made rights and economic transformation sufficiently real for women and girls. What is missing is effective implementation and enforcement of these gender-positive laws and regulations. Socio-cultural norms and attitudes continue to disadvantage women. The manifestations of these norms include: (i) a culture of silence around a high level of gender-based violence; according to government data, 45% of women and girls aged 15 to 49 have experienced physical violence and 14 percent have experienced sexual violence. Many cases are not reported to authorities and few women get justice or receive medical care. In addition, a report published in 2018 found that 32% of young women aged 18–24 years and 18% of their male counterparts reported experiencing sexual violence before the age of 18.; (ii) that women's access to land and access to property other than land are severely restricted by customary law, which prohibits women from owning or inheriting land and other forms of property; and (iii) that domestic "care" tasks are women's work. Women's marginalization is reinforced by discriminatory and overlapping social norms.

High levels of sexual and gender-based violence persist in Kenya: According to the 2016 ***Status of Women in Kenya Report (the latest available),*** the Government has made major achievement in its efforts to eliminate Female Genital Mutilation (FGM), which has resulted in declining prevalence rates. The 1998 KDHS reported 38 percent of women were circumcised, which fell to 32 percent in 2003, 27 percent in 2008-09, and was reported at 21 percent in 2014 (latest KDHS). Illustrating the declining prevalence rates, only 11% of women aged 15-19 years have been subjected to FGM, whereas these figures increase to 22.9% among those aged 30-34 years and to 40.9% among those women aged 45-49 years. There are also wide regional disparities in the prevalence of FGM. According to a 2020 UNICEF report, Kenya'sprogress towards abandoning FGM is strong compared to other countries in East and Southern Africa. Some of the recent initiatives implemented in Kenya to help eliminate FGM include the creation of a WhatsApp group in support of improved coordination between ministries of gender and civil society in Kenya and Uganda. The WhatsApp group enabled stakeholders to report and respond to cases of FGM in real-time. The WhatsApp group facilitates communications between leaders along the border of Kenya and Uganda, and has been partly responsible for many of the rescue initiatives of girls crossing into Kenya to undergo FGM. In addition, a smartphone App for reporting FGM was also developed in Kenya. The app, dubbed "Pasha", was developed with support from the Joint Programme and facilitates reporting not only on FGM, but also violence against children. It enables users to connect to the nearest service providers including legal aid. It also provides the status on reported cases of FGM and highlights any bottlenecks in case management thus strengthening the accountability of the police, public prosecutors, village chiefs, and health and education officials. The app is managed by the Anti-FGM Board in Kenya. and is now available on Google Play.

Nonetheless, eliminating FGM by 2030 across the country requires additional efforts. The report further illustrates that the risk of FGM depends on certain background characteristics. Girls and women from rural areas, living in poor households, with less education or who identify as Muslim are at greater risk. The practice is highly concentrated in the North Eastern region and in certain ethnic groups.

08. Equity of Public Resource Use

Score du critère: 4.833

8.a. Poverty Measurement

Type de score	Valeur
Score de brouillon	4.5
Score révisé	4.5
Score de deuxième brouillon	4.5
Score final	4.5

Notes du pays:

Kenya has experienced relatively high economic growth over the past decade. However, growth has not been sufficiently inclusive. The country still suffers from high level of poverty and regional disparities, limited access to basic services, inequality and unemployment, with youth, women and other vulnerable groups particularly hard-hit. The government of Kenya's current mid-term development agenda under the BETA focuses on five priority areas namely agriculture; Micro, Small and Medium Enterprises; Healthcare; Housing and Settlement; and Digital Superhighway and Creative Economy. The plan serves as operational priority for the third Medium Term Plan (MTP-IV) and Kenya Vision 2023. It has the objective of achieving structural transformation albeit at a slow pace to address the perennial challenges of poverty, unemployment and inequality. The government also strives to ensure equity in use of national resources. For instance, to promote equity and social development in marginalized areas, the Government has allocated, in the 2021/22 budget: KES 41.7 billion for National Government Constituency Fund (NG-CDF); KES 6.8 billion for Equalization Fund; and KES 2.1 billion for National Government Affirmative Action Fund (NG-AAF).According to the 2015/16 Kenyan Integrated Household Budget Survey (KIHBS), the country registered reductions in poverty and income inequality between 2006 and 2016. However, regional disparity remains high. Relative poverty decreased to 36% in 2016 from 47% in 2006. This is despite the fact that the absolute number of the poor declined marginally. It fell from 16.6 million in 2006 to 16.4 million in 2016. It is estimated that poverty reduced further to about 28% in 2019, before increasing to 41% in 2020 on the account of Covid-19 related socio-economic shocks. The Government, through the National Safety Net (Inua Jamii) Programme continues to share benefits of economic growth through cash transfers to vulnerable groups. Allocations in the FY 2023/24 include: KES 18.0 billion for Cash Transfers to Elderly Persons; KES 7.9 billion for Orphans and Vulnerable Children; KES 5.6 billion for Hunger Safety Net

Programme; and KES 1.2 billion for Cash Transfer to Persons with Severe Disability.Income inequality measured in terms of Gini index fell to 0.39 from 0.45 over the same period. Regional disparities, inequality and limited access to basic services remain some of the social challenges the country is grappling with. According to a 2017 Oxfam report, the gap between the richest and poorest remains wide, with less than 0.1% of the population owning more wealth than the bottom 99.9%, and the richest 10% of the population earning on average 23 times more than the poorest 10%. Regionally, poverty levels are extreme in rural areas (at 40.1%) compared to core-urban areas (27.5%) and peri-urban areas (29.4%). Decline in poverty levels could be attributed to the pro-poor nature of government policies. A study by the WB on fiscal incidence public spending found that social sector spending in Kenya (e.g. education, health and social protection) is broadly progressive and pro-poor. The sector accounted for a third of total expenditure, with education accounting the lion's share at 20%. For example, the study found that nearly half of the school going children between the ages of 6 and 17 come from the poorest 40% of the population which account for 14% of per capita market income. The study further highlighted the fiscal incidence of taxes. They include direct tax (personal and corporate income taxes), indirect taxes (VAT and excise). It found that the taxing system in Kenya is broadly progressive. According to the study, the poorest 40% of Kenya's population account for 14% of market income but less than one percent of direct taxes, between 12 and 14 percent of the tax burden, and 6.6% of total excise tax.

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8.b. Public Expenditures: Priorities and strategies

Type de score	Valeur
Score de brouillon	5.0
Score révisé	5.0
Score de deuxième brouillon	5.0
Score final	5.0

Notes du pays:

The 2010 constitution provides that 15% of the national revenue is transferred to the 47 county governments. Implementation of country revenue allocation remains a challenge in Kenya. The government has initiated measures to ensure timely allocation of County funds. The fund is utilized in accordance with the Public Finance Management Act. And to implement national and country government's priority projects as provided in the Medium-term Implementation Plans of Vision 2030. The BETA covers the period 2022-2027 which will support the implementation of the fourth Medium-Term Plan (MTP-III) that covers the period 2024 to 2028. The BETA serves as the operational priority for the MTP-IV with five identified pillars and it aims at tackling perennial challenges of poverty, unemployment and income inequality by investing in four priority areas, namely, food and nutrition security; increasing manufacturing contribution to GDP to 15%; Construction of 500,000 affordable houses; and achieving universal health coverage. All to be achieved by 2027. During the implementation of MTP III, a lot was achieved although several challenges were experienced.

Some of the achievements include: huge infrastructure investment as enablers of the B4 such as construction of the Standard Gauge Railway (SGR) Phase 2A, Construction of Nairobi Express way, construction of over 2,100KM classified roads and maintenance of 41,999KM of roads; the ongoing large infrastructure projects under PPP (including the US$ 1.0 billion Nairobi Express Way, and the US$ 1.6

billion Rironi-Nakuru-Mau Summit dual carriage way); increasing the capacity of airports to handle passenger traffic by 3.4% in 2019; increasing the capacity of ports to handle cargo by 11.3% in 2019; increasing mobile network coverage to 93% in 2019; increasing the installed capacity of power generation by 4% in 2019; identification and investment in special economic zones (SEZs); mechanization of agriculture; reforms in the National Health Insurance Fund (NHIF); upscaling training and placement of medical specialists; piloting of universal health coverage program in four counties; presidential launch of mega housing projects to construct affordable houses; and formation of Kenya Mortgage Refinance Company (KMRC) to provide cheaper financing for mortgages; among others. On the other hand, the implementation of the MTP-III and the B4 has faced a number of challenges, including: slow uptake of programs and projects for implementation through public private partnership (PPP); recurrence of drought which affects agriculture; locust invasion which affects crop production; flooding which destroys infrastructure, crops and property and also claims lives; lower revenue collection; slow uptake of donor funding; and now the Covid-19 pandemic, among others. According to the 2021/22 , about 5% of the national government budget was allocated directly to the B4, another 21% of the budget was allocated for social spending (education, health and social protection) which is expected to have direct impact on poverty. This is however a significant decline in budget allocation compared to 18% for B4 and 26% for social spending in 2019/20

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8.c. Regressive Tax

Type de score	Valeur
Score de brouillon	5.0
Score révisé	5.0
Score de deuxième brouillon	5.0
Score final	5.0

Notes du pays:

According to the 2023/24 budget, taxes account for about 79j% of total government revenue, a reduction up from 86% in 2020/21 and down from 89% and 91% in 2019/20 and 2018/19, respectively. Income tax continues to be the main revenue generator with a projected revenue of KES 835 billion (about 47% of tax revenue) in 2021/22. However, from a tax revenue growth perspective, excise duty is projected to achieve the highest growth in revenues at 24%, followed by VAT at 20%, import duty at 15% with income tax trailing at 14%.

Kenya’s personal income tax is progressive with tax rates levied progressively at 10%, 15%, 20% and 20% on the first KES 564,709 taxable income in approximately equal bands. The rate of 30% applies for income amount exceeding KES 564,709. However, in response to Covid-19 crisis, the government adjusted the personal income tax rates downwards to caution citizens from the impacts of the pandemic, including introduction of a tax relief for persons earning a gross monthly income of up to KES 24,000. These tax initiatives were however reversed in January 2021. According to a study by the World Bank on the fiscal incidence of taxes, the taxing system in Kenya is broadly progressive. The study found that the poorest 40% of the Kenya's population account for 14% of market income but less than one percent of direct taxes, between 12% and 14% of the tax burden, and 6.6% of total excise tax.

09. Building Human Resources

Score du critère: 4.833

9.a. Health and nutrition services

Type de score	Valeur
Score de brouillon	4.5
Score révisé	4.5
Score de deuxième brouillon	4.5

Score final	4.5

Notes du pays:

The Global Human Capital Index 2020 by the World Bank ranked Kenya 94th out of 157 countries with a Human Capital Index (HCI) estimated at 0.55, up from 0.54 in 2018. The HCI is made up of five indicators: the probability of survival to age five, a child's expected years of schooling, harmonized test scores as measure of quality of learning, adult survival rate, and the proportion of children who are not stunted. It measures the amount of human capital that a child born today can expect to attain by age 18. It conveys the productivity of the next generation of workers compared to a benchmark of complete education and full health. According to the HCI report, a child born in Kenya today will be 56% as productive when (s)he grows up as (s)he could be if she enjoyed complete education and full health. There is however significant disparity in the human capital index between different income groups. The productivity of a child born in richest 20% of households is 66% compared to 50% for a child born in the lowest wealth quintile. This disparity is also noted in the expected years of schooling (11.6 years) with a gap of 2.2 years, harmonized test scores and healthy growth which is measured by stunting.

Kenya’s human development index (HDI) has been on a steady increase since 2003, increasing from 0.495 to 0.581 in 2019 pre the COVID-19 pandemic. The HDI index dropped slightly in 2020 and 2021 to 0.578 and 0.575 respectively. The drop may be attributed to the effects of the COVID-19 pandemic which many countries are still recovering from. The improved HDI index puts Kenya in the medium human development category, and is attributed to improvements in life expectancy, access to education and expected years of schooling, gross national income per capita, and health outcomes. Despite this progress, the HDI is still lower than the national average of 0.732, and inequalities still exist on gender and marginalized groups. The inequality adjusted HDI indicates a loss of 25% The gender development index (GDI) for Kenya is 0.941 whereas the gender inequality index (GII) is much lower at 0.506. a number of affirmative actions have been put in place by the government and its partners to improve women’s’ participation in education and economic development, through the gender policy. However, a number of challenges such as high teenage pregnancies, high poverty rates and socio-cultural practices still lower women’s participation in education, especially in the arid and semi-arid lands.

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9.b. Education, ECD, training and literacy programs

Type de score	Valeur
Score de brouillon	5.0
Score révisé	5.0
Score de deuxième brouillon	5.0
Score final	5.0

Notes du pays:

Kenya's strategies for addressing the challenges facing the country's social sector are outlined in the Kenya Vision 2030 and its operational priorities under the draft Medium-Term Plan (MTP IV 2023-2027) the Bottom-up Economic Transformation Agenda (BETA). Kenya's Vision 2030 recognizes the importance of addressing skills shortages, encouraging innovation, and linking skills development to industry through its social pillar. The draft Medium-Term Plan (MTP) IV, 2024-2028 has prioritized five sectors, including: Agriculture; Micro small and medium enterprise (MSME) economy; Housing and settlements; Healthcare; and Digital superhighway and the creative economy. Additionally, the draft MTP IV highlights the following economic sectors as priorities for the 2023-2027 period: manufacturing; tourism; trade; business process outsourcing; financial services; oil, gas and mineral resources; and the blue economy. All these priority sectors require skills in relation to the sectors' demands.

Kenya continues to make notable progress in education through consistent financial investments, regular review of strategies and frameworks which govern implementation of education in Kenya. Kenya's spending on education as a share of the nominal GDP averages 5-6% which is already within the UNESCO recommended minimum of 4 - 6%. Annual education expenditure also averages 25% as a total government expenditure, which is again within the international standards as recommended by UNESCO. From the economic survey of 2023, overall expenditure for the education sector is expected to grow by 7.1 per cent from KSh 511.9 billion in 2021/22 to KSh 548.2 billion in 2022/23 financial year. This increase is driven by infrastructure needs to support the new junior secondary school level, with its first cohort expected to join grade 7 in 2023. The junior secondary school is domiciled within primary schools, necessitating the need for additional classrooms and laboratories. In 2017, the Government introduced the competency-based education curriculum to replace the 8-4-4 curriculum. The CBC curriculum is meant to impart more practical skills among learners and prepare them for the dynamic labour market. In 2022, the President of the Republic of Kenya appointed a Presidential Working Party on Education Reforms to review implementation of the new CBC and provide recommendations to improve its implementation. The PWPER’s report includes 21 key recommendations across the education spectrum. They include a review in the number of learning areas in basic education, emphasis on foundational learning, improvement in teacher training, new and innovative models for education financing, governance, establishment of an open university to promote lifelong learning, environment and climate change, re-introduction of community service for graduates, industry linkages and accelerated learning for special groups such as the marginalized and special needs. These recommendations have come at an opportune time when the ministry of education is drafting the new national education sector strategic plan (2023-2027) and will inform interventions in the sector over the next five years. These initiatives are in addition to existing government policies and strategies which have increased enrollment such as free primary education, mainstreaming of ECDE by county governments, the 100% transition strategy from primary to secondary education, subsidized day secondary education, capitation grants and higher education loans to TVET students. The government has also made progress regarding ICT in education, through increased electrification of schools (82%) and access to digital devices and content through the Digital Literacy Programme (DLP).

Consequently, the results of the investments can be seen in the increasing enrollment rates. The pupil completion rate dropped from 95% in 2020 to 86% in 2021 but increased to 88% in 2022. The primary to secondary school transition had increased significantly to 91% pre-COVID-19 pandemic but dropped to 78.5% in 2021 and improved marginally to 78.6 in 2022[1]. The gross enrolment rates (GER) for pre-primary (111.2%), primary education (97.3%), secondary school (76.5%) remain high. The GER for secondary education increased from 71% in 2019 to 76% in 2020, while that for primary reduced slightly from 99% to 97%, signaling a potential reduction in overage enrolment and repetition of classes[2]. The GER above 100% at pre-primary level still points to overage enrolments beyond 4 and 5 years. Primary school Net Enrollment Ratio is at 79.3% to 54.1%. The net enrolment rates are slightly lower than the pre-COVID-19 pandemic since the national statistics were collected between 2020 and 2021 and may include the effects of the pandemic on education. None the less, the general trajectory on education enrolment is positive as recorded by the country’s 2023 economic survey.

The Gender Parity Index (GPI) for enrollment in basic education has almost reached universal access, signifying an almost equal enrollment for both boys and girls in basic education. The country has also continued to invest in special needs education (SNE), by increasing the number of schools focusing on special needs. Enrolment for SNE at primary increased from 136,081 in 2019 and further to 183,697 in 2020. Enrolment on SNE however still remains a key concern, especially at pre-primary level. In addition, Kenya still has a challenge on out of school children (OOSC) as denoted by the net enrolment rates. A National study on OOSC in Kenya released by UNICEF and the National Council for Nomadic Education in Kenya in 2022 revealed that 1.8 million children were out of primary school in Kenya, with more than 60% of these being in the arid lands. The number of OOSC is estimated to increase to about 3.5million by 2023 due to the drought in 2022 and early 2023. Similarly, there has been a remarkable expansion in the provision of technical vocational education and training (TVET) with enrolment doubled from about 200,000 to above 500,000 over the last decade. In 2022, the total enrolment in TVET grew by 11.7 per cent from 503,800 in 2021 to 562,500[3]. 2022. Female enrolment increased by 20% over the same period. The number of TVET institutions equally increased by 5.7 per cent to 2,401 in 2022.The continued growth in TVET enrolments is attributed to the TVET reforms initiated by the GOK in 2013 which include: curriculum reforms; upgrading TVET infrastructure; and most recent, reducing the financial burden on students and parents by increasing capitation to TVET institutions for every student enrolled and expanding the Higher Education Loans to TVET trainees. Despite the increased investments in TVET, the overall spending on TVET (4-5%) as a percentage of the total expenditure in education remains low considering that the sector is expected to support skills development for over 85% of eligible youth population post-secondary education. Enrolment to university education marginally increased by 0.2 per cent from 562,100 in 2021/22 to 562,900 in 2022/23. The minimal change maybe partly attributed to the ongoing reforms in the sector and the increased emphasis on TVET. There was a 5.5% increase in female enrollment over the same period. Research development however remains a weak area which requires increased investments.

[1] 2023 Economic Survey, KNBS

[2] 2020 Education Statistical booklet, Ministry of Education, Kenya

[3] 2023 Economic Survey, KNBS

Kenya's strategies for addressing the challenges facing the country’s social sector are outlined in the Kenya Vision 2030 and its operational priorities under the draft Medium-Term Plan (MTP IV 2023-2027) the Bottom-up Economic Transformation Agenda (BETA). Kenya’s Vision 2030 recognizes the importance of addressing skills shortages, encouraging innovation, and linking skills development to industry through its social pillar. The draft Medium-Term Plan (MTP) IV, 2024-2028 has prioritized five sectors, including: Agriculture; Micro small and medium enterprise (MSME) economy; Housing and settlements; Healthcare; and Digital superhighway and the creative economy. Additionally, the draft MTP IV highlights the following economic sectors as priorities for the 2023-2027 period: manufacturing; tourism; trade; business process outsourcing; financial services; oil, gas and mineral resources; and the blue economy. All these priority sectors require skills in relation to the sectors’ demands. Kenya continues to make notable progress in education through consistent financial investments, regular review of strategies and frameworks which govern implementation of education in Kenya. Kenya’s spending on education as a share of the nominal GDP averages 5-6% which is already within the UNESCO recommended minimum of 4 - 6%. Annual education expenditure also averages 25% as a total government expenditure, which is again within the international standards as recommended by UNESCO. From the economic survey of 2023, overall expenditure for the education sector is expected to grow by 7.1 per cent from KSh 511.9 billion in 2021/22 to KSh 548.2 billion in 2022/23 financial year. This increase is driven by infrastructure needs to support the new junior secondary school level, with its first cohort expected to join grade 7 in 2023. The junior secondary school is domiciled within primary schools, necessitating the need for additional classrooms and laboratories. In 2017, the Government introduced the competency-based education curriculum to replace the 8-4-4 curriculum. The CBC curriculum is meant to impart more practical skills among learners and prepare them for the dynamic labour market. In 2022, the President of the Republic of Kenya appointed a Presidential Working Party on Education Reforms to review implementation of the new CBC and provide recommendations to improve its implementation. The PWPER’s report includes 21 key recommendations across the education spectrum. They include a review in the number of learning areas in basic education, emphasis on foundational learning, improvement in teacher training, new and innovative models for education financing, governance, establishment of an open university to promote lifelong learning, environment and climate change, re-introduction of community service for graduates, industry linkages and accelerated learning for special groups such as the marginalized and special needs. These recommendations have come at an opportune time when the ministry of education is drafting the new national education sector strategic plan (2023-2027) and will inform interventions in the sector over the next five years. These initiatives are in addition to existing government policies and strategies which have increased enrollment such as free primary education, mainstreaming of ECDE by county governments, the 100% transition strategy from primary to secondary education, subsidized day secondary education, capitation grants and higher education loans to TVET students. The government has also made progress regarding ICT in education, through increased electrification of schools (82%) and access to digital devices and content through the Digital Literacy Programme (DLP). Consequently, the results of the investments can be seen in the increasing enrollment rates. The pupil completion rate dropped from 95% in 2020 to 86% in 2021 but increased to 88% in 2022. The primary to secondary school transition had increased significantly to 91% pre-COVID-19 pandemic but dropped to 78.5% in 2021 and improved marginally to 78.6 in 2022[1]. The gross enrolment rates (GER) for pre-primary (111.2%), primary education (97.3%), secondary school (76.5%) remain high. The GER for secondary education increased from 71% in 2019 to 76% in 2020, while that for primary reduced slightly from 99% to 97%, signaling a potential reduction in overage enrolment and repetition of classes[2]. The GER above 100% at pre-primary level still points to overage enrolments beyond 4 and 5 years. Primary school Net Enrollment Ratio is at 79.3% to 54.1%. The net enrolment rates are slightly lower than the pre-COVID-19 pandemic since the national statistics were collected between 2020 and 2021 and may include the effects of the pandemic on education. None the less, the general trajectory on education enrolment is positive as recorded by the country’s 2023 economic survey. The Gender Parity Index (GPI) for enrollment in basic education has almost reached universal access, signifying an almost equal enrollment for both boys and girls in basic education. The country has also continued to invest in special needs education (SNE), by increasing the number of schools focusing on special needs. Enrolment for SNE at primary increased from 136,081 in 2019 and further to 183,697 in 2020. Enrolment on SNE however still remains a key concern, especially at pre-primary level. In addition, Kenya still has a challenge on out of school children (OOSC) as denoted by the net enrolment rates. A National study on OOSC in Kenya released by UNICEF and the National Council for Nomadic Education in Kenya in 2022 revealed that 1.8 million children were out of primary school in Kenya, with more than 60% of these being in the arid lands. The number of OOSC is estimated to increase to about 3.5million by 2023 due to the drought in 2022 and early 2023. Similarly, there has been a remarkable expansion in the provision of technical vocational education and training (TVET) with enrolment doubled from about 200,000 to above 500,000 over the last decade. In 2022, the total enrolment in TVET grew by 11.7 per cent from 503,800 in 2021 to 562,500[3]. 2022. Female enrolment increased by 20% over the same period. The number of TVET institutions equally increased by 5.7 per cent to 2,401 in 2022.The continued growth in TVET enrolments is attributed to the TVET reforms initiated by the GOK in 2013 which include: curriculum reforms; upgrading TVET infrastructure; and most recent, reducing the financial burden on students and parents by increasing capitation to TVET institutions for every student enrolled and expanding the Higher Education Loans to TVET trainees. Despite the increased investments in TVET, the overall spending on TVET (4-5%) as a percentage of the total expenditure in education remains low considering that the sector is expected to support skills development for over 85% of eligible youth population post-secondary education. Enrolment to university education marginally increased by 0.2 per cent from 562,100 in 2021/22 to 562,900 in 2022/23. The minimal change maybe partly attributed to the ongoing reforms in the sector and the increased emphasis on TVET. There was a 5.5% increase in female enrollment over the same period. Research development however remains a weak area which requires increased investments.[1] 2023 Economic Survey, KNBS[2] 2020 Education Statistical booklet, Ministry of Education, Kenya [3] 2023 Economic Survey, KNBS

9.c. Prevention and treatment of HIV/AIDS, tuberculosis, and malaria

Type de score	Valeur
Score de brouillon	5.0
Score révisé	5.0

Score de deuxième brouillon	5.0
Score final	5.0

Notes du pays:

Kenya's health sector has a goal of attaining equitable, affordable, accessible and quality health care for all Kenyans to reduce health inequalities while also reversing the downward trend that has been seen in health-related outcome and impact indicators. To achieve this the country has developed a well-articulated strategy that feeds into the country's long and Medium-Term Plans. The "BETA" of the current administration, which is the operational priority for MTP-IV 2024-2028, includes as one of its pillars, achievement of Universal Health coverage by 2022. The share of government expenditure on health to total government expenditure has increased progressively from 5.6% in 2016/17 6.2% in 2023/24, and projected to increase further to 6.5% in 2020/21. At the county level, the share of government expenditure on health to total county government expenditure increased from 20.2% to 23.7% over the same period. Kenya has seen improvements in some health outcome and impact indicators in recent years. Fertility rates declined from 3.9 in 2015 to 3.5 in 2018. Infant mortality decreased from 39 per 1000 live births in 2017 to 32 per 1000 in 2019 and under-five mortality decreased from 52 per 1000 live births to 43 per 1000 during the same period. Maternal mortality decreased from 364 per 100,000 live births in 2013 to 342 per 100,000 live births in 2017 (still way above the SDG 3 target of 30 per 100,000 births by 2030). Immunization coverage increased from 70% in 2017 to 82% in 2018 (still below the national target of at least 90%) – Kiambu county is the best performing at 110% coverage, while Tharaka Nithi county is the worst performing at 41%. Kenya has also made great strides in the control and prevention of tuberculosis. The proportion of successfully treated notified tuberculosis cases has hit a plateau of 89% (2014/15), 90% (2015/16) and 90% (2016/17), which surpasses the WHO global targets of successfully treating 85% of the notified cases. These achievements can be attributed to uninterrupted availability of anti-TB medicines, successful roll-out and implementation of high impact interventions for TB control. Health worker to population ratios is also improving with 130.6 registered nurses and 26.3 medical officers per 100,000 in 2020.The country has continued to undertake interventions aimed at controlling the spread of HIV/AIDS in the country. As a result, considerable achievements have been made within the sector, reducing the prevalence to 4.2% in 2020 from 5.6% in 2012 and the incidence to 0.14% from 0.5% in 2012. The number of persons tested for HIV have risen from 7.5 million (2014/15) to 10.9 million (2015/16) and 13.4 million (2016/17). The number of HIV patients on antiretroviral therapy have also increased with 96% of people living with HIV on treatment, including the proportion of HIV positive pregnant women receiving ARVs. The burden of HIV is however unevenly spread with a near double prevalence (5.5%) among women compared to men (2.9%). Almost half of all the people living with HIV are in four counties along Lake Victoria where HIV prevalence is still above 10%, and in Nairobi. Other leading causes of diseases in Kenya include diseases of the respiratory system and malaria which top the list at 27% and 19% respectively in 2020. These two recorded an increase from 24% and 14% in 2019 respectively. The COVID-19 pandemic exerted pressure on Kenya’s health system just as it did for health systems globally. Since the first case of COVID was reported in Kenya in March 2020, a total of 250,700 other cases had been confirmed by mid-October 2021, with over 5,000 deaths and a case fatality rate of 2.1%. The country has had spikes in the infection cycle with successive waves and variants. By mid-October 2021, the positivity rate was estimated at 2% while the population of fully vaccinated adults stood at 3.5%. The country aims to vaccinate at least 10 million people aged 15 years and above by December 2021 and 27 million by June 2022. The pandemic had both positive and negative effects on the health system. For instance, the 9.6% increase in the number of hospital beds and cots (45% in public facilities) can be attributed to the need for more space to accommodate COVID-19 patients, including ICU facilities. Both recurrent and development expenditure went up by 17.4% and 9.4% respectively. On the downside, there was a decline of 31.6% in cases of disease reported in health facilities and hospital admissions, as patients stayed away from health facilities for fear of infections and secondly, as facilities became overwhelmed by COVID case. Kenya has had a high rate of teenage pregnancy over the years averaging 18%, with the number of teenage pregnancies identified during the antenatal care (ANC) visits increasing from 275,000 in 2016 to 427,000 in 2018. The prolonged closure of schools in 2020 due to the COVID-19 pandemic is feared to have escalated the problem. The pregnancies (95%) are mostly among adolescents aged 15 – 19 years. A decline of 16.3% was however reported in the overall teenage pregnancy at first ANC visit in 2020 from 396,000 in 2019 to 332,000 in 2020. Kenya's modern contraceptive prevalence for married women is estimated at 58% while the rate for all women is 42.5%, representing a huge unmet need for contraceptives.

Kenya's health sector has a goal of attaining equitable, affordable, accessible and quality health care for all Kenyans to reduce health inequalities while also reversing the downward trend that has been seen in health-related outcome and impact indicators. To achieve this the country has developed a well-articulated strategy that feeds into the country's long and Medium-Term Plans. The Government's focus on universal health coverage has continued to ensure priority investments in healthcare. As a devolved function, most of the health expenditure is incurred by County governments, where it makes up about 25% of total county government expenditure. At the national level, health expenditure is about 45 of total national government expenditure. The national government expenditure on health was estimated at KES 88.2 billion in the 2021/2022 financial year and is expected to increase by 33% in the 2022/2023 financial year. Health expenditure in Counties (as a devolved function) is also expected to increase by about 1.3% in the 2022/2023 financial year. At least 25% of Kenya's have one form of health insurance, although access is higher in urban areas (40%) compared to rural areas (19%). The National Health Insurance Fund is the most common provider of health insurance in Kenya.

From the 2022/23 demographic health survey, Kenya has seen significant improvements in health indicators in recent years. Fertility rates declined from 3.9 in 2014 to 3.4 in 2022, although disparities exist between rural (3.9) and urban (2.8) areas. Infant mortality decreased from 39 per 1000 live births in 2015 to 32 per 1000 in 2022 and under-five mortality decreased from 52 per 1000 live births to 41 per 1000 during the same period. Stunting has decreased from 26% in 2014 to 18% in 2022. Maternal care is also improving with 88% of women having deliveries in hospitals nationally, and 66% having at least four antenatal care visits. Immunization coverage for children has increased to 80% although it is still below the national target of 90%.

The Ministry of health continues to put in place measures to combat malaria in line with the Kenya Malaria Strategy 2019–2023. The key interventions include the distribution of insecticide treated bed nets, prevention of malaria in pregnancy and promoting health seeking behavior. At least 70% of pregnant women living in malaria-endemic zones received at least one or more doses of intermittent preventive treatment of malaria in pregnancy (IPTp). The use of at least one insecticide treated bed net was at 54%. The proportion of successfully treated notified tuberculosis cases has hit a plateau of 89% (2014/15), 90% (2015/16) and 90% (2016/17), which surpasses the WHO global targets of successfully treating 85% of the notified cases. These achievements can be attributed to uninterrupted availability of anti-TB medicines, successful roll-out and implementation of high impact interventions for TB control. Health worker to population ratios is also improving with 130.6 registered nurses and 26.3 medical officers per 100,000 in 2020.

The country has continued to undertake interventions aimed at controlling the spread of HIV/AIDS in the country. As a result, considerable achievements have been made within the sector, reducing the prevalence to 4.2% in 2020 from 5.6% in 2012 and the incidence to 0.14% from 0.5% in 2012. The number of HIV patients on antiretroviral therapy have also increased with 96% of people living with HIV on treatment, including the proportion of HIV positive pregnant women receiving ARVs. The burden of HIV is however unevenly spread with a near double prevalence (5.5%) among women compared to men (2.9%).

Almost half of all the people living with HIV are in four counties along Lake Victoria where HIV prevalence is still above 10%, and in Nairobi.

The use of contraceptives has increased over the years, contributing to the reduced fertility rates. At least 63% of women of reproductive age are using a contraceptive method, with 57% using a modern contraceptive. Kenya has had a high rate of teenage pregnancy (15-19 years) over the years averaging 18%, with the number of teenage pregnancies identified during the antenatal care (ANC) visits increasing from 275,000 in 2016 to 427,000 in 2018. This figure dropped slightly to 15% in 2022. Level of education and poverty are key factors in teenage pregnancy. KDHS report observes that about 4 in 10 women aged 15–19 who have no education have ever been pregnant, as compared with only 5% of women who have more than secondary education. The report further indicates that teenage women in the lowest wealth quintile are more likely to have ever been pregnant than women in the highest wealth quintile. There are also regional disparities attributed to social-cultural practices which results in unacceptably high rates in counties such as Samburu (50%) compared to a low of (5%) in Nyandarua The need for programs that address teenage pregnancies and youth friendly services remains key.

10. Social Protection and Labor

Score du critère: 4.7

10.a. Social safety net programs

Type de score	Valeur
Score de brouillon	5.0
Score révisé	5.0
Score de deuxième brouillon	5.0
Score final	5.0

Notes du pays:

Social protection in Kenya is guided by the National Social Protection Policy which was approved in 2011. Overall, the major objective of the policy is to reduce poverty among specific demographic groups of the society. Kenya’s overall spending on social protection remains low at about 0.7% of the GDP. However, GoK is taking several steps to increase investments in social protection which includes social assistance, health insurance and social security. These measures include GoKs drive to double the number of cash transfer beneficiaries from the current 1.2 million to 2.5 million, reforms on the National Hospital Fund to support universal health coverage, opening up the social security fund to voluntary contributors in informal employment, the proposed unemployment insurance fund, affordable housing schemes among others.

There are three categories of social protection in Kenya. They include social security, health insurance and social assistance. The social assistance in turn comprises safety net programs which could take the form of cash transfers, food distribution, public works and grants. There are four main national cash transfer programs in Kenya – (i) the Orphans and Vulnerable Children Cash transfer program, (ii) the Hunger Safety Net Programme (HSNP), (iii) the Older Persons Cash Transfer Program (OPCT) and (iv) People living with Severe Disabilities Cash Transfer Programme (PwSD-CT). In 2022, the cash transfer to orphans and vulnerable children was estimated to benefit about 278,945 caregivers, the Older Persons Cash Transfer Program benefited 756,485, about 37,023 for persons with severe disability and 176,044 households for the hunger safety net program. The estimated budget allocation by GoK to these four programs in 2022 was KES 30.69 billion. The allocation to social protection programs (collectively known as 'Inua Jamii' by GoK) is set to increase from 2023 as GoK plans to double the number of beneficiaries from the current 1.2 million to 2.5 million. In most sub-Saharan Africa countries, social safety net programs are largely financed by the non-state actors such as donor agencies, the private sector and international development partners such as the World Bank, the Department for International Development (DFID) and the United Nations Children's Fund (UNICEF). However, this is not the case in Kenya. The GoK is the largest source of financing. According to the Ministry of State for Planning and National Development, the other contributors to the financing of social safety net programs in Kenya are the development partners and members of contributory schemes.

Social protection in Kenya is guided by the National Social Protection Policy which was approved in 2011. Overall, the major objective of the policy is to reduce poverty among specific demographic groups of the society. In the 2022/23, the government increased its budget allocation to social safety net programs by 13% to KES 44.3 billion, up from 35 billion in 2022/23. While the overall budget allocation for social protection declined by 10% from KES 72 billion to KES 66.1 billion over the same period. The increase could however be attributed to the Covid-19 related vulnerabilities of the households. In addition, the government's 8-point economic stimulus program launched in the wake of Covid-19 pandemic aimed at, among others, cushioning vulnerable citizens and business, particularly those affected by the pandemic. There are three categories of social protection in Kenya. They include social security, health insurance and social assistance. The social assistance in turn comprises safety net programs which could take the form of cash transfers, food distribution, public works and grants. There are five national cash transfer programs in Kenya - the Cash transfer for vulnerable children (CT-OVC), the Hunger Safety Net Programme (HSNP), the Older Persons Cash Transfer Program (OPCT), People living with Severe Disabilities Cash Transfer Programme (PwSD-CT) and the Urban Food Subsidy Cash for Assets (CFA)[1]. The government has also initiated discussion on an unemployment relief fund which is aimed at cushioning individuals who lose jobs due to factors such as pandemics. Among the cash transfer programs, the elderly persons category receives the highest proportion (about 50%) of the social safety net allocation.In most sub-Saharan Africa countries, social safety net programs are largely financed by the non-state actors such as donor agencies, the private sector and international development partners such as the World Bank, the Department for International Development (DFID) and the United Nations Children's Fund (UNICEF). However, this is not the case in Kenya. The GoK is the largest source of financing. According to the Ministry of State for Planning and National Development, the other contributors to the financing of social safety net programs in Kenya are the development partners and members of contributory schemes.[1] Transfer Values in Kenya's National Security System.

10.b. Protection of basic labour standards

Type de score	Valeur
Score de brouillon	4.5

Score révisé	4.5
Score de deuxième brouillon	4.5
Score final	4.5

Notes du pays:

Kenya became a member of the International Labor Organization (ILO) in 1965. According to the ILO website, the country has ratified a total of 50 conventions, including: seven of the eight fundamental conventions; three of the four governance conventions; and 40 of the 178 technical conventions. The fundamental and governance related conventions not ratified by Kenya include 'Freedom of association and protection of the right to organize convention' and 'employment policy convention' respectively.Out of the 50 Conventions ratified by Kenya, 37 are in force, eight have been denounced, five instruments abrogated, and none have been ratified in the past 12 months. Non ratification of international review mechanisms and the lack of available national mechanisms to enforce international standards, as provided in international instruments to which Kenya has ratified, remains a key obstacle in the protection and promotion of labor rights.

Kenya became a member of the International Labor Organization (ILO) in 1965. According to the ILO website, the country has ratified a total of 52 conventions, including: seven of the ten fundamental conventions; three of the four governance conventions; and 42 of the 177 technical conventions. The fundamental and governance related conventions not ratified by Kenya include 'Freedom of association and protection of the right to organize convention' and 'employment policy convention' respectively.

Out of the 52 Conventions ratified by Kenya, 39 are in force, seven have been denounced, six instruments abrogated, and none have been ratified in the past 12 months. Non ratification of international review mechanisms and the lack of available national mechanisms to enforce international standards, as provided in international instruments to which Kenya has ratified, remains a key obstacle in the protection and promotion of labor rights.

10.c. Labour market regulations

Type de score	Valeur
Score de brouillon	5.0
Score révisé	5.0
Score de deuxième brouillon	5.0
Score final	5.0

Notes du pays:

Kenya’s labor laws are in line with internationally standards and conventions. The GoK is striving to ensure consistency in its existing labor laws and the 2010 constitution. The constitution provides for principles, such as the prohibition of inhuman treatment (Art.74) and the protection from slavery and forced labor (Art. 73); guarantees freedom of association (Art. 80); (Art. 72); freedom of movement (Art.82); and prohibits different treatment on the grounds of race, place of origin or residence, gender, among others. Article 41 of the constitution on labor relations also provides for the following: (1) Every person has the right to fair labor practices; (2) Every worker has the right to fair remuneration, reasonable working conditions, form/join/participate in the activities and programs of a trade union, and go on strike; Every employer has the right to form and join an employers’ organization, and participate in the activities and programs of an employers’ organization; (4) Every trade union and every employers’ organization has the right to determine its own administration, programs and activities, organize, and form/join a federation; and (5) Every trade union, employers’ organization and employer has the right to engage in collective bargaining.

The following Acts of parliament form the labor legislation framework for the country: Employment Act; Regulation of Wages and Conditions of Employment Act (which include among others Industrial Training Act, Workmen's Compensation Act, Shop Hours Act, Factories Act, Trade Unions Act, and Trade Disputes Act); Companies Act; Bankruptcy Act; Merchant Shipping Act; Export Processing Zone's Act; Immigration Act; Pension Act; Retirement Benefits Act; National Social Security Fund Act; National Hospital Insurance Act; Provident Fund Act; and Public Health Act. Kenya’s labor market has benefited tremendously from the 2010 constitution and the parliamentary legislations. For example, Kenya has some of the vibrant trade unions and employers’ associations/federations on the continent.

The Ministry of labour has also proposed the establishment of unemployment Insurance Fund and the Unemployment Insurance Authority. The draft bill is under discussion and is expected to strengthen social security by providing benefits to employees who become unemployed or their respective beneficiaries in order to cushion them against harmful socio-economic effects of unemployment. The fund is proposed to be a contributory fund by both employers and employees. It will be administered by the proposed Unemployment Insurance Authority, should it be passed by Parliament and assented to by the President.

Kenya’s labor laws are in line with internationally standards and conventions. The GoK is striving to ensure consistency in its existing labor laws and the 2010 constitution. The constitution provides for principles, such as the prohibition of inhuman treatment (Art.74) and the protection from slavery and forced labor (Art. 73); guarantees freedom of association (Art. 80); (Art. 72); freedom of movement (Art.82); and prohibits different treatment on the grounds of race, place of origin or residence, gender, among others. Article 41 of the constitution on labor relations also provides for the following: (1) Every person has the right to fair labor practices; (2) Every worker has the right to fair remuneration, reasonable working conditions, form/join/participate in the activities and programs of a trade union, and go on strike; Every employer has the right to form and join an employers’ organization, and participate in the activities and programs of an employers’ organization; (4) Every trade union and every employers’ organization has the right to determine its own administration, programs and activities, organize, and form/join a federation; and (5) Every trade union, employers’ organization and employer has the right to engage in collective bargaining.The following Acts of parliament form the labor legislation framework for the country: Employment Act; Regulation of Wages and Conditions of Employment Act (which include among others Industrial Training Act, Workmen's Compensation Act, Shop Hours Act, Factories Act, Trade Unions Act, and Trade Disputes Act); Companies Act; Bankruptcy Act; Merchant Shipping Act; Export Processing Zone's Act; Immigration Act; Pension Act; Retirement Benefits Act; National Social Security Fund Act;

National Hospital Insurance Act; Provident Fund Act; and Public Health Act. Kenya's labor market has benefited tremendously from the 2010 constitution and the parliamentary legislations. For example, Kenya has some of the vibrant trade unions and employers' associations/federations on the continent.

10.d. Community driven initiatives

Type de score	Valeur
Score de brouillon	4.5
Score révisé	4.5
Score de deuxième brouillon	4.5
Score final	4.5

Notes du pays:

Unemployment is high among the youth in Kenya as in many other African countries. High rate of youth unemployment persists despite the increasing proportion of the educated youth population. Unemployment rate for the youth aged 15 – 24 is particularly high at 67% compared to 12.7% overall unemployment rate. There are a number of semi-autonomous government institutions working towards youth empowerment programs. These programs can be grouped into two: (i) entrepreneurship programs e.g. Women Enterprise Fund (WEF), Youth Enterprise Development Fund (YEDF) and Uwezo Fund; and(ii) youth employability programs through internships and opportunities for work experience e.g. Government internship program. The following give summary of achievements by the youth entrepreneurship and employability programs. WEF Trainings: In 2021/2023, 5500 women were trained in 8 regions across the country on value addition on various products: dairy, poultry, fish, groundnut, assorted vegetables etc.; Exchange programs were organized for the groups to learn best practices from accredited institutions; and in 2018/2019, 6,000 women were trained and linked to larger institutions to network, learn best practices and access markets for their productsWEF Loan Disbursements: In 2021/2012, affordable loans amounting to KES. 278.74 million was disbursed to 30,592 beneficiaries across the country (mainly engaged in horticulture, bee keeping, maize/ potato/ vegetable farming, tea & coffee production etc.; and in 2018/2019, KES. 418 million was disbursed to 70,000 beneficiaries.

Unemployment is high among the youth in Kenya as in many other African countries. High rate of youth unemployment persists despite the increasing proportion of the educated youth population. Unemployment rate for the youth aged 15 – 24 (14.4%) is three times higher than the general unemployment rate (4.9%) when considering the strict definition of unemployment. Of greater concern is the high rate of youth (19%) who are not in education, employment or training. There are a number of semi-autonomous government institutions working towards youth empowerment programs. These programs can be grouped into two:

(i)   Entrepreneurship programs e.g. Women Enterprise Fund (WEF), Youth Enterprise Development Fund (YEDF) and Uwezo Fund; and

(ii) Youth employability programs through internships and opportunities for work experience e.g. Government internship program.

The following give summary of achievements by the youth entrepreneurship and employability programs.

1. The Women Enterprise Fund has benefited 4871 groups with 53,515 out of which 42,812 were women. A total of KES 1.58 billion is expected to be in 2022/23 as loans to the groups and individuals. This is almost a 50% reduction compared to KES 3.1 billion in 2021/2022. Similar GoK grants to the fund are also expected to contract by 75% in 2022/2023 to KES 91.8 million from KES 367 million in 2021/2022. The Uwezo fund for women, youth and persons with disability has benefited 400 groups with approximately 10,000 members. Total Government grant to Uwezo Fund is expected to increase by 13.9 per cent from KSh 215.6 million in 2021/22 to KSh 245.6 million in 2022/23. The Youth Enterprise Development Fund had benefited a high of 84,876 youth by 2020/2021 financial year, but that is estimated to have declined to about 31,500 in 2021/22 and to about 42500 in 2022/23. However, Government grants to the fund are expected to increase by 5.3 per cent to KSh 499.1 million in 2022/23 from KSh 474.1 million in 2021/22. Likewise, the total loan disbursements is projected to increase by 34.5 per cent to KSh 543.0 million in 2022/23. GoK has also contined to implement the National Government Affirmative Action (NGAAF) through the county women legislators. The fund is aimed at empowering women and youth. it covers three types of grants (i) Grants for Social Economic Empowerment, (ii) Grants for Value Addition Initiatives, (iii) Grants for Bursaries and Scholarship for Vulnerable Students. Government grants under the NGAAF are expected to decrease slightly by 0.8 per cent from KSh 2,130.0 million in 2021/22 to KSh 2,112.0 million in 2022/23. GoK also continues to promote participation of youth women and persons with disabilities in procurement through the Access to Government Procurement Opportunities (AGPO) policy. About 34,384 tenders are estimated to have been awarded to youth, women and persons with disability in the 2021/2022 financial year.

2. To further support youth and women empowerment, the government has made the following allocations in 2021/22 budget: KES 4.2 billion for Kenya Youth Empowerment and Opportunities Project; KES 10.0 billion for National Youth Service; KES 454.1 million for Youth Enterprise Development Fund; KES 120.0 million for Women Enterprise Fund; and KES 62.0 million for Uwezo Fund.

In 2022/17, YEDF allocated KES 42.1 million to youth carrying out enterprises in the health industry; KES. 405.2 million to youth undertaking initiatives in agro processing; and KES 168.4 million to youth undertaking initiatives in manufacturing.As at end of May 2019, YEDF had facilitated 10,767 youths to market their products locally and internationally; 1,653 youths yo access affordable trading spaces; and 26,015 youths to access job abroad through migration loans and pre-departure training.The Uwezo Fund benefited a total of 920,162 people. It allocated a total of KES5.9 billion of which 5.5 billion disbursed, with a repayment rate of 26%. The beneficiaries were the youth aged between 18-35 years; Women; and persons living with disabilities In 2021/32 Uwezo Fund financed 5,357 groups of youth, women and persons living with disabilities with loans amounting KES 503 million. As at end of June 2019, Uwezo Fund had loaned KES 6.1 billion to 65,169 groups comprising 40,772 women groups, 22,585 youth groups and 1,910 PWD groups. Out of which, KES 1.9 had been paid back. To further support youth and women empowerment, the government has made the following allocations in 2021/22 budget: KES 4.2 billion for Kenya Youth Empowerment and Opportunities Project; KES 10.0 billion for National Youth Service; KES 454.1 million for Youth Enterprise Development Fund; KES 120.0 million for Women Enterprise Fund; and KES 62.0 million for Uwezo Fund.

10.e. Pension and old age savings programs

Type de score	Valeur
Score de brouillon	4.5
Score révisé	4.5
Score de deuxième brouillon	4.5
Score final	4.5

Notes du pays:

The primary pension regulatory authorities in Kenya are the Retirement Benefit Authority and the Kenya Revenue Authority. There are four types of pension plans in Kenya: public service pension fund, occupational pension scheme, individual pension plan and umbrella scheme. Pensions and retirement plans in Kenya are regulated by the following statutes Pensions Act (Cap. 189); Pensions (Increase) Act (Cap. 190); Retirement Benefits Act (No. 3 of 1997); Income Tax Act (Cap. 470); National Social Security Fund Act (Cap 258); National Social Security Fund Act (No. 45 of 2013); National Health Insurance Fund Act (No. 9 of 1998); Provident Fund Act (Cap. 191); Public Service Superannuation Scheme Act (No. 8 of 2012); Parliamentary Pensions Act (Cap. 196); Presidential Retirement Benefits Act (No. 11 of 2003); Retirement Benefits (Deputy President and Designated State Officers) Act (No. 8 of 2015); Asian Officers' Family Pensions Act (Cap. 194); and Asian Widows' And Orphans' Pensions Act (Cap. 193). The following are main regulations: Retirement Benefits (Individual Retirement Benefits Schemes) Regulations 2000; Retirement Benefits (Occupational Retirement Benefits Schemes) Regulations 2000; Retirement Benefits (Minimum Funding Level and Winding up of Schemes) Regulations 2000; Retirement Benefits (Forms and Fees) Regulations 2000; Retirement Benefits (Managers and Custodians) Regulations 2000; Retirement Benefits (Mortgage Loans) Regulations 2009; Retirement Benefits (Administrators) Regulations 2007; Retirement Benefits (Umbrella Retirement Benefits Schemes) Regulations 2017; The Income Tax (Retirement Benefit) Rules 1994; Income Tax (National Social Security Fund) (Exemption) Rules 2002; and Provident Fund Regulations.

Kenya's pension and old age savings scheme is growing in quality as well as in quantity. This followed the enactment of the Public Service Superannuation Scheme Act 2012 which paved way for the launching of the contributory pension scheme for public servants. It is expected that the scheme would enhance domestic savings and reduce government contingent liabilities and also expand the pension industry. Recent developments in the industry include the assertion in December 2013 of the National Social Security Fund (NSSF) Act, No. 45 of 2013 which transformed the Fund from a Provident Fund to a Pension Scheme. In 2023, the NSSF Act 45 of 2013 with the provision of increasing employee and employer contribution by 6% each. This came into effect in February 2023 following a Court of Appeal ruling to uphold the said contribution; the launch of a universal pension in January 2018 which allows people above 70 to get a monthly pension operating alongside the existing scheme covering older people over 65 who live with a disability. NSSF has also partnered with Safaricom as it pushes to fully adopt cashless payments. Under the initiative, NSSF is implementing an entirely cashless system at all its branch network across the country, with the aim of increasing the convenience and efficiency of its services through the automation and digitization exercise, in addition to boosting ease of doing business whereby returns will only be filled online. NSSF also introduced an affordable saving plan for the informal sector dubbed 'Mbao saving plan' and haba haba savings plan, which enables low-income earners working in the formal sector to have a private retirement scheme. Under the scheme, individuals contribute as low as KES 20 and KES. 25 per day towards their retirement pension. More than 83% of adults of working age in Kenya are in the informal sector. NSSF membership is increasing gradually. For instance, in 2022 the number of newly registered employees increased by 71.9 per cent to 462,515 from 269,064. Total membership in pensions schemes governed by the Retirement Benefits Authority increased by 17.3 per cent from 1,012,570 in 2021 to 1,187,302 in 2022. Consequently, the total amount of contributions towards pensions schemes has also been on an increase and was estimated KES 148.5 billion in 2022.

The primary pension regulatory authorities in Kenya are the Retirement Benefit Authority and the Kenya Revenue Authority. There are four types of pension plans in Kenya: public service pension fund, occupational pension scheme, individual pension plan and umbrella scheme. Pensions and retirement plans in Kenya are regulated by the following statutes Pensions Act (Cap. 189); Pensions (Increase) Act (Cap. 190); Retirement Benefits Act (No. 3 of 1997); Income Tax Act (Cap. 470); National Social Security Fund Act (Cap 258); National Social Security Fund Act (No. 45 of 2013); National Health Insurance Fund Act (No. 9 of 1998); Provident Fund Act (Cap. 191); Public Service Superannuation Scheme Act (No. 8 of 2012); Parliamentary Pensions Act (Cap. 196); Presidential Retirement Benefits Act (No. 11 of 2003); Retirement Benefits (Deputy President and Designated State Officers) Act (No. 8 of 2015); Asian Officers' Family Pensions Act (Cap. 194); and Asian Widows' And Orphans' Pensions Act (Cap. 193). The following are main regulations: Retirement Benefits (Individual Retirement Benefits Schemes) Regulations 2000; Retirement Benefits (Occupational Retirement Benefits Schemes) Regulations 2000; Retirement Benefits (Minimum Funding Level and Winding up of Schemes) Regulations 2000; Retirement Benefits (Forms and Fees) Regulations 2000; Retirement Benefits (Managers and Custodians) Regulations 2000; Retirement Benefits (Mortgage Loans) Regulations 2009; Retirement Benefits (Administrators) Regulations 2007; Retirement Benefits (Umbrella Retirement Benefits Schemes) Regulations 2017; The Income Tax (Retirement Benefit) Rules 1994;Income Tax (National Social Security Fund) (Exemption) Rules 2002; and Provident Fund Regulations. Kenya's pension and old age savings scheme is growing in quality as well as in quantity. This followed the enactment of the Public Service Superannuation Scheme Act 2012 which paved way for the launching of the contributory pension scheme for public servants. It is expected that the scheme would enhance domestic savings and reduce government contingent liabilities and also expand the pension industry. Recent developments in the industry include the assertion in December 2013 of the National Social Security Fund (NSSF) Act, No. 45 of 2013 which transformed the Fund from a Provident Fund to a Pension Scheme. In 2023, the NSSF Act 45 of 2013 with the provision of increasing employee and employer contribution by 6% each. This came into effect in February 2023 following a Court of Appeal ruling to uphold the said contribution; the launch of a universal pension in January 2018 which allows people above 70 to get a monthly pension operating alongside the existing scheme covering older people over 65 who live with a disability. NSSF has also partnered with Safaricom as it pushes to fully adopt cashless payments. Under the initiative, NSSF is implementing an entirely cashless system at all its branch network across the country, with the aim of increasing the convenience and efficiency of its services through the automation and digitization exercise, in addition to boosting ease of doing business whereby returns will only be filled online. NSSF also introduced an affordable saving plan for the informal sector dubbed 'Mbao saving plan' and haba haba savings plan, which enables low-income earners working in the formal sector to have a private retirement scheme. Under the scheme, individuals contribute as low as KES 20 and KES. 25 per day towards their retirement pension. More than 83% of adults of working age in Kenya are in the informal sector.

11. Environmental Policies and Regulations

Score du critère: 4.5

11. Environmental Policies and Regulations

Type de score	Valeur
Score de brouillon	4.5
Score révisé	4.5
Score de deuxième brouillon	4.5
Score final	4.5

Notes du pays:

The government acknowledges that a healthy environment is crucial to delivering its Vision 2030, which is Kenya’s long-term development blueprint. Environmental considerations of development are contained within the social and economic pillars. Kenya has also been implementing other international development agenda such as the Sustainable Development Goals (SDGs), which were adopted by all United Nations Member States in 2015 as a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030. The Government has instituted a number of measures to protect the environment. The most important of these is the promulgation of the 2010 Constitution which enshrines a series of environmental rights and provides for a number of environment-related laws. Article 10 sets out national values and principles of governance, such as sustainable development, devolution of government, and public participation, that are mandatory when making or implementing any law or public policy decisions, including climate change. Article 42 provides for the right to a clean and healthy environment for every Kenyan, which includes the right to have the environment protected for the benefit of present and future generations. The executive arm of government and the National Assembly have initiated steps to establish the requisite commissions and to enact the environment-related laws stipulated by the new Constitution under the timelines outlined in its Fifth Schedule.

A series of legal and policy responses have been crafted among them an Environment Policy that was launched in 2013. It aims at improving the quality of life for the present and future generation though sustainable management and use of the environment and natural resources. It is an essential feature of Kenya’s development policy. In May 2019, the Ministry of Environment and Forestry recently launched a National Strategy for achieving and maintaining over 10% tree cover by 2022. The strategy is a cross-sectoral framework that aims to address issues of acceleration of tree cover, impacts of climate change and protection, conservation and sustainable management of forests. On 22nd May 2020 Kenya declared on the 27th International Biodiversity Day a reforestation project to plant 1.8 billion trees by 2022 in order to preserve biodiversity. To reduce the extent of waste and pollution in the country, Kenya has enacted various regulations and policies. In June 2020, the country banned the use of plastic containers, straws and other related material from national parks, reserves and conservation areas. In 2021, the Environmental Management and Coordination (Extended Producer Responsibility) Regulations were established, which provide for responsibility of producers for all products and packaging throughout their life cycle, in a bid to reduce waste, environmental degradation, pollution and promote circular economy practices. The COVID-19 pandemic has resulted in an increase in the amount of single use plastic such as syringes and materials with plastic components such as masks, gloves and protective gear. These regulations will therefore provide an opportunity to increase the extent of producer’s responsibility to recycle and manage such waste. A Bill titled the Sustainable Waste Management Bill, 2021 has also been tabled in Parliament and seeks to establish a legal and institutional framework for the sustainable management of waste at national and county level and ensure the realization of the constitutional provision on the right to a clean and healthy environment.

Kenya takes climate change seriously, as demonstrated by a robust regulatory framework comprising laws, policies, plans and institutions being progressively established at the National and County levels to address climate change. The Climate Change Act, 2016 is the main legislation guiding Kenya's climate change response through mainstreaming climate change into sector functions. This Act requires the Government to develop five-year National Climate Change Action Plans (NCCAP) to guide the mainstreaming of adaptation and mitigation actions into sector functions of the National and County Governments. The NCCAP 2018-2022 aims to further Kenya's development goals by providing mechanisms and measures to achieve low carbon climate resilient development in a manner that prioritizes adaptation. This plan builds on the first Action Plan (2013-2017) and provides a framework for Kenya to deliver on its Nationally Determined Contribution (NDC) under the Paris Agreement of the United Nations Framework Convention on Climate Change (UNFCCC). NCCAP 2018-2022 guides the climate actions of the National and County Governments, the private sector, civil society and other actors as Kenya transitions to a low carbon climate resilient development pathway. In line with the Paris Agreement which requires countries to update their Nationally Determined Contributions (NDCs) every five years, Kenya updated her NDC in December 2020 and raised her ambitions by increasing her mitigation targets to abate greenhouse gas (GHG) emissions by 32% by 2030 relative to the business as usual (BAU) scenario, up from 30% in the previous NDC. The country is also in the process of developing a Long-Term Strategy (LTS) to address the impacts of climate change. Other important government led actions include the implementation of the National Adaptation Plan (NAP 2015- 2030), the Green Economy Strategy and Implementation Plan (2016-2030), Kenya Climate Smart Agriculture Strategy (2017-2026), Climate Risk Management Framework (2017), National Climate Change Policy (2018) and National Climate Finance Policy (2018), among other sector plans and policies that address aspects of climate change. There is in place, a Climate Change Directorate (CCD) established by the Climate Change Act, which serves as the lead government agency responsible for coordinating climate change actions, plans, monitoring and reporting.

The National Environment Management Authority (NEMA), a regulatory body of the Ministry of Environment and Forestry handles environmental coordination in Kenya. However, environment being a multi-sectoral phenomenon, there are several other government agencies that play a role as they manage their sectors. These include: Ministry of Public Health and Sanitation which manages environmental health including; Public Health, the working environment radiation control and management of hazardous wastes; Ministry of Water that manages water resources utilization; Ministry of Local government-through management of urban environments by urban councils; Ministry of Wildlife and Tourism that works to eradicate wild life poaching and deforestation; and Ministry of Agriculture-Controls farming practices to prevent soil erosion in areas with sloppy land.

Whereas Kenya has several environmental and climate change laws and policies in place, implementation is a challenge, due to the fact that many sectoral policies and laws are not harmonized with each other, resulting in their implementation taking a sectoral rather than an integrated and holistic approach. Further, low prioritization of environmental issues by policy makers coupled with weak implementation of the relevant laws and policies hinders the achievement of optimal environmental and climate change interventions. There is, therefore, need to support officials from relevant sectoral ministries to effectively coordinate the design, implementation and enforcement of environmental and climate change interventions, laws and policies. Awareness creation on the economic value of natural resources, risks and opportunities presented by climate change is also required to enable policy makers and implementing entities to appreciate the need for prioritization of environment and climate change action.

From an legislative and institutional perspective, Kenya has made significant progress, even though the country is still facing recurrent environmental and climate change related challenges.The widespread poverty, recurrent droughts, floods, inequitable land distribution, over-dependence on rain-fed agriculture, and few coping mechanisms experienced by the country all combine to increase people's vulnerability to climate change.Kenya has a 2010 Kenya National Climate Change Response Strategy (NCCRS) that focuses on integrating adaptation and mitigation measures in all government planning, budgeting, and development objectives, and a collaborative and joint action with all stakeholders. The NCCRS also proposes Kenya's participation in carbon markets including the UN's Clean Development Mechanism carbon offset scheme. In 2020, Kenya submitted its second Nationally Determined Contribution committing to reduce its already low total greenhouse gas emissions an additional 32 percent by 2030. Kenya develops five-year periodic National Climate Change Action Plans (NCCAP). The current NCCAP (2018-2022) seeks to further sustainable development and create an environment to pursue low-carbon climate resilient development. In 2016, Kenya published its Green Economy Strategy and Implementation Plan (2016-2030) which prioritizes investments and development pathways with higher green growth, cleaner environment, and higher productivity. Kenya's 2018 National Climate Finance Policy supports a Green Climate Fund and the tracking of climate related activities in the Integrated Financial Management Information System (IFMIS) through budget coding and tagging.Kenyan government strategies involve a multi-stakeholder approach to climate change response. This includes the national government, county government, non-governmental organizations, and private sector. The National Environment Management Authority (NEMA) assesses all projects for compliance with set environmental and sustainability standards. Projects cannot commence until meeting set criteria for environmental impact assessment and being cleared by NEMA.Kenya's climate policies are ranked favorably in global climate related indices, including: ClimateScope, the Green Growth Index, and The Green Future Index. The rankings measure the degree to which economies are pivoting toward clean energy, industry, agriculture, and society through investment in renewables, innovation and green finance, which market is the most attractive for energy transition investment, and performance in achieving sustainability targets including the UN Sustainable Development Goals. (https://global-climatescope.org/results/ , https://greengrowthindex.gggi.org/wp-content/uploads/2021/01/2020-Green-Growth-Index.pdf , https://www.technologyreview.com/2021/01/25/1016648/green-future-index/)

(D) Public Sector Management and Institutions

Score du cluster: 3.958

12. Property Rights and Rule-based Governance

Score du critère: 4

12.a. Legal basis for secure property and contract rights

Type de score	Valeur
Score de brouillon	4.0
Score révisé	4.0

Score de deuxième brouillon	4.0
Score final	4.0

Notes du pays:

According to the 2023 edition of the Economic Freedom index, Kenya's economic freedom score is 52.5, making its economy the 135th freest. Its score remains unchanged from 2022. Kenya is ranked 29/47 countries in the Sub-Saharan Africa. Its overall score is below the world and regional averages. According to the index, " the foundations of economic freedom in Kenya are fragile and uneven across the country. Poor protection of property rights and widespread corruption discourage entrepreneurial activity. The rule of law is weak, and local courts are subject to substantial political interference. Progress in reforming the management of public finance has been sluggish". This is however not supported by the Worldwide Governance Index (WGI). According to the WGI, the country's percentile ranking has improved in 2022 in government effectiveness (from 39 to 41), regulatory quality (36 to 39), rule of law (37 to 41) and voice and accountability (36 to 39) declined in control of corruption (from 26 to 24) and remained unchanged in political stability and absence of violence at 15.

Despite challenges, however, the legal infrastructure around land ownership and registration has changed in recent years. In July 2020, the Ministry of Lands and Physical planning released draft electronic land registration regulations to guide land transactions. According to the 2023 edition of International Property Right Index, Kenya's score increased to 4.614 from 4.407, making it 7th in the Africa region and 77th I the world. 2020. The index measures the degree to which a country's laws protect private property rights and the degree to which governments enforces these laws.

12.b. Predictability, transparency, and impartiality of laws affecting economic activity

Type de score	Valeur
Score de brouillon	4.0
Score révisé	4.0
Score de deuxième brouillon	4.0
Score final	4.0

Notes du pays:

Areas that require attention include improving the land tenure system, the judicial processes, coordination between regulatory authorities, and effectiveness of business regulatory infrastructure and systems. Several regulatory and legal challenges–most of them intertwined—stand in the way of fostering sustainable growth. Moreover, regulatory barriers and corruption related to their enforcements are central obstacles for the formalization of the informal sectors.

The Public Procurement and Asset Disposal Act 2015, in force since January 2017, requires that a state organ or a public entity should contract for goods in accordance with a system that is fair, equitable, transparent, competitive and cost-effective. The Act repealed the Public Procurement and Disposal Act of 2005. The Act makes several additional provisions. The application of the act does not extend to asset disposals under any bilateral or multilateral agreements between the government of Kenya and any other foreign government agency or entity or multilateral agency. The related 2020 Public Procurement and Asset Disposal Regulations have been issued. This provides the legal framework for implement e-procurement by all public entities.

The Public Procurement Regulatory Authority (PPRA) is established under the act and has prescribed functions that include investing and acting on complains received on procurement and asset disposal proceedings from procuring entities, tenders, contractors or the general public that are not subject of administrative review.

The National Treasury is also granted mandate under the act with respect to oversight and public procurement that concerns the development of a public procurement and asset disposal policy. The National Treasury functions are devolved to Country Treasury to ensure the monitoring and compliance of the public procurement system at country level.

Where a candidate or a tenderer claims to have suffered or risks suffering, loss or damage due to the breach of a duty imposed on a procuring entity by this act or the regulations, the act provides that they may seek administrative review. A review board is set up for this purpose.

Executive Order No 2 of 2018 also requires procuring entities to publish comprehensive information on all awarded public tenders (including beneficial ownership information). However, this is not being fully adhered to. One area that requires action to enhance transparency in public procurement is though publication of tenders together with beneficial ownership information on the public procurement information portal (PPIP). Steps are being taken to revamp the portal.

Various new laws have already begun streaming investment and business processes in Kenya, and it is foreseeable that they will continue to improve Kenya's economic landscape going forward.

In addition, independence of the judiciary and independence and transparency of the judicial process have improved fairly steadily since 2008 according to the Mo Ibrahim Index. The business regulatory environment has also shown improvement.

Though corruption remains a major challenge in the country, Transparency International ranked Kenya 124 out of 180 countries in its 2020 Global Corruption Perception Index – an improvement of 13 spots compared to 2019. There is no systematic executive or other interference in the court system that affects foreign investors, however, the courts often face allegations of corruption, as well as political manipulation, in the form of unjustified budget cuts, which significantly impact the judiciary’s ability to fulfil its mandate.

12.c. Difficulty in obtaining business licenses

Type de score	Valeur
Score de brouillon	4.5
Score révisé	4.5
Score de deuxième brouillon	4.5
Score final	4.5

Notes du pays:

Kenya continued to be among the top improvers with the highest number of business reforms. Some of the notable recent reforms include: i) making starting a business easier by removing the stamp duty fees required for nominal capital, memorandums, and articles of association; ii)eliminating the requirement to sign the compliance declaration before a commissioner of oaths; iii) a reorganization procedure and regulations for insolvency practitioners were introduced in the area of resolving insolvency, and iv) the process for getting electricity was streamlined by reducing the time for grid connection by almost two weeks. Kenya introduced online registration, modification and cancellation of security interests and public online searches of its collateral registry. Building permit requirements are now publicly available online and the country is one of the best performers globally in protecting minority investors and major improvements have been recorded in resolving insolvency. In addition, Kenya introduced a flat fee for company incorporation and merged processes to start-up and formally operate a business. The business reforms would not only benefit foreign and large-scale investors, but also small and medium enterprises.

The World Bank's 2020 Ease of Doing Business report (before it was suspended) ranked Kenya 56 out of the 190 economies it reviewed – five spots higher than in 2019. Since 2014, Kenya has moved up 73 places on this index. Year-on-year, Kenya continues to improve its regulatory framework and its attractiveness as a destination for foreign direct investment (FDI). Generally, Kenya performs better than the regional average on all relevant indicators associated with the ease of doing business with the exception of the number of days it takes to start a business.

12.d. Crime and violence as an impediment to economic activity

Type de score	Valeur
Score de brouillon	3.5
Score révisé	3.5
Score de deuxième brouillon	3.5
Score final	3.5

Notes du pays:

Kenya is an important anchor for regional stability in East Africa. However, its borders remain exposed to spillover risks of extremism, piracy, human trafficking and refugee flows[i]. More than half of the countries in East Africa are categorized by the African Development Bank as Transition States. These countries are exposed to significant internal and/or external pressures that often exceed their capacities to respond to, thereby creating risks of instability. Recent statistics from UNHCR show that the refugee and asylum-seeker population in Kenya stood at 580,792 persons as of 28 February 2023. Significant share of these refugees resides in northern parts of the country, among populations that are themselves vulnerable.From an legislative and institutional perspective, Kenya has made significant progress, even though the country is still facing recurrent environmental and climate change related challenges.The widespread poverty, recurrent droughts, floods, inequitable land distribution, over-dependence on rain-fed agriculture, and few coping mechanisms experienced by the country all combine to increase people's vulnerability to climate change.Kenya has a 2010 Kenya National Climate Change Response Strategy (NCCRS) that focuses on integrating adaptation and mitigation measures in all government planning, budgeting, and development objectives, and a collaborative and joint action with all stakeholders. The NCCRS also proposes Kenya's participation in carbon markets including the UN's Clean Development Mechanism carbon offset scheme. In 2020, Kenya submitted its second Nationally Determined Contribution committing to reduce its already low total greenhouse gas emissions an additional 32 percent by 2030. Kenya develops five-year periodic National Climate Change Action Plans (NCCAP). The current NCCAP (2018-2022) seeks to further sustainable development and create an environment to pursue low-carbon climate resilient development. In 2016, Kenya published its Green Economy Strategy and Implementation Plan (2016-2030) which prioritizes investments and development pathways with higher green growth, cleaner environment, and higher productivity. Kenya's 2018 National Climate Finance Policy supports a Green Climate Fund and the tracking of climate related activities in the Integrated Financial Management Information System (IFMIS) through budget coding and tagging.Kenyan government strategies involve a multi-stakeholder approach to climate change response. This includes the national government, county government, non-governmental organizations, and private sector. The National Environment Management Authority (NEMA) assesses all projects for compliance with set environmental and sustainability standards. Projects cannot commence until meeting set criteria for environmental impact assessment and being cleared by NEMA.Kenya's climate policies are ranked favorably in global climate related indices, including: ClimateScope, the Green Growth Index, and The Green Future Index. The rankings measure the degree to which economies are pivoting toward clean energy, industry, agriculture, and society through investment in renewables, innovation and green finance, which market is the most attractive for energy transition investment, and performance in achieving sustainability targets including the UN Sustainable Development Goals. (https://global-climatescope.org/results/ , https://greengrowthindex.gggi.org/wp-content/uploads/2021/01/2020-Green-Growth-Index.pdf , https://www.technologyreview.com/2021/01/25/1016648/green-future-index/)

Kenya has held two successive peaceful elections since 2017, which have contributed to a stable and predictable political environment. The general elections of August 9th, 2022 were relatively peaceful and resulted in the election of Dr. William Ruto as the 5th President of Kenya. The political stability and improvement in social and governance indicators have contributed to Kenya becoming a top investment destination in the region. Kenya was ranked 13/54 on governance by the Mo Ibrahim index in the 2022 edition from 14/54 in 2021. The improved ranking was supported by upward movements in the scores of 'participation, rights and inclusion' and human development'. Similarly, in the 2022 edition of Transparency International's Corruption Perception Index (CPI), Kenya improved its ranking to 123/180 (score of 32) against 144/180 (score of 27)[ii] in 2020. This is supported by the Bank's Country Policy and Institutional Assessment (CPIA) and Country Resilience and Fragility Assessment (CRFA). According to the 2021 edition of the CPIA, Kenya improved its ranking by two places to 6 in 2021 against 8 in 2020 out of 54. Its improved ranking could be attributed to its high standing on the continent in the following dimensions:

Infrastructure and Regional Integration (3rd on the continent), Policies for Social Inclusion/Equity (4th), and Structural Policies (6th). However, the 2022 edition of the CRFA shows that Kenya has high pressures in the following indicators: corruption and bribery; presence of armed conflict; access to justice; insecurity in neighboring countries (e.g., civil war in the Sudan); poverty and inequality; and vulnerability to natural disasters.

[i] More than half of the countries in East Africa are categorized by the African Development Bank as Transition States. These countries are exposed to significant internal and/or external pressures that often exceed their capacities to respond to, thereby creating risks of instability. Recent statistics from UNHCR show that the refugee and asylum-seeker population in Kenya stood at 580,792 persons as of 28 February 2023. Significant share of these refugees resides in northern parts of the country, among populations that are themselves vulnerable.

[ii]The difference in score (i.e., 3) is statistically significant at 10% level of significance.

13. Quality of Budgetary and Financial Management

Score du critère: 4.125

13.a. Comprehensive and credible budget

Type de score	Valeur
Score de brouillon	4.5
Score révisé	4.5
Score de deuxième brouillon	4.5
Score final	4.5

Notes du pays:

Kenya has adopted a three-year rolling Medium Term Expenditure Framework (MTEF). It is formulated through a consultative process both at the national and subnational government levels. The budget consultation process starts in September each year and continues until the budget is submitted to the parliament by the 15th of March the following year. The parliament decides, among others, the formula, once every five years, for the allocation of national revenues to national and country governments considering parameters such as population, basic equal shares, poverty, land area, fiscal responsibilities and development factors. The parliament also approves any supplementary budgets or adjustments to budget allocations in the middle of the financial year as proposed by the executive in line with new developments in the country. All donor funded projects are captured in the national budget and executed through the National Treasury.

The budget is reflective of the long and medium-term development plans of the country. Significant chunk of the budget goes to addressing perennial challenges of the country namely poverty, income inequality and unemployment. Every year, the national treasury releases a summarized version of the budget dubbed 'The Mwananchi Guide' which provides the key highlights of the budget, and therefore enables the population to easily understand the role, functioning and different allocations of the budget.

In general, it can be argued that Kenya's budget is a citizens budget as systems in place has made it possible for the citizens to understand the role, operaiton and allocation of the budget. Various studies done for Kenya on the fiscal incidence have found that taxation and social spending in Kenya are progressive (i.e., poverty reducing).

13.b. Effective financial management systems

Type de score	Valeur
Score de brouillon	4.0
Score révisé	4.0
Score de deuxième brouillon	4.0
Score final	4.0

Notes du pays:

Kenya's public finance management is underpinned by modern Public Finance Management (PFM) legislation. It covers budgetary and financial management aspects both at the national and country government levels. The legislation enshrines, among others, public participation, equitable sharing of revenues, prudent management of public money, and clear fiscal reporting. The Public Finance Management Act was introduced in 2012. The act expanded the demand for PFM institutional reforms which formed the foundation upon which the 2013-2018 PFM Reform Strategy was formulated. According to 2022 Public Expenditure and Financial Accountability (PEFA) report published in May 20232017 (the latest available), overall, Kenya's budgetary and financial governance has improved since 20172. It notes that there is no substantial change between assessments (2017 and 2022) in government has been successful in maintaining aggregate fiscal discipline, essential ingredient for budget credibility and macroeconomic stability. Fiscal decipline continues to be advesely impacted by unrealiable revenue outturn (caused by overly ambitious targets) and unreliable aggregate expenditure outurn. However, there has been significant improvement in strategic allocaiton of resources and efficiency in service delivery. It also acknowledges that this cannot always be easy in the face of revenue shortfalls and spending pressures from MDAs.

Further, the report notes it has been challenging to adopt a medium-term strategic perspective to budgeting in the face of both maintaining aggregate fiscal discipline over the short term and the challenges in budgeting on an annual basis. These challenges are being addressed through the use of Medium-Term Expenditure Framework (MTEF) processes that have been put in place in recent years. The continuous effort to improve the alignment between the MTEF and the Medium-Term Plans (MTPs) indicted that the mechanisms are in place for achieving a strategic allocation of resources consistent with medium- and long-term development plans embedded in Vision 2030

Through the PFM Reform Strategy, the Government of Kenya has started wide ranging initiatives in order to improve the public financial management systems across the national and country governments. The current PFM Reform Strategy is for the period 2018-2023. This strategy has identified eight priority results areas to focus on.

Kenya has progressively made some reforms aimed at improving public procurement to meet the principles of equity, transparency and integrity with the enactment of Public Procurement and Asset Disposal Act (PPADA) 2015. The country has also recorded strengthened procurement performance as the outcome of the 2017 PEFA report shows, attributable to reforms made in other aspects of the PFM framework. According to the Bank’s Fiduciary Risk Assessment 2015 updated in 2021, the overall risk rating for procurement was ‘substantial’, with a ‘neutral’ trajectory of change. The new procurement law with the corresponding regulations which were promulgated in July 2020 has provided clarity in the institutional framework for management of public procurement functions, with provisions for enhancing transparency and accountability. Kenya's public finance management is underpinned by modern Public Finance Management (PFM) legislation. It covers budgetary and financial management aspects both at the national and country government levels. The legislation enshrines, among others, public participation, equitable sharing of revenues, prudent management of public money, and clear fiscal reporting. The Public Finance Management Act was introduced in 2012. The act expanded the demand for PFM institutional reforms which formed the foundation upon which the 2013-2018 PFM Reform Strategy was formulated. According to Public Expenditure and Financial Accountability (PEFA) report published in 2017 (the latest available), Kenya's budgetary and financial governance has improved since 2012. It notes that the government has been successful in maintaining aggregate fiscal discipline, essential ingredient for budget credibility and macroeconomic stability. It also acknowledges that this cannot always be easy in the face of revenue shortfalls and spending pressures from MDAs.

Further, the report notes it has been challenging to adopt a medium-term strategic perspective to budgeting in the face of both maintaining aggregate fiscal discipline over the short term and the challenges in budgeting on an annual basis. These challenges are being addressed through the use of Medium-Term Expenditure Framework (MTEF) processes that have been put in place in recent years. The continuous effort to improve the alignment between the MTEF and the Medium-Term Plans (MTPs) indicted that the mechanisms are in place for achieving a strategic allocation of resources consistent with medium- and long-term development plans embedded in Vision 2030 and the "The Big Four” (B4) agenda. The B4 agenda is operational priority for MTP-III. It is made up of four priorities, which have the objective of addressing poverty, unemployment and income inequality. The priorities include - achieving food and nutrition security by 2022; increasing the share of manufacturing in GDP from 9% to 15% by 2022; building 500,000 affordable houses by 2022; and achieving universal health coverage by 2022. Key achievements have been made under the MTP-III in various sectors, but some challenges persist.

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13.c. Timely and accurate fiscal reporting

Type de score	Valeur
Score de brouillon	3.5
Score révisé	3.5
Score de deuxième brouillon	3.5
Score final	3.5

Notes du pays:

The 2010 constitution provides that public audited accounts should be available in time for the national government and the 47 country governments, at least 6 months from the end of the financial year.

The reporting is done by the Office of the Controller of Budget and the Office of the Accountant General who produce quarterly and annual reports. These reports help track performance of government institutions. The Office of the Auditor General (OAG), using reports from the Accountant General produces audit report. Be that as it may, timely reporting continues to be a challenge attributable mainly to capacity related challenges. As a result, there continues to be a lag in the audited accounts e.g., delay in financial year financial statements and financial year audits. The latter occasioned by the delays in filling the vacancy in the office of the Auditor General.

13.d. Clear and balanced assignment of expenditures and revenues to each level of government

Type de score	Valeur
Score de brouillon	4.5
Score révisé	4.5

Score de deuxième brouillon	4.5
Score final	4.5

Notes du pays:

Allocation of Kenyan budget to each level of government is done in a transparent and balanced manner. This is reflected in the Budget Review and Outlook Paper, presented to the parliament, in February, early in the budget process; the Medium-Term Expenditure Framework (MTEF), compiled based on inputs collected from sector working groups; and the 2012 PFM Act and the PFM Reform Strategy (PFMR 2019-2023), which provides guidance regarding allocation of the budget in accordance with MTP-III objectives. Revenue allocation to national and sub-national governments is guided by the 2010 constitution according to which, the GoK considering certain parameters, allocates at least 15% of previously audited revenue to Counties. However, GoK still faces challenges in meeting this constitutional requirement.

According to Articles 216(1) and 217(1) of the Constitution of Kenya, the parameters to be considered are determined by the Commission on Revenue Allocation (CRA) in its revenue formula for equitable sharing of revenue and in a consultative approach through stakeholder engagements. CRA then recommends the formula to the Senate for consideration and approval once in every five (5) years. In addition, the PFM Act requires that at least 30% of national and country government budget should be development spending; and that not more than 35% of the budget should be spent on salaries; among others.

14. Efficiency of Revenue Mobilization

Score du critère: 4.5

14.a. Tax policy

Type de score	Valeur
Score de brouillon	4.5
Score révisé	4.5
Score de deuxième brouillon	4.5
Score final	4.5

Notes du pays:

Taxes are the major sources of government revenue in Kenya. They account for about 90% of total government revenue (excluding grants). The total government revenue (excluding grants) was equivalent to 16.5% of GDP in 2022/23, compared to 17.3% in 2021/22. In 2022/2023, tax revenue was made up of income tax (46% of total tax), VAT (27%), import duty (6%), excise duty (13%) and others (8%).

The relatively weak revenue performance in the FY 2022/23 is attributable to the slowdown of economic activity. Kenya has a potential to mobilize more revenue by improving its tax administration systems further, expanding the tax base, and improving compliance. The continuous attempts in this regard to different tax reform and revenue mobilization initiatives covered under various Finance Acts are encouraging. The Finance Acts (2018 through 2022) have supported in improving the revenue performance by minimizing revenue leakages, improving compliance, and widening tax base. The Finance Act 2023 is a recent Act; it amended existing tax laws with the objective of meeting the fiscal consolidation target by mobilizing more resources.

Initiatives in the Finance Acts 2023 included amendment to the income tax Act (the ITA), VAT Act 2013, Excise Duty Act 2015 and Tax procedure Act 2015. Examples include, among others, amendment of taxation of employment income, taxation of repatriated income for non-residents, lowered the turnover threshold to Ksh 25 million from Ksh 50 million and increased the turnover tax rate to 3% from 1%, introduced a 3% tax on cryptocurrency transactions, introduced a 5% withholding tax on sales promotion and digital content monetization, and new individual tax rates of 32.5% and 35% for pay as you earn on employment income above Ksh 6 million, raised VAT on petroleum to 16%, narrowed the lists of VAT exemptions and Zero rated items, amended the excise duty act of 2015 to increase excise duty on certain items, and introduced tax procedures namely amnesty on interest and penalties for principal tax due December 2022.

Kenya was ranked 13/54 on governance by the Mo Ibrahim index in the 2022 edition from 14/54 in 2021. The improved ranking was supported by upward movements in the scores of ‘participation, rights and inclusion’ and human development’. Similarly, in the 2022 edition of Transparency International’s Corruption Perception Index (CPI), Kenya improved its ranking to 123/180 (score of 32) against 144/180 (score of 27)[i] in 2020. This is supported by the Bank’s Country Policy and Institutional Assessment (CPIA) and Country Resilience and Fragility Assessment (CRFA). According to the 2021 edition of the CPIA, Kenya improved its ranking by two places to 6 in 2021 against 8 in 2020 out of 54. Its improved ranking could be attributed to its high standing on the continent in the following dimensions: Infrastructure and Regional Integration (3rd on the continent), Policies for Social Inclusion/Equity (4th), and Structural Policies (6th)

[i] The difference in score (i.e., 3) is statistically significant at 10% level of significance.

14.b. Tax administration

Type de score	Valeur
Score de brouillon	4.5
Score révisé	4.5
Score de deuxième brouillon	4.5
Score final	4.5

Notes du pays:

Kenya's revenue administration system has improved continuously over the past decade. Legal and institutional arrangements have been streamlined to improve tax compliance levels, both in the volume and in quality of tax returns, as well as levels of revenue collection. Examples of improvements in revenue administration include: streamlining of tax legislation through tax procedures Act, 2015; introducing up-to-date tax guide on KRA website; operationalization of a comprehensive taxpayer education system by KRA; Operationalization of most modules of the iTax making it easier for tax payers to obtain information and submit returns; strengthening of KRA's risk management for both Domestic Tax Department and Customs Border Control Department; and digitalization of tax administration.

Digitization of tax administration aims at enhancing tax compliance and growing tax revenue. Notable improvements include: on VAT - evolution from Electronic Signature Devices (ESD) and Electronic Tax Registration (ETR), introduced in 2005, to e-filing system that introduced iTax in 2013. Kenya has attracted global admiration for automation of its revenue administration processes. This has augmented her resilience during COVID-19. The online system iTax platform ensured that basic tax administration procedures proceed uninterrupted during the COVID-19 pandemic. To further enhance efficiency in revenue collection, businesses with sales transactions more than KES 5 million per month are required to install a Control Unit (CU) on the ETR or Point-of-Sale devise (PoS). The CU enables validation and singing of invoice data by taxpayers' businesses before it is transmitted to government supplied terminal for electronic submission (i.e. Tax Invoice Management System (TIMS)). The TIMS creates on the one hand a unique identification number and return it to the tax payer business to be included on sales invoices for issuance to the customer and on the other passes the reports to the KRA's iTax System in real time. Other notable improvements by KRA in tax administration include the rollout of new integrated customs management system to replace the Simba system to save revenue lost due to tax evasion estimated by some experts at KES 68 billion a year. Considering trends in other revenue authorities, a lot of ground remains to be covered. Areas to consider, among others, include investing in technology solutions with cognitive computing to identify possible tax evasion and use of data analytics to detect inconsistences in taxpayers' declarations. These efforts have started bearing fruit. Total tax collection in absolute terms has increased consistently and progressively from about KES 1.15 trillion in 2015/16 to about KES 2.041 trillion in 2022/23. However, more needs to be done if the perennial revenue shortfalls averaging 5% are to be minimized.

15. Quality of Public Administration

Score du critère: 4

15.a. Policy coordination and responsiveness

Type de score	Valeur
Score de brouillon	4.0
Score révisé	4.0
Score de deuxième brouillon	4.0
Score final	4.0

Notes du pays:

The 2010 constitution and public sector and county government legislation provide for orderly organization of government. Intergovernmental (e.g., national government and county governments) policy consultations are coordinated by the Intergovernmental Relations Technical Committee (IGRTC) created by an Act of Parliament in 2012 and the National Government Coordination Act (2013). The Acts provide administrative and institutional framework for coordination. Furthermore, the PFM Act 2012 for example gives breakdown of roles of various agencies in managing public resources. The PFM Reform Strategy (PFMR 2019-2023) is anchored on the MTP-III. It aims at promoting transparency, accountability, equity, fiscal discipline and efficiency in the management and use of public resources for improved service delivery and economic development. The Government has registered huge progress in the implementation of PFM reforms which have helped to establish a solid foundation for PFM. Major PFM legislations for national and county governments were enacted. The re-engineering and roll out of the Integrated Financial Management Information System (IFMIS) has enabled the Government to strengthen controls and track budget execution. The general budget is made available on the website of the National Treasury. Accounting standards have been harmonised across all Ministries, Departments and Agencies and over 90% of the Government bank accounts are now opened and operated at the Central Bank of Kenya. These developments coupled with improvements in financial reporting have made it possible to prepare timely and consolidated financial statements.

Article 6 of the 2010 constitution creates a decentralized system of government wherein two of the three arms of government (the Legislature and the Executive) are devolved to the 47 Political and Administrative Counties. Devolution of government functions is one of the important initiatives in governance. Key millstones have been achieved in line with the objectives of devolution outlined in Article 174 of the Constitution. Several programs and policy, legal and institutional reforms were carried out to facilitate the implementation of devolution.

The Bertelsmann Transformation Index (BTI 2020) also highlights coordination mechanisms, including horizontal coordination - played by the Council of Governors, and vertical coordination - played by the Ministry of Devolution, following devolution of government structure. In addition, the National Development Implementation and Communication Cabinet Committee plays a crucial role in coordinating and supervising all national government-run projects as part of horizontal and vertical coordination throughout the country.

15.b. Service delivery and operational efficiency

Type de score	Valeur
Score de brouillon	4.0
Score révisé	4.0
Score de deuxième brouillon	4.0
Score final	4.0

Notes du pays:

The Kenyan authorities recognize that there is plenty of room to improve the performance of the public sector to enhance its contribution to the realization of Vision 2030 objectives through its implementation plans i.e., the Medium-Term Plans. The authorities recognize that public administration has, for many years, been characterized by poor performance, resulting in inadequate delivery of public services, which continues to hinder achievement of sustainable economic growth. Some of the factors that adversely affect the performance in the public sector include mismanagement of public resources, duplication/overlaps in mandates of various government agencies, and a bloated staff establishment. To improve performance, the government has continued to undertake several reform measures including streamlining functions at central and county government level through the devolution process, introduction of performance contracts, computerization of government services, and continuous personnel training. In addition, the Presidential Delivery Unit (PDU), established within the President's Office in 2015 to coordinate, monitor and evaluate national flagship projects; and Huduma Kenya, under the Ministry of Public Service Youth and Gender Affairs, aims to turn around public service delivery by providing efficient and accessible Government services through integrated service delivery platforms.

Although these measures have resulted into improvements in service delivery, particularly in health care, road network and general government devices, challenges still remain. For instance, even though clean and safe drinking water is delivered in urban areas, this is not the case in most rural areas. Also, adequate housing for all is far from reality as competing interests, and overlapping responsibilities between the Ministries, Departments and Agencies threaten to paralyze program development.

15.c. Merit and ethics

Type de score	Valeur
Score de brouillon	4.0
Score révisé	4.0
Score de deuxième brouillon	4.0
Score final	4.0

Notes du pays:

Kenya was ranked 13/54 on governance by the Mo Ibrahim index in the 2022 edition from 14/54 in 2021. The improved ranking was supported by upward movements in the scores of 'participation, rights and inclusion' and human development'. Similarly, in the 2022 edition of Transparency International's Corruption Perception Index (CPI), Kenya improved its ranking to 123/180 (score of 32) against 144/180 (score of 27)[i] in 2020. However, the 2022 edition of the CRFA shows that Kenya has high pressures (compared to capacity) in the following indicators: corruption and bribery; presence of armed conflict; access to justice; insecurity in neighboring countries (e.g., civil war in the Sudan); poverty and inequality; and vulnerability to natural disasters.

Kenya has the Ethics and Anticorruption Commission (EACC) established by Section 3(1) of the Ethics and anticorruption commission act of 2011. The EACC was lauded for its antigraft campaign recently. However, the judiciary is under heavy criticism for slow conviction in antigraft cases. The Anti-Corruption and Economic Crimes Act and the Witness Protection Act provide for protection of whistle-blowers and forbids any disciplinary action to be taken against any private or public employee who assists an investigation or discloses information for such an investigation. Kenya also has the Public Service Commission of Kenya (PSCK); it is entrusted with the responsible of ensuring transparency in public service recruitment and disciplining public servants. The PSCK is guided by the principle of meritocracy and in this regard, it ensures that only those best qualified are hired or promoted. This is confirmed when Senior level appointments are largely accepted by Parliament during vetting. It also carries out its mandate with impartiality in hiring, promoting and disciplining public servants. The list of shortlisted persons is published, and the final recruits are also published in local wide-circulation newspapers. The job vacancies are often posted on the PSCK website (http://www.publicserive.go.ke) together with the application procedures. The County Governments also established Country Public Service Boards as provided for in the County Government Act of 2012. The counties continue to publish the list of vacancies and list the shortlisted applicants and successful employees in the local media. However, it is widely reported that corruption and ethnic considerations are often a factor in hiring and promotion of staff in public service.

[i]The difference in score (i.e., 3) is statistically significant at 10% level of significance.

15.d. Pay adequacy and management of the wage bill

Aucune donnée de score disponible pour ce sous-critère.

16. Transparency, Accountability, and Corruption in the Public Sector

Score du critère: 3.167

16.a. Accountability of the executive to oversight institutions

Type de score	Valeur
Score de brouillon	3.5
Score révisé	3.5
Score de deuxième brouillon	3.5
Score final	3.5

Notes du pays:

Accountability/transparency: Kenya has scored between 25 and 32 out of 100 in the Corruption Perception Index (CPI) of Transparency International since 2012 showing slow progress to the fight against corruption. It scored 32 in 2022, which is an improvement over the score of 31 2020. The 2022 score is lower than global average of 43 and tied with sub-Saharan Africa average of 32. Kenya was ranked 123 out of 180 countries compared with 137 out of 180 countries in 2020. Transparency International recommends that conviction and recovery of assets are key indicators of success of the ongoing anti-corruption efforts that landed public officials in jail on suspicion of breach of conflict of interest. To tame corruption, the Ethics and Anti-Corruption Commission has stepped up efforts reduce corruption such as the National Social Security Fund (NSSF) concluded in 2022 that led to prosecution and fine to recovery Ksh. 9.8 billion. This (if followed through) is expected to escalate successes in the fight against graft. In addition, Kenya did not do well in Mo Ibrahim's Index (MII) of African Governance in Accountability and Transparency; its score increased in 2021 to 58.7 out of 100 compared with 57.8 out of 100 in 2020. The increase in the MII on governance was due to improvements in human development, access to economic opportunities and participation, rights and inclusion.

Several sources to contribute to corruption in Kenya as follows: public procurement associated with crime, misappropriation of funds, public service corruption, and corruption in land administration, corruption in customs administration among others. Several audits of public and private institutions have shown evidence of multifaceted sources of corruption. The forensic audit of spending by the Kenya Medical Supplies authority (KEMSA) in 2020 and the 2023 KEMSA mosquito funding by the Global Fund was cancelled due to numerous violations of the Public Procurement and Public Finance Management Acts. The country has instituted legislation to criminalize corruption namely through (i) the Anti-Corruption and Economic Crimes Act 2003 and Penal Code that criminalize corruption, active and passive bribery, bribing of foreign officials, money laundering, abuse of office, extortion, conflict of interest, bid rigging and bribery involving agents. (ii) Bribery Act of 2016 criminalizes primarily private sector bribery, broadly defined as "offering, promising, or giving a financial or other advantage to another person", which may include facilitation payments. The Act imposes a duty on public and private entities to have appropriate anti-bribery procedures in place. (iii) Public Officers Ethics Act 2003 sets rules for transparency and accountability, as well as gifts and hospitality. Every public officer is required to declare their income, assets and liabilities every two-years. (iv) Public Procurement and Asset Disposal Act prohibits corruption in public procurement. (v) Finance Act 2006 provides for measures against tax fraud and guidelines on tax administration; it also provides sanctions on corrupt practices. (vi) Proceeds of Crime and Anti-Money Laundering Act of 2009 provides a framework to avoid use of money deemed to be proceeds of crime.

Public Service Commissions Act has a Code of Regulations for civil servants that requires meritocratic recruitment and promotion of public officials. (vi) Access to Information Act 2016 provides a framework to facilitate access to information held by private bodies and promote routine and systematic information disclosure by both public service and private service.

In addition, Kenya has shown great commitment by strengthening its institutions to fight corruption. The country has already established a multi-agency framework that brings together relevant law enforcement agencies in its fight against corruption. The multi-agency framework on corruption in Kenya includes: Asset Recovery Agency, directorate of Criminal Investigations; Ethics and Anti-Corruption Commission; Central Bank of Kenya; Financial Reporting Center; Kenya Revenue Authority; Directorate of Public Prosecution, and Office of Attorney General. These agencies work in collaboration with others such as the office of the Auditor General (OAG) that provides assess of the use of public funds across Ministries, Departments and Agencies. The legislature, through its parliamentary National Assembly and Senate committees, also provide oversight roles and undertakes investigations to ensure comoliance and accountability in use of public resources by the executive. The government, through the multi-agency and multidisciplinary approach, has introduced the education curricula of the country studies on leadership, ethics and integrity for all its citizens including staff of Government. Furthermore, civil servants are required to fill their wealth declaration forms every two years to help government keep records and track individual wealth accumulation over time. Accordingly, many of Government agencies offer trainings to staffs on ways to prevent corruption and economic crimes while being inducted into service and this is also repeated severally within the active employment of staffs.

Furthermore, the President of the Republic of Kenya is required the Constitution to address the joint seating of the National Assembly and provide evidence of the executive's achievements in one calendar year and publish in a Gazette the same. This is also supported by the Auditor General whos is mandated under the Constitution of Kenya 2010 to prepare an annual audit report of public entities and present to the National Assembly by 31st December of every year. This has enhanced accountability of the executive by public entities in the use of resources.

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Furthermore, the President of the Republic of Kenya is required the Constitution to address the joint seating of the National Assembly and provide evidence of the executive's achievements in one calendar year and publish in a Gazette the same. This is also supported by the Auditor General whos is mandated under the Constitution of Kenya 2010 to prepare an annual audit report of public entities and present to the National Assembly by 31st December of every year. This has enhanced accountability of the executive by public entities in the use of resources.

16.b. Access of civil society to information on public affairs

Type de score	Valeur
Score de brouillon	3.5
Score révisé	3.5
Score de deuxième brouillon	3.5
Score final	3.5

Notes du pays:

The 2010 constitution (article 35) and Section 96 of the County Government Act, 2012 provide for the right to access of information. Access to information on public affairs is a key lever for good governance, transparency, accountability and rule of law. However, the rights were actualized only on August 31, 2016 with the signing by President Uhuru Kenyatta of the Access to the Information bill. According to the bill, public entities are obliged to make information public on request. This is to facilitate access to information for journalists, civil rights groups and activists to better understand important policy decisions that the government makes and the factual basis for the decisions. The extent to which this has contributed to Civil Society Organizations (CSOs) access to information is an empirical question. We have not come across a study on the applicability of these laws except for complaints from CSOs in various forums. Nevertheless, the fact that Kenya has laws in place that promote people’s right to access information is a step in the right direction. In addition, Kenya has an open data web portal accessible at http://opendatea.go.ke/. In addition, government documents are available to the public through web portal and via various websites of Government ministries and Departments. Additionally, the use of Huduma centers across the country has helped enhance the access to data albeit limited. These Huduma centers opened in each County and sub-County has offered an opportunity to receive and share data for use by different Government agencies. However, access to this data by CSOs remains a challenge which requires Government to develop a framework to support the same. In Kenya, significant parts of the media operate outside state corporations with print, audio and electronic largely in the hands of the private sector. Kenya has one of the more vibrant media landscapes on the African continent, with journalists actively working to expose government corruption and other wrongdoing. However, isolated cases of abuse and harrassment of journalists by the politicians and their goons have been reported. According to the press freedom index scores and rankings from Reporters Without Borders, Kenyan ranking declined from position 102th out of 180 countries in 2021 to 116th 2022, a clear indication that a lot still needs to be done.

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Kenya has made progress over time to enhance access to information and protection of data. In 2019, Kenya passed the Data Protection Act that was ascended by the President and became law. It has since been operationalized from 2021 after the Data Protection Commissioner was appointed. The Data Protection Commission Strategic Plan from 2022-2025 aims to ensure the right to privacy of information is safeguarded and well processed based on the dictates of the 2010 Constitution of Kenya. As such, the civil society and other stakeholders have access to information with proper safeguards to protect the interest of the citizens and concerned parties.

The 2010 constitution (article 35) and Section 96 of the County Government Act, 2012 provide for the right to access of information. Access to information on public affairs is a key lever for good governance, transparency, accountability and rule of law. However, the rights were actualized only on August 31, 2016 with the signing by President Uhuru Kenyatta of the Access to the Information bill. According to the bill, public entities are obliged to make information public on request. This is to facilitate   access to information for journalists, civil rights groups and activists to better understand important policy decisions that the government makes and the factual basis for the decisions. The extent to which this has contributed to Civil Society Organizations (CSOs) access to information is an empirical question. We have not come across a study on the applicability of these laws except for complaints from CSOs in various forums. Nevertheless, the fact that Kenya has laws in place that promote people's right to access information is a step in the right direction. In addition, Kenya has an open data web portal accessible at http://opendatea.go.ke/. In addition, government documents are available to the public through web portal and via various websites of Government ministries and Departments. Additionally, the use of Huduma centers across the country has helped enhance the access to data albeit limited. These Huduma centers opened in each County and sub-County has offered an opportunity to receive and share data for use by different Government agencies. However, access to this data by CSOs remains a challenge which requires Government to develop a framework to support the same. In Kenya, significant parts of the media operate outside state corporations with print, audio and electronic largely in the hands of the private sector. Kenya has one of the more vibrant media landscapes on the African continent, with journalists actively working to expose government corruption and other wrongdoing. However, isolated cases of abuse and harrassment of journalists by the politicians and their goons have been reported. According to the press freedom index scores and rankings from Reporters Without Borders, Kenyan ranking declined from position 102th out of 180 countries in 2021 to 116th 2022, a clear indication that a lot still needs to be done.

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16.c. State captured by narrow vested interests

Type de score	Valeur
Score de brouillon	2.5
Score révisé	2.5
Score de deuxième brouillon	2.5
Score final	2.5

Notes du pays:

Kenya's score on "Corruption Control" a sub-component of the Worldwide Governance Index (WGI) and its percentile rank has improved from 15 in 2017 to 24 in 2022[1]. The subdimension captures survey results on the perception that public power is exerted for private gain, petty and grand form of corruption as well as capture of the state by elites and private interests. The Ethics and Anti-Corruption Commission (EACC), responsible in the fight against corruption, in general, and state capture and vested interest groups, in particular. The EACC is empowered by various national legislations (e.g. the PFM Act 2012, the Ethics and Anticorruption Commission Act 2011, the Ethics and Anticorruption Commission (Amendment) Act 2015, Public Procurement and Disposable Act 2015, the Proceeds of Crime and Anti-money Laundering amendment Act 2017, and Conflict of Interest bill 2019) and international conventions (e.g. The African Union Convention on Preventing and Combating Corruption and the United Nations Convention against Corruption). The Anti-Corruption and Economic Crimes Act and the Witness Protection Act provide for protection of whistle-blowers and forbids any disciplinary action to be taken against any private or public employee who assists an investigation or discloses information for such an investigation. The EACC has investigated and concluded several cases in the last 5 years. Interestingly, the 1,906 cases handled by the EACC, 33% and 18% of them touched on bribery and misappropriation of public funds[2]. In addition, the government in a bid to tighten the anti-corruption laws, is working on a new bill. If approved by the Parliament, it would make mandatory for all state officers, including the Deputy President, to step aside if charged. The President is also pressuring the Judiciary to conclude graft cases within two years to increase conviction rates. Governments recent anti-graft campaign has resulted in an increase in the number of high-profile cases. However, low rate of conviction continues to bedevil government's commitment to the fight against corruption. [1] World Governance Indicators (2023)[2] EACC 2021/2022 report: https://eacc.go.ke/default/wp-content/uploads/2023/01/EACC-Report-text-B-16-1-23.pdf

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The Kenya government in collaboration with the legislature has introduced the senate oversight fund to be used to check for accountability of County governments. This committee is expected that started work in 2023 is expected to reduce corruption at County level and enhance governance and efficiency in service delivery.

For Kenya to realize the benefits of the Constitution of 2010 and the existing Acts of Parliament that address governance and state capture related issues, there is need to form a commission of inquiry on state capture to identify and propose reforms to mitigate the same. The current government during the elections of August 9th, 2022, promised to form the commission which to date remains a mirage. Therefore, it is expected that before 2027, the government forms this commission to address corruption and governance related issues on public resources utilization.

[1] World Governance Indicators (2023)

[2] EACC 2021/2022 report: https://eacc.go.ke/default/wp-content/uploads/2023/01/EACC-Report-text-B-16-1-23.pdf

(E) Infrastructure and Regional Integration

Score du cluster: 4.417

17. Infrastructure Development

Score du critère: 4.833

17.a. Sector strategy/policy

Type de score	Valeur
Score de brouillon	4.5
Score révisé	4.5
Score de deuxième brouillon	4.5
Score final	4.5

Notes du pays:

Investing in infrastructure development to unlock growth potential is one of the enablers for the Kenya Vision 2030 and the BETA. The enabler emphasizes on investments in transport (roads, rail, maritime, and air), energy, water and sanitation, and Information Communication and Technology (ICT). The government has shown commitment to the BETA (and the MPT IV) by allocating about KES. 468.2 billion (12.7% of total budget) in 2023/2024 budget to infrastructure development (energy, transport and ICT) and a further KES. 120.6 billion for environment, water and natural resources development[1]. This is an increase of over 10 billion compared with the 2022/2023 budget allocation. As a share of the total budget, the infrastructure budget reduced due to fiscal pressures instigated by the Covid-19 recovery efforts and the effects of Russia's invasion of Ukraine. Consequently, the GoK has prioritized completion of existing projects and implementation of projects that support productivity activities and enhance employment opportunities with sectoral inter-linkages.

In transport, the objective of the plan is to achieve faster and cheaper means of transport for freight and passengers[2]. Some of the completed major road construction projects include the US$ 1.0 billion Nairobi Express Way with a daily usage of 70,000 cars thus reducing traffic on other roads. The ongoing road construction projects include Kenol-Sagana-Maua dual carriage way, and the US$ 1.6 billion Rironi-Nakuru-Mau Summit dual carriage way (expected to commence in the last quarter 2021), among others. However, according to the Economic Survey 2023, the total expenditure on roads increased by 12% from KES 168.9 billion in 2020/21 to KES. 239.5 billion in 2023/2024, mainly due to expansion of road network in agricultural productive areas and private sector participation. In the 2023/24 budget, the following allocations have been made for the road sub-sector: KES 113.9 billion for the ongoing Road and bridges Construction; KES 80.1 billion for Rehabilitation of Roads; and KES 50.9 billion for Maintenance of Roads. In rail, the plan focuses on improving efficiency in cargo transportation by investing in Standard Gauge Rail (SGR). The construction of the first phase of the SGR (Mombasa-Nairobi) was completed in 2017 and phase 2A (Nairobi-Naivasha) in September 2019. The construction to extend the SGR from Naivasha and Malaba is planned and the Government is sourcing for fund to finance the project. In maritime, the plan is to enhance cargo handling and storage, and reduce the time to clear cargo. In this regard, the government completed the construction of phase II of container terminal at Mombasa, development of commercial ports at Lamu Port, and development of Kisumu Port. In air transport, the government completed the remodeling and upgrading of JKIA's Terminal 1B, C and D to raise passenger capacity to 10 million from its current level of 7.5 million. This saw the number of passengers handled at airports in Kenya increase from 6.7 million in 2021 to 10.2 million in 2022. The Government of Kenya has developed the National Maritime Transport Policy in 2022 aimed improving efficiency in maritime sub-sector. The Road Safety Action Plan 2021-2025 aimed at reducing road accidents by 50% in 2030.

In energy, the plan targets increasing access to electricity to 76.5% by 2022 from 32.0% in 2013. This is based on the objectives of the National Energy policy of 2018, to improve efficiency of energy services such as electricity across the country. However, the urban access to electricity stands at 100% compared to rural areas at 65%. This was be achieved by increased investment in the construction of more electricity substations, transmission lines and distribution transformers. According to the 2023 Economic Survey, the country managed to increase total installed capacity of electricity slightly to 3,321.6 in 2022 from 2,989.6 MW in 2021 with electricity generation rising by 10.8% during the same period. Total electricity demand increased from 12,414 in 2021 to 12,985 GWh in 2022. While the demand for electricity increased, hydro power generation reduced by 17.3% between 2021 and 2022 due to low rainfall and drought in parts of Kenya. To meet the market demand for increased electricity consumption, Geothermal electricity production increased by 25.6% followed by wind increased by 8% and solar power doubles to stand at 383.2 GWh. Transmission and electricity losses were reported at 2,955.5 GWh and this were occasioned by structural and policy related challenges. Energy production in Kenya is governed by the National energy policy aimed at ensuring affordable, competitive, sustainable and reliable supply of energy at the least cost to support the National Development Goals[3].

Water and sanitation fall under the third enabler – investing in sectoral transformation for broad based sustainable growth. The Government of Kenya has prioritized attainment of universal access to Water Services and Sanitation by 2030 as envisaged in Kenya Vision 2030 and the National Water Services Strategy (NWSS). The Government proposes to spur funding to the water, sanitation and irrigation sector. The funding required for universal access to water and sanitation by 2030 is KES 1.764 trillion which translates into an annual requirement of Ksh.100 billion of which only about KES 40 billion is availed. In order to bridge the financing gap, the Government of Kenya is looking towards involvement of the private sector in Private Public Partnerships to construct 100 large Dams. Access to water coverage was 62% for piped water systems in 2021/2022 in the regulated utilities, which is an improvement from 2020/21 where coverage was 60%. Sewered sanitation coverage is however low at 16% and the Government plans to increase the coverage in the investment plans. Development spending on water supplies and related services increased from KES 77.9 billion in 2021/22 to KES 83.9 billion in 2022/23, resulting in further increases in the number of water sources, water treatment plants and boreholes. As well as wastewater treatment plants and wastewater infrastructure.

In ICT, one of the important enablers, the Government, in 2019 announced the signing of two project implementation agreements, for a total amount of 590 million euros through concessional loans and public-private partnerships (PPP). This concerns the construction of a data center in the new "technological city" of Konza (70 km from Nairobi) by the telecommunications giant Huawei (154 million euros); and the construction of an express toll lane serving Nairobi's Jomo-Kenyatta International Airport (440 million euros), as part of a PPP with China Road and Bridge Corporation. Kenya remains a regional leader in terms of broadband connectivity, general ICT infrastructure, value added services, mobile money, and mobile banking services. The ICT sector is envisaged to account for up to 8% of GDP through IT-enabled services (ITES) and create more than quarter of a million jobs by the end of 2021. In the 2023/2024 national budget, the government allocated KES 15.1 billion to fund various initiatives in the ICT sector, including KES 4.8 billion for phase 1 of horizontal infrastructure at Konza city, KES 1.2 billion for Konza data center, KES 1.3 billion National Optic Fibre, KES 583 million for County last mile connectivity. While the sector is poised for continual long-term growth, it is estimated that total IT spending in Kenya will increase by 6.8% in 2023 on the account of high use of ICT services.

[1] Kenya National Bureau of Statistics - Economic Survey 2023

[2] Kenya Vision 2030

[3] National Energy Policy of 2018.

Investing in infrastructure development to unlock growth potential is identified as one of the policy priorities of the 4th Medium Term Development Plan (MTP-IV), implementiaton plan of Vision 2030. It includes transport (roads, rail, maritime, and air), energy and ICT. The government is committing not less than 15% of its total budget to infrastructure development.In transport, the objectives are achieving a faster and cheaper means of transport for freight and passengers. Expenditure on roads is expected to rise from KSh 177.1 billion in 2021/22 to KSh 191.4 billion in 2022/23. Development expenditure on roads is projected to increase by 1.7 per cent to KSh 124.2 billion in 2022/23. Road Maintenance Levy Fund (RMLF) serves as the primary source of funding for the annual road maintenance programmes. The length of unpaved roads decreased from 142.8 thousand kilometers in 2018 to 139.6 thousand kilomeers in 2022 while that of paved roads incresed from 18.7 thousand thousand kilometers in 2018 to 22 thousand kilometers in 2022. In rail, improving efficiency in cargo transportation. In maritime, enhancing cargo handling and storage, and reducing the time it takes to clear cargo. In air transport, raising passenger capacity. In energy, universal access to electricity (75% in 2023) by constructing more electricity substations (generation capacity increased from 2,989.6 MW in 2021 to 3,321.3 MW in 2022, transmission lines, distribution transformers, decrease in energy losses (24% in 2022), and increase generation mix towards renewable sources (89% in 2023 and share of geotermal, wind, solar and hydro have increased while termal oil decreased since 2018). In water and sanitation, construction of large-scale dams to increase water storage, complete water projects in urban and rural areas and expand sanitation infrastructure for a broad-based sustainable growth. In ICT, maintaining Kenya’s regional leadership role in broadband connectivity, general ICT infrastructure, value added services, mobile money, and mobile banking services.

17.b. Legal and regulatory frameworks for infrastructure

Type de score	**Valeur**
Score de brouillon	5.0
Score révisé	5.0
Score de deuxième brouillon	5.0
Score final	5.0

Notes du pays:

Kenya has comprehensive laws covering all aspects of infrastructure including roads, railway, air transport, energy, water and other forms of physical infrastructure. There are also adequate regulations covering all the infrastructure sectors (http://kenyalaw.org/kl/). There are no legal uncertainties and no recurrent challenges in legislation/regulations.

Infrastructure sector has human capacity including engineers, legal experts, financing experts, project/program management experts while there is also institutional capacity including courts, special parliamentary committees (e.g., the Parliament Committee for Transport, Public works and Housing for various infrastructure sectors). There are also ministries responsible for all segments of the infrastructure sector including: water and irrigation (http://www.water.go.ke/); energy (http://www.energy.go.ke); roads (http://www.transport.go.ke); transport; transport housing and urban development (http://www.transport.go.ke/) among others. There are also regulatory agencies including Energy Regulatory Authority (http://www.erc.go.ke); Kenya Roads board (http://www.krb.go.ke); whose mandate is to design and enforce infrastructure's laws and regulations. All these ministries and agencies have the required (human, financial and institutional) capacities to formulate plans for PPP. The PPP unit in the National Treasury is spearheading the negotiations with the various private companies and potential concessionaires. The unit is also providing advisory services for foreign companies. They are however limited in developing and in implementing capacity-building programs for public sector practitioners.

In addition, procurement in infrastructure projects, is governed by the Government Procurement and Asset Management Act 2015. This regulation entered into force on January 7, 2016, repealing the 2005 Law, with a Supervisory body "Public Procurement Oversight Authority" In Kenya, the Public Private Partnerships Act, 2013, was published in the Official Journal on January 25, 2013 and “received” by the National Legislative Council on March 11, 2013. This new law responds to a national development program "Vision 2030", the objective of which is to lead Kenya to a "middle-income" economy, in particular through the realization of major infrastructure projects and other sectors requiring significant investments. which cannot be fully supported by the Government. Three new institutions are created: The “PPP Committee” steers projects and prepares guidelines; "The PPP Unit", secretariat and technical support of the Commission; the “PPP Nodes”, established by each contracting public authority: they identify, analyze and determine priority projects, and ensure their proper management. Currently, there are major PPP infrastructure projects ongoing in the country, including the US$ 1.0 billion Nairobi Express Way and the US$ 1.6 billion Rironi-Nakuru-Mau Summit dual carriage way (construction works expected to commence in the last quarter 2021).

17.c. Public resource management and accountability in the infrastructure sector

Type de score	Valeur
Score de brouillon	5.0
Score révisé	5.0
Score de deuxième brouillon	5.0
Score final	5.0

Notes du pays:

Accountability/transparency: Kenya has scored between 25 and 28 out of 100 in the Corruption Perception Index (CPI) of Transparency International between 2012 to 2021, the score increased to 32 in 2022. As a result, its ranking improved to 123/180 in 2022 against 144 in 2020. Conviction and recovery of assets are key indicators of success of the ongoing anti-corruption efforts that landed public officials in jail on suspicion of breach of conflict of interest.

The following remain important sources of corruption in Kenya: Fund misappropriation, public procurement associated crimes, public service corruption, and corruption in land administration, corruption in customs administration. The country has instituted legislation to criminalize corruption namely through (i) the *Anti-Corruption and Economic Crimes Act 2003 and Penal Code* that criminalize corruption, active and passive bribery, bribing of foreign officials, money laundering, abuse of office, extortion, conflict of interest, bid rigging and bribery involving agents. (ii) *Bribery Act of 2016* criminalizes primarily private sector bribery, broadly defined as “offering, promising, or giving financial or other advantages to another person”, which may include facilitation payments. The Act imposes a duty on public and private entities to have appropriate anti-bribery procedures in place. (iii) *Public Officers Ethics Act 2003* sets rules for transparency and accountability, as well as gifts and hospitality. Every public officer is required to declare their income, assets and liabilities every two-years. (iv) *Public Procurement and Disposal Act* prohibits corruption in public procurement. (v) *Finance Act 2006* provides for measures against tax fraud and guidelines on tax administration; it also provides sanctions on corrupt practices.

Service Commissions Act has a Code of Regulations for civil servants that requires meritocratic recruitment and promotion of public officials. (vi) *Access to Information Act 2016* provides a framework to facilitate access to information held by private bodies and promote routine and systematic information disclosure by both public service and private service.

In addition, Kenya has shown great commitment by strengthening its institutions to fight corruption. The country has already established a multi-agency framework that brings together relevant law enforcement agencies in its fight against corruption. The multi-agency framework on corruption in Kenya includes: Asset Recovery Agency, directorate of Criminal Investigations; Ethics and Anti-Corruption Commission; Central Bank of Kenya; Financial Reporting Center; Kenya Revenue Authority; Directorate of Public Prosecution, and Office of Attorney General.

18. Regional Integration

Score du critère: 4

18.a. Movement of persons and labor and right of establishment

Type de score	Valeur
Score de brouillon	4.0
Score révisé	4.0
Score de deuxième brouillon	4.0
Score final	4.0

Notes du pays:

Kenya, being a member of EAC, allows residents, in accordance with the protocol of EAC to freely move goods, services, capital, labor, the right of establishment. EAC passport was allowed in 1999. It allows EAC citizens to travel freely in the EAC region for a period of six months. Article 10 of the EAC Common Market Protocol, allows workers from the two Partner States to accept employment within the territory of each other.

According to 2022 Visa Openness report, Kenya's visa openness index declined to 0.358 from 0.778 in 2019. As a result ,it ranking as the most visa open country decreased to 31/54 in 202219 from 20/54 in 2019. Kenya allows visa-free entry to citizens of 18 African countries while citizens of 35 countries must obtain before departure.

Kenya discontinued the visa on arrival at the end of 2020. From January 1, 2021, tourist visas are only available online. The change is part of the Kenyan government's move towards digitalization. All nationalities (except for 43 visa-exempt countries) are eligible for a Kenya eVisa. Travelers submit their requests online and receive the approved permit by email. This openness policy has enabled the country to substantially grow tourism revenues and foreign direct investment (FDI). In addition, Kenya's business environment has improved overtime despite persistent structural challenges. Kenya has also legislated laws that makes it attractive to foreign investors and promote FDI inflows, including revision of the taxation system to provide exemptions for investment in various industries. Some of these laws include the Companies Act, the Insolvency Act, the Special Economic Zone Act, the Business Registration Service Act and the Finance Act. Kenya ratified the EAC Common Market Protocol for free movement of labor and is implementing the COMESA Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements. On the other hand, Kenya is yet to ratify the COMESA Protocol on the Free Movement of Persons, Labor, Services, the Rights of Establishment and Residence, and the African Union Protocol related to the free movement of people, the right of residence and the right of establishment, which it signed in March 2018.

18.b. Regional financial integration

Type de score	Valeur
Score de brouillon	4.0
Score révisé	4.0
Score de deuxième brouillon	4.0
Score final	4.0

Notes du pays:

TThe EAC Customs Union protocol has provisions for service suppliers, providers and consumers from across the region with guarantees of equivalent treatment to local providers. Partner States are continuing to progressively open the following sub-sectors: (i) Business and Professional Services; (ii)

Communication Services; (iii) Distribution Services; (iv) Educational Services; (v) Financial Services; (vi) Tourism and Travel Related Services; and (vii) Transport Services. Partner States are to make commitments on the remaining 5 sectors (Health and Social Services, Construction and Related Services, Energy Services, Environment Services, and Movement of Natural Persons) plus additional commitments on the above indicated 7 service sectors in line with Article 23 (2) of the Protocol. In February 2021, the 40th meeting of the Council of Ministers agreed that the Act for the Establishment of the East African Monetary Institute (EAMI) comes into force on 1st July, 2021. Notice for the commencement of EAMI Act was gazetted in March 2021. The EAMI will be tasked with conducting a lot of the preparatory work for the creation of the East African Monetary Union.

The EAC region is characterized by small domestic financial systems that are dominated by the banking sector, with low levels of access to formal financial services. Kenya has been in the forefront of removal of the barriers and has taken the initiative to expand financial services across the regional member countries with several financial institutions establishing branches in the region. About 11 multinational and Kenyan owned banks use Kenya as a hub for their operations in the EAC region. There are four (4) Kenyan banks with branches within the region. These include Kenya Commercial Bank, Equity Bank, Fina Bank, and Commercial Bank of Africa. These banks have a total of 63 branches outside Kenya (16 in Tanzania, 31 in Uganda and 16 in Rwanda). There are 6 Kenyan insurance companies with branches within the region (with about 30 branches in the region), while several Kenyan stock broking firms have subsidiaries within the EAC region (including: Dyer and Blair Investment Bank, Faida Securities, and Kingdom Securities. This is additional to the mobile telephony financial services, which extend across the region including the M-PESA services.

Kenya plays a leading role in the East African Payment System (EAPS), facilitates payments across East African Community (EAC) using the 5 EAC currencies, and in the COMESA Regional Payment and Settlement System (REPSS) that enables users to make payments within the 19 Common Market for Eastern and Southern Africa (COMESA) countries in USD and Euro. Both EAPS and REPSS are integrated in the Kenya Electronic Payment and Settlement Systems (KEPSS). In April 2020, COMESA reported that, REPSS had recorded over $138 million dollars and nearly one million Euros in value transacted through the nine participating Central Banks (including Kenya) over the last five years ending 31 January 2020. Central Banks of Tunisia and Somalia are being engaged for admission, while non-COMESA countries like Ghana and Nigeria have expressed interest in joining REPSS. In April 2021, the Afreximbank launched the Pan-African Payments and Settlements System (PAPSS), which is being piloted in the ECOWAS region, with an amount of US$500 million to support the clearing and settlement for PAPSS in the West African Monetary Zone (WAMZ) countries. Afreximbank is in advanced discussions with other countries and regional payment systems, including, COMESA REPSS, Zimbabwe and Angola, for connection to the PAPSS post-pilot phase. EAC partner states are also working towards upgrading the underperforming regional electronic payment system (EAPS), and linking EAPS to other payment solutions in Africa. This would ease trade with the continent following the launch of the AfCFTA. The performance of the EAPS, which was launched in May 2014, has been hampered by the reluctance of member countries to trade in each other’s currency, leaving Kenya to account for over 98 per cent of the transactions through the system. The EAPS has faced challenges in funding arrangements of the regional currencies from regional commercial banks. The original funding model where participants sourced for funding of other EAC currencies from the market is proving expensive due to unavailability of partner States’ currencies in the local markets. The EAPS has also been constrained by the lack of an automated mechanism to confirm if messages sent by the local commercial banks have been received and settled in the respective central banks. This results in delayed feedback on the settlement of transactions from the regional counterparts. The absence of a centralised user support results in lengthy resolution of any problems with the usage of the system. Moreover, the lack of a single or harmonised operational platform also means that centralised liquidity and collateral management is not possible. There is need for a more harmonized legal and regulatory framework for the region.

EAC Partner States are also exploring the potential of a central bank digital currency (CBDC) and other possible technological innovations for their shared payment system for possible adoption by 2024 in line with the EAC's Monetary Union Protocol. A consultant to conduct an exploratory scoping of such developments was advertised in May 2021.

The EAC has a roadmap for capital market integration and regulation, beginning with a cross-listing initiative from the Nairobi Securities Exchange (NSE) to the regions three other bourses. In November 2020, Rwanda, Uganda, Tanzania, and Burundi announced the merger of their respective stock markets (Burundi is working to establish its stock exchange) through a decade-long automation project to attract investment. The automation means investors can now trade their stocks electronically across the borders in the region, eliminating the cumbersome process of physically transferring share certificates from one bourse to another before it is converted to an electronic format again. Kenya previously withdrew from the project in 2015 but has since formally expressed interest to rejoin given that the NSE is the region's dominant bourse. Challenges remain in the transition. For example, while the NSE and DSE (Tanzania) are both automated, the Uganda Securities Exchange (USE) and the Rwanda Stock Exchange (RSE) are still manual using the open-outcry trading system.

Kenya's payments environment continues to improve in terms of inclusiveness, efficiency and stability against the backdrop of legal and regulatory reforms and initiatives. The improvements are propelled by technological and operational innovations from Mobile Networks Operators (MNOs) and FinTech firms. Some of the recent efforts by the Central Bank of Kenya to improve operations in the financial sector and enhance integration include: introduction of interoperability to allow money transfers across different MNOs customers in 2018; providing guidelines to Payment Service Providers (PSPs) on Business Continuity Plan (BCP) and Escalation Procedures in 2018; issuing Cyber Security Guidelines to PSPs setting the minimum standards that PSPs should adopt to develop effective cybersecurity governance and risk management frameworks in order to maintain a sound, secure and efficient National Payment System in 2019; and continuous facilitation of compliance by the industry with the SWIFT Customer Security Programme (CSP) that describes a set of mandatory and advisory security controls for SWIFT users to safeguard against and respond to cyber-attacks when they occur.