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Final Report



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I. EXECUTIVE SUMMARY

An EU Election Follow-up Mission (EFM) was deployed to the Republic of Kenya from 2 February to 1 March 2025. The mission was led by Mr Ivan Štefanec, a former Member of the European Parliament and the Chief Observer of the 2022 EU Election Observation Mission (EOM) to Kenya. The main objectives of the EU EFM were to assess the progress made in electoral reform and the status of implementation of the 2022 EU EOM recommendations since the delivery of the final report, as well as to discuss ways to achieve further progress in this regard. During his visit to the country from 17 to 21 February 2025, Mr Ivan Štefanec met with various stakeholders involved in the electoral process. These included representatives from the Independent Electoral and Boundaries Commission (IEBC), relevant state institutions, political parties, civil society, media representatives and development partners.

The EU EFM noted limited progress in the implementation of the 2022 EU EOM recommendations with some positive movement in certain areas, as discussions on electoral reforms have commenced. Out of the 21 recommendations offered by the 2022 EU EOM, one recommendation regarding removing restrictions requiring an educational degree to stand has been partially implemented. For a few other recommendations, some actions or activities are ongoing, however with uncertain outcomes, several recommendations have not been addressed yet, and for many, it is still too early in the electoral cycle to assess their status. Twelve recommendations could be implemented through administrative actions, including eight through actions by the IEBC, while seven recommendations require legislative changes, such as reviewing existing laws or enacting new legislation, while two necessitate subsidiary legislation in the form of regulations by the IEBC. Political will is needed to address core reforms in a timely manner necessary for promoting transparency and ensuring key institutions' integrity and independent functioning before the next elections.

Since the elections in 2022, electoral reform proposals have primarily emerged from the National Dialogue Committee (NADCO) process. So far, the electoral reforms have mainly consisted of proposals related to technicalities and the passage of two laws: one regarding procedures for issuing regulations from regulatory authorities and the other aiming at ensuring the appointment of an IEBC board, albeit after considerable delays. However, most proposals in the NADCO reform process do not substantively tackle key legal gaps for elections, such as campaign finance oversight, unfair incumbency advantage, IEBC funding, and problematic online communication regulation – most key topics for reform identified by the 2022 EU EOM. To date, most proposals remain at various stages of the parliamentary review process.

Since January 2023, the IEBC has been without commissioners. The delay in appointing IEBC commissioners has resulted in ongoing postponements in holding by-elections and has postponed overdue constituency delimitation. Further, it has halted continuous voter registration and as a result delayed preparations for the 2027 elections. With almost two and a half years before the 2027 elections, the IEBC does not have an approved strategic plan that outlines in detail and with specific deadlines the actions and activities of the IEBC ahead and beyond the next electoral cycle. Consequently, an operational plan for the 2027 elections cannot be developed. A major challenge facing the IEBC ahead of the next elections is underfunding and delays in allocating funds.

Most EU EFM interlocutors raised concerns about the ability of a future commission to operate as an independent body in an objective and transparent manner, emphasizing that public perception of the IEBC is largely negative. The electoral management body is viewed as weak and susceptible to interference from the political establishment. At the same time, interlocutors acknowledged the immense pressure that will be exercised on the commissioners to deliver results. The reconstituted IEBC will have limited time to organise and conduct all pending by-elections, secure funding for the 2027 elections, approve the strategic plan, determine whether the review of constituency boundaries will take place before or after the next elections, resume continuous voter registration, prepare the operational calendar, and initiate overall preparations for the upcoming elections.

There is an urgent need for the IEBC board to be appointed swiftly and for the government to follow through with prompt and adequate funding for key electoral preparations, including ensuring the delivery of timely, efficient and inclusive voter education and voter registration. There is also a need to accelerate the reform process to strengthen protections of media freedoms, limit arbitrary action on fundamental freedoms and ensure the timely and robust prosecution of electoral offences and unlawful and arbitrary actions. These steps are vital to building trust in the upcoming elections. In this context, the prompt holding and effective management of delayed by-elections will be a crucial test for the new IEBC.

The window of opportunity for action ahead of the 2027 elections is rapidly closing. Key steps to regulate campaign funding and expenditure, essential to controlling the exorbitant costs of elections in Kenya and promoting the inclusion of women, youth, and other special interest groups, must be assured at least 12 months before the next elections. A similar time pressure applies to the overdue process of boundary delimitation.

There is still time for comprehensive and effective electoral reforms, provided the government and the legislature prioritise such reforms on their agenda. The IEBC, other independent state institutions, and a diverse range of civil society organisations appear ready to engage and support meaningful reform. However, progress is ultimately in the hands of the government and the legislature, and the responsibility is now on these offices to provide a clear roadmap, allay concerns about procedural delays and regulatory shortcomings, and ensure that elections in 2027 will be transparent, inclusive and peaceful.

The EU EFM organised a roundtable on 20 February with 28 electoral stakeholders to discuss progress in the implementation of the 2022 EU EOM recommendations and electoral reform in general. Participants agreed on the urgency for an independent, impartial, fully functioning and well-funded IEBC that enjoys the people's trust well ahead of the next elections and for enhanced stakeholder involvement in the electoral process. They also emphasised the importance of timely and meaningful electoral reforms to effectively address issues of protection of fundamental freedoms, inclusion, equal opportunities and accountability.

II. MISSION INFORMATION

An EU Election Follow-up Mission (EFM) was deployed to the Republic of Kenya from 2 February to 1 March 2025. The mission was led by Mr Ivan Štefanec, a former Member of the European Parliament and the Chief Observer of the 2022 EU Election Observation Mission (EOM) to Kenya. The EU EFM included two independent experts specialising in electoral and legal matters. The main objectives of the EU EFM were to assess the progress made in electoral reform and the status of implementation of the 2022 EU EOM recommendations since the delivery of the final report, as well as to discuss ways to achieve further progress in this regard.

During his visit to the country from 17 to 21 February 2025, Mr. Štefanec met with a wide range of stakeholders involved in the electoral process. These included representatives from the Independent Electoral and Boundaries Commission (IEBC), relevant state institutions, political parties, civil society, media representatives and development partners. On 20 February, the EU EFM organised a roundtable meeting with electoral stakeholders to discuss the progress made in implementing the 2022 EU EOM recommendations. On 21 February, in a press conference, Mr. Štefanec presented the preliminary findings of the mission. This report reflects the EFM's final assessment.

III. CONTEXT

A. POLITICAL CONTEXT

Following the 2022 general elections, President William Ruto of the Kenya Kwanza coalition came into power¹ on promises to create jobs, prioritise the needs of low-income earners and bring down the cost of living through a bottom-up economic model. However, the period following the 2022 general elections has been marked by growing dissatisfaction with his government. Financial hardships, driven by high inflation, rising public debt, reports of wastage of public funds, high unemployment and widespread corruption, have fuelled public discontent.

In May 2024, the government introduced the Finance Bill 2024, triggering extensive public debate and expression of dissatisfaction with the government's handling of economic issues, unemployment, corruption, and general questions surrounding accountability and transparency. The period following the introduction of the Finance Bill 2024 was marked by significant civil unrest, underpinned by deep-rooted political and economic grievances. Thousands of predominantly young protesters, self-identifying as Generation Z (Gen Z), initially took to the streets to oppose the controversial Finance Bill 2024. Their protests subsequently expanded to demand that the government address issues of inequality, corruption, and elite politics.

In response to the Gen Z protests, the President dissolved and reconstituted the cabinet, changed the leadership of the national police service, and declined to assent to the contested Finance Bill 2024. The President also announced several measures aimed at deepening accountability in

¹ On 13 September 2022, William Ruto was sworn in as the fifth president of the Republic of Kenya, securing 50.49 per cent of the votes compared to Raila Odinga's 48.85 per cent. After the results were declared on 15 August 2022, the presidential candidate Raila Odinga of the Azimio la Umoja coalition rejected the presidential election outcome and filed a petition with the Supreme Court. He urged his supporters to remain calm while awaiting the court's proceedings and ruling. The court dismissed his petition, and although Mr Odinga disagreed with the ruling, he accepted it.

public service, combatting corruption and improving governance. The Gen Z protests raised new concerns about human rights violations and restrictions on civic space as police used excessive force against the demonstrators, resulting in numerous casualties. The police's actions during the protests represent a significant setback to the country's democratic progress.²

In the aftermath, various human rights and civil society bodies reported a crackdown on freedom of expression, including forced disappearances of civilian activists and other human rights abuses, clouding the political atmosphere and raising concerns for democratic and human rights backsliding. Since the anti-government protests across the country in June 2024, at least 82 people have been kidnapped, and 29 remain missing according to the Kenya National Commission for Human Rights.³

Although the next general elections are more than two years away, the country seems to be already in campaign mode, with presidential contenders seeking to form fresh coalitions and new aspirants declaring their interest in challenging the established political elite. The Gen Z movement is also exploring ways to express, sustain, and expand its momentum, with the potential to evolve into a leading political force.

B. ELECTION INSTITUTIONAL CONTEXT AND ELECTION-RELATED DEVELOPMENTS

The IEBC is a constitutional, independent, and permanent body responsible for conducting referenda and elections for any elective body or office established by the Constitution.⁴ The IEBC consists of a chairperson and six members, selected through an open and competitive process and appointed by the president for a six-year, non-renewable term, subject to prior approval by the National Assembly. The management of operations is carried out by the Secretariat, headed by the Chief Executive Officer (CEO).

The 2022 EU EOM Final Report noted that the IEBC's administration of the 2022 general elections was challenged by limited financial and human resources, a lack of effective communication that undermined transparency, and political divisions among its members. It also called into question the institutional independence of the body, which needed to be further reinforced. The late start in preparations by the IEBC resulted in many elements of the election process not being considered as early as they should have been in the electoral cycle and resulting in issues being dealt with in an *ad hoc* manner rather than systematically. The IEBC's difficulties were further compounded by ongoing complaints and appeals regarding various phases of the process, with decisions often coming late and challenging the IEBC's implementation. Another key factor in the 2022 general elections was the results transmission

² As reported, among others, by [the Kenyan Human Rights Commission](#), [FreedomHouse](#), [Human Rights Watch](#), and [Amnesty International](#).

³ [Kenya National Commission on Human Rights \(KNCHR\) statement](#).

⁴ The IEBC is responsible for conducting continuous voter registration, delimiting constituencies and wards, and regularly updating the voters' roll. In addition, the IEBC regulates the process by which political parties nominate candidates for elections, monitors compliance with legislation relating to the nomination of candidates by political parties and conducts the registration of candidates for elections. Further, it conducts voter education, facilitates national and international observation and develops and enforces a code of conduct for candidates and political parties contesting the elections. The functions of the IEBC also include the settlement of electoral disputes, including disputes related to or arising from candidates' nominations, but excluding election petitions and disputes to the declaration of election results. The law provides the IEBC with the power to regulate campaign spending.

process, which resulted to be complicated and time-consuming despite the technology employed.⁵

In January 2023, the IEBC published its post-election evaluation report for the 9 August 2022 general elections (herein, post-election report).⁶ According to the post-election report, some notable achievements included a significant increase in the number of registered voters and accredited observers, extensive engagement with stakeholders, successful collaboration with the security agencies to enhance electoral security and the deployment of election technology to improve efficiency in the conduct of elections. However, the IEBC faced several challenges, such as delayed disbursement of funds, which hindered compliance with constitutionally mandated electoral timelines and procurement laws. This delay also reduced the time available to test the electoral technologies before deployment. Further, delayed enactment of proposed amendments to existing legislation impacted the management of elections. The post-election report offered key recommendations for improving electoral processes, such as appointing IEBC commissioners at least two years before the general elections and operationalising the IEBC Fund. In addition, the IEBC proposed to improve engagement with the parliament to expedite proposed amendments and enhance collaboration with electoral stakeholders, along with providing suitable assistive measures for persons with disabilities to ensure inclusivity in the electoral process.

While the IEBC Chairperson and two commissioners declared the results on 15 August 2022, four commissioners, including the vice-chairperson, held a press conference stating that they “disowned” the results.⁷ In December 2022, President William Ruto suspended the four commissioners and formed a tribunal, at the request of the National Assembly, to investigate any constitutional violations or “gross misconduct” the commissioners may have committed. Three commissioners, including the vice-chairperson, resigned days after being suspended. Only one commissioner faced the tribunal, which recommended her removal for gross misconduct. The terms of the remaining three commissioners, including the Chairperson, expired shortly after, on 17 January 2023.

Since January 2023, the IEBC has been without commissioners. IEBC’s Secretariat remains operational but limited in their operational mandate in the absence of a board. In February 2023, President William Ruto appointed a selection panel to recruit a new chairperson and members for the IEBC. However, despite advertising the position requirements, the panel did not proceed with shortlisting or interviewing candidates due to political tensions. In early March 2023, the opposition rejected the panel and called for reforms, accusing the President of intending to appoint commissioners that will favour him during the 2027 general elections. During the opposition protests from March to July 2023, the opposition continued to demand a review of the appointed selection panel for the IEBC.

On 27 January 2025, the Chief Justice swore in a new statutory panel appointed by the President to recruit the Chairperson and commissioners of the IEBC.⁸ The selection panel received 1,356

⁵ [EU EOM Kenya 2022 Final Report](#)

⁶ [IEBC post-election evaluation report for the 9 August 2022 general elections](#)

⁷ Vice-chairperson Juliana Cherera and commissioners Justus Nyangaya, Irene Masit, and Francis Wanderi were the four members of the IEBC who “disowned” the election results.

⁸ See also **Election Reform Initiatives section**.

applications.⁹ According to the timeline, the selection panel anticipates concluding the interviews by April 2025, forwarding the names of successful applicants to the President on 25 April, with the new commissioners expected to be in office by June 2025.¹⁰

The deadlock in appointing IEBC commissioners has resulted in ongoing delays in holding by-elections (five for the National Assembly and four at the county level) and has postponed overdue constituency delimitation. Further, it has halted continuous voter registration and delayed preparations for the 2027 general elections. Almost two and a half years before the 2027 general elections, the IEBC does not have an approved strategic plan that outlines in detail and with specific deadlines the actions and activities of the IEBC ahead and beyond the next electoral cycle. With support from IFES, the Secretariat has prepared a draft strategic plan, which requires the Commissioners' approval. Consequently, an operational plan for the 2027 general elections cannot be developed.

A huge challenge that the IEBC faces ahead of the next elections is its underfunding and delays in allocating funds. The IEBC has requested a budget of KSH 61 billion (approximately EUR 435 million) for the 2027 general elections, but the government has allocated only KSH 55 billion, (approximately EUR 390 million), with a request that it be spread over five years. The estimated cost of replacing and updating the election technology for conducting the elections is around KSH 10 billion. (approximately EUR 71 million). To address this funding gap, the IEBC must seek support from development partners, especially for voter education campaigns and training of electoral staff. Kenyan elections are among the most expensive elections in the world. According to the IEBC, the cost of the elections remains very high, mainly due to negative perceptions and overall mistrust in the involved institutions and the electoral process itself, forcing the IEBC to rely on election technology to ensure, among others, the integrity of the electoral process.

Most EU EFM interlocutors raised concerns about the ability of a future commission to operate as an independent body in an objective and transparent manner, emphasizing that public perception of the IEBC is largely negative. The electoral management body is viewed as weak and vulnerable to interference from the political establishment. The reconstituted IEBC will have limited time to organise and conduct all pending by-elections, secure funding for the 2027 elections, approve the strategic plan, determine whether the review of constituency boundaries will take place before or after the next elections, resume continuous voter registration, prepare the operational calendar, and start the preparations for the upcoming elections

⁹ The selection panel received 1,848 applications. However, some were duplicates or not properly filed, reducing the total number to 1,356. Of these, 37 were for the chairperson position and 1,319 for the commissioners' positions.

¹⁰ Upon completing the public interviews of the shortlisted applicants, the panel will select two persons qualified for the position of Chairperson and nine persons for the positions of the members of the IEBC and forward them to the President. These names will then be submitted to the President. The President will subsequently nominate one person for appointment as the Chairperson and six individuals for appointment as commissioners. Within seven days of receiving these names, the President will submit the list of nominees to the National Assembly for approval. After Parliament concludes the exercise, the names will be returned to the President. The President will then appoint the Chairperson and the commission members within seven days of receiving the approved names from the National Assembly through a notice in the Gazette.

C. ELECTION REFORM INITIATIVES

Per its 2022 post-election evaluation report, the IEBC submitted to parliament draft laws to address gaps in the legal framework but noted that its proposals “*were not enacted, thus negatively impacting the conduct of elections*”. Since then, political manoeuvring, social unrest, and court disputes have, in one way or another, underpinned a continuing lack of tangible electoral reforms.

Anti-government protests in mid-2023 prompted a bipartisan parliamentary National Dialogue Committee (NADCO), from which nine draft laws (the NADCO Bills) emerged. These bills comprise various constitutional and legislative reform proposals, with a stated aim to address various societal concerns, implement aspects of court rulings, and respond to some gaps in election rules.¹¹ A tenth draft law also emerged out of a parallel Multi-Sectoral Working Group (MSWG) focusing on ways to implement constitutional principles for women’s representation.¹²

Most proposals, mainly addressing technicalities, do not substantively tackle several key legal gaps for elections, such as campaign finance oversight, unfair incumbency advantage, IEBC funding, and problematic online communication regulation – all matters for reform identified by the 2022 EU EOM. The majority of proposals remain within various stages of parliamentary review processes.

To date, only two draft laws from NADCO/MSWG are enacted. One relates to Statutory Instruments (subsidiary law) which appears to make it easier to nullify regulations (emanating from regulation issuing authorities) than the bill originally proposed by NADCO.¹³ The other bill, adopted in 2023, addresses the reconstitution of the IEBC board. It was enacted only after a muddled and delayed process, at times interrupted by court challenges.

A 2023 law amended the makeup of the legally prescribed seven-member selection panel for recruiting IEBC board members.¹⁴ That law was struck down by the High Court in late 2024 based on inadequate public consultation. Meanwhile, NADCO’s IEBC (Amendment) Bill (the IEBC Bill)—was published,¹⁵ prescribing an alternative larger nine-member selection panel (with five political nominees). This model was eventually adopted via the IEBC (Amendment)

¹¹ Five of the NADCO bills relate to elections: 1) the Constitutional Amendment Bill, 2) the IEBC (Amendment) Bill, 3) the Elections (Amendment) Bill, 4) the Electoral Offences (Amendment Bill), and 5) the Political Parties (Amendment) Bill. Other bills include 6) Statutory Instruments (Amendment) Bill, 7) Leader of the Opposition Bill, 8) National Government Co-Ordination Bill, and 9) Ethics and Anti-Corruption (Amendment) Bill.

¹² This proposal is discussed in further detail in the section on implementation of EU recommendations (legal framework)

¹³ NADCO proposed that a regulation making body would submit regulations to a parliamentary committee and with a seven-day notice or reminder period. The enacted provision places the referral duty in the hands of the responsible Cabinet Secretary with a possible nullification of regulations with limited notice. If a Cabinet Secretary is unavailable or unwilling to comply, it is unclear if the submission of regulations in the alternative by a regulatory-making body itself would be acceptable under the new rules.

¹⁴ [Independent Electoral and Boundaries Commission \(Amendment\) Act, 2023](#) amended the [Independent Electoral and Boundaries Commission Act, 2011](#)

¹⁵ [Independent Electoral and Boundaries Commission \(Amendment\) Bill, 2024](#)

Act of 2024 (the 2024 Act).¹⁶ However, appointments to the selection panel were stalled by legal challenges,¹⁷ although the courts eventually cleared the way for those appointments – but only on 27 January 2025.¹⁸

In addition to kick-starting the selection process for IEBC members, the 2024 Act also made some key amendments to decision-making procedures applicable to a future IEBC board. Of note is that the quorum has increased from three to five, raising the bar for IEBC decisions. Further, whereas previous decision-making was based on a majority vote of those present and voting, this is now replaced by a majority of all the members. Such thresholds could represent stumbling blocks for timely, effective IEBC decision-making going forward, although the decision to move to absolute majority voting appears to stem from previous court decisions mandating the same.

The 2024 Act also amended some procedures for the delimitation of boundaries by IEBC, including requiring IEBC proposals to be submitted to each house of parliament for separate deliberation and recommendations as opposed to the joint consideration previously articulated in the law. The constitutional period for undertaking boundary delimitation has already passed, and the process remains stalled in the absence of an operational IEBC board. The IEBC Secretariat recently approached the Supreme Court for an opinion as to whether they can proceed without a board in place, but the state is objecting on the basis that the relevant timelines have lapsed and also citing pending legal reforms.¹⁹

Aside from the timing of delimitation, NADCO's draft law to amend the Constitution deals with various governance, institutional, technical and administrative issues and might suggest limited potential for substantial impact on election processes.²⁰ However, some reform proposals are relevant to elections and this includes proposals increasing the Senate term to seven years, removing the candidate dispute adjudication from the IEBC, mandating state and public officers comply with court orders, and adding additional duties for political parties. Among positive aspects were proposals to disincentivise floor-crossing for elected members and provide seven additional days for the Supreme Court to hear and determine any disputes over presidential results. Still, discussions around this bill also exposed some inadequacies and points of potential contention thus the potential for enactment of some or any of the suggested reforms remains unclear.

¹⁶ [Independent Electoral and Boundaries Commission \(Amendment\) Act, 2024](#). The Judicial Service Committee remained. Five political appointees—two from each of the majority and minority parties and one from a small party—were appointed.

¹⁷ [Njogu v Attorney General & another \(Constitutional Petition E043 of 2024\) \[2025\] KEHC 301 \(KLR\) \(24 January 2025\) \(Judgment\)](#)

¹⁸ [IEBC Selection Panel Appointed](#)

¹⁹ A NADCO proposal for constitutional amendment is to allow parliament to extend the timeline for conducting delimitation exercises. See the Constitutional Amendment Bill in [NADCO REPORT](#), page 367 (section 2A). It is unclear at what stage this proposed amendment is being considered. Based on the parliament's own bill trackers as of 20 February 2025, this matter is not among the provisions contained in several listed draft constitutional reforms.

²⁰ Various of its proposals, *prima facie*, seem more concerned with political stakeholder interests, such as in plans for embedding the offices of prime minister and leader of the opposition, recognising (undefined) international legislative bodies, and creating new constitutional funds for constituency development and senate oversight and raising funding to county governments.

The National Assembly Departmental Committee on Justice and Legal Affairs²¹ reviewed these NADCO proposals in late 2024, and some of its opinions exposed disagreement among members. For example, the proposal to extend the Senate term was assessed as adding further costs and entailing much wider reform than just amending the term. The Committee agreed with the MSWG proposals to increase women's representation in the National Assembly, although a minority view considered reforms would need a popular referendum rather than implementation by parliament alone, thus flagging potential legal complexities ahead.

Legal changes tendered for the Elections Law 2011 (previously amended in 2016 and 2017) envisage mostly technical adjustments such as distinguishing between candidates' nomination and registration processes, adding requirements for coalitions to notify the IEBC of their internal rules for candidate nominations, revisions for oversight of intra-party candidate nomination processes, and requiring the IEBC to conduct post-election reviews to be published and submitted to the parliament. Still, positively, a number of proposed additions to the law emphasise the duty of the IEBC for disclosure of information, access to technology and information including by persons with disabilities. Fixed timeframes are also proposed for the disclosure of information for scrutiny of votes when the courts request it from the IEBC.

Among the nine NADCO bills, one of the draft laws proposes amendments to the Electoral Offences Act 2016. This adds two new offences, both imputable to the IEBC or IEBC staff, namely a prohibition on undue delay in declaring results and a ban on holding elections in a polling station other than those published in the national gazette. This latter proposal, as currently framed, may require further consideration, as such a proposal could constrain the IEBC from responding to urgent polling station relocations less than three months prior to elections as foreseen by law.

NADCO also introduced a Political Parties (Amendment) Bill, replacing the Office of the Registrar of Political Parties with a five-member commission. Most EU EFM interlocutors agreed with the proposal in principle; however, unlike other state commissions which have a constitutional basis, the Independent Political Parties Regulatory Commission, proposed in the bill, would be a commission rooted only in legislation. The proposed model could potentially become politicised as the members are to be drawn, two each from, the parliamentary majority and minority in parliament and a fifth from the Parliamentary Service Commission. The complications this could entail were exemplified during the EU EFM after a High Court ruling in February 2025, striking down the National Assembly Speaker's 2022 decision to declare the majority group in parliament despite uncertainty about whether some elected members had officially changed allegiance. The case is being appealed but underscores how parliamentary decision-making can potentially disrupt politically populated institutions.

Outside of the NADCO and MSWG processes, a number of other bills have been presented in either or both houses of parliament. Positively, a draft law on the rights of persons with disabilities, if enacted, would address a gap identified by the 2022 EU EOM to reflect the UN Convention on the Rights of Persons with Disabilities in domestic law. However, other draft laws in the pipeline could prove contentious or problematic if enacted in their current form, such as a draft Assembly and Demonstrations Bill, which EU EFM stakeholders opined

²¹ [National Assembly Departmental Committee on Justice and Legal Affairs Report](#) approved 2 October 2024.

contained ambiguous language prejudicial to rights of assembly,²² while potential reforms to laws on cyber security may also further impinge on freedom of expression.

IV. IMPLEMENTATION STATUS OF EU EOM RECOMMENDATIONS

The assessment of the status of implementation of the 2022 EU EOM recommendations shows limited tangible progress. However, there is some positive movement in certain areas as discussions on electoral reforms have commenced. Out of 21 recommendations offered by the 2022 EU EOM, including seven priority recommendations, all remain relevant. The recommendation to remove restrictions requiring an educational degree to stand has been partially implemented.²³

For four recommendations, actions or activities are ongoing, but those remain at the level of proposals at an early stage. These include recommendations implementing constitutional principles for representation of women, persons with disabilities and other special interest groups, strengthening IEBC's communication strategy and stakeholder consultation throughout the electoral cycle, operationalising the Election Campaign Financing Act to regulate campaign expenditures effectively, and aligning the legal definition of hate speech with international commitments.²⁴

It is too early in the electoral process to assess the overall status of the implementation of ten recommendations related to the training of electoral staff, the use of electoral technology, implementation of special voting procedures for specific categories of voters, enhancing protections for journalists, tackling online disinformation and bolstering fact checking measures, improving accessibility to voting for persons with disability and strengthening protections for the secrecy of the vote, and clear procedures and transparency during results tallying processes.²⁵

Six recommendations have not yet been addressed. These include recommendations improving timelines for pre-election disputes, implementing continuous voter registration as envisaged in law, conducting continuous voter education, removing unfair incumbency advantages in legal rules for campaigning, revising unduly invasive aspects of the cybercrime legislation, and extending legal accountability for advertising spending to the online space.²⁶

Out of 21 the recommendations, seven recommendations require legislative changes, such as reviewing existing laws or enacting new legislation, while two necessitate subsidiary legislation in the form of regulations by the IEBC. Twelve recommendations could be implemented only via administrative actions, among them eight by the IEBC on matters including continuous voter education, improved staff training, enhanced procedures around technology use, continuous voter registration, and strengthening voting and results procedures.

²² For example, the draft law does not precisely define the [term "unlawful assembly."](#) Although it does cross-reference the penal code, the matter could be clarified.

²³ 2022 EU EOM Final Report, Recommendation no. 3.

²⁴ 2022 EU EOM Final Report, Recommendations No. 1, 4, 12 and 14.

²⁵ 2022 EU EOM Final Report, Recommendations No. 5, 7, 8, 10, 13,17, 18, 19, 20 and 21.

²⁶ 2022 EU EOM Final Report, Recommendations No. 2, 6, 9, 11,15 and 16.

The text below and Annex B provide a detailed overview of each recommendation's implementation status. This assessment reflects the status as of March 2025 and is based on the information gathered by the EU EFM.

A. LEGAL FRAMEWORK

The 2022 EU EOM concluded that a very good constitutional framework exists in Kenya for democracy, political rights, inclusion, and affirmative action. However, the mission also found gaps between Kenya's international commitments, legal guarantees, and domestic implementation, notably for women's participation, the political rights of marginalised groups, and persons with disabilities. A key constitutional principle stipulating a maximum of two-thirds of one gender in the National Assembly has not been met despite several past legal efforts and various judicial orders directing parliament to address the matter.²⁷ Thus far, women's national representation is heavily dependent on reserved seats. Meanwhile, the UN Convention on the Rights of Persons with Disabilities has also not been fully transposed into law, and there is no dedicated legislation for special interest groups among them ethnic and marginalised communities. The 2022 EU EOM, therefore, recommended "***Enact constitutional affirmative action provisions. In particular, the application of the 2/3 gender principle, the application of the principle that 5 per cent of members of elected bodies are persons with disabilities and provisions on the inclusion of marginalised ethnic minorities***" (Rec #1).

Work is ongoing through various consultation actions and draft laws. During its 2022 campaign, the Kenya Kwanza manifesto committed to realising the two-thirds gender principle within 12 months of elections. In August 2023, the ministry responsible for gender matters established a Multi-sectoral Working Group (MSWG) tasked to propose a framework for implementing the two-thirds gender principle.²⁸ The resulting MSWG report²⁹ acknowledges that the First-Past-the-Post electoral system is not conducive to realising the two-third principle through elective seats alone. The MSWG noted electoral system reform as a possible long-term response among a broad range of proposals. However, it was reluctant to advocate such deep constitutional changes necessitating a referendum. The MSWG proposed an alternative solution whereby, after elections an underrepresented gender is "topped up" from zebra-format political party candidate lists.

Subsequent deliberations on the MSWG proposals exposed differences of opinion as to whether the solution offered, despite being informed by expert knowledge, could be achieved without a referendum and cast doubt on implementation before the next elections.³⁰ Meanwhile, a draft

²⁷ In 2012, the Supreme Court set a deadline for the matter to be resolved by 2015. Several attempts to legislate the matter before and after were made, but all failed either because they were lapsed or were not debated.

²⁸ The MSWG preceded NADCO and was established already ten months into the government term, see Gazette Notices No. 10848 dated 15 August 2023 and No. 11090 dated 25 August 2023. The 31-member MWG comprised individual experts, state bodies, civil society and religious organisations.

²⁹ The [report](#) was presented to the ministry on 23 February 2024 within a mandated six-month deadline and laid before the National Assembly on 27 February 2024.

³⁰ National Assembly Departmental Committee on Justice and Legal Affairs [Report on Consideration of the Reports of the National Dialogue Committee \(NADCO\) and the Multi-Sectoral Working Group \(MSWG\) on the Realisation of the Two-Thirds Gender Principle](#), 2 October 2024.

law is also under consideration to implement the five per cent principle for persons with disabilities, though representative organisations are also not optimistic about its adoption.³¹

Candidates for elective offices in Kenya must satisfy various qualifying criteria, including a condition to hold a university degree, which the 2022 EU EOM found to be at odds with the authoritative interpretation of the International Covenant on Civil and Political Rights. Equally, the 2022 EU EOM found that constitutional prohibitions on candidacy for persons with disabilities, including intellectual, did not align with the position of the UN Committee on the Rights of Persons with Disabilities where it called for such prohibitions to be repealed. As such, the 2022 EU EOM recommended that “*Consideration could be given to remove restrictions on the right to stand for elections for a person with intellectual disabilities as well as restrictions requiring an educational degree to stand*” (Rec #3). This recommendation has only been partially achieved. Just prior to the 2022 elections, the courts struck down a section of the Election Act 2011 mandating university qualifications for candidates to the National Assembly.³² The offending provision remains on the statute books, but one of the proposals emanating from NADCO is to delete the section to align with the court order. Thus, the recommendation could be cemented in law if the NADCO proposal is adopted. Still, the requirement continues to apply for higher offices such as president and governor. There are no indications of intention to lift the restrictions applicable to persons with disabilities. There is, however, an evolving jurisprudence in Kenya on the rights of persons with disabilities, which could pave the way for greater inclusion in the future.

B. ELECTION ADMINISTRATION

The 2022 EU EOM noted that stakeholders' perception of constituency and county officials' information-sharing was positive overall. However, the IEBC tended to be more reactive than proactive in communicating with external stakeholders, sometimes only releasing crucial information on sensitive matters after problems had occurred. Although the IEBC made daily use of its social media accounts and established a public information and call centre as well as a press centre at the national tally centre, its website lacked necessary information and was not updated on a regular basis. These observations were the basis for the 2022 EU EOM to recommend “*IEBC to strengthen its communication strategy to provide continuous comprehensive, prompt information to election stakeholders and to undertake regular and structured stakeholder consultation throughout the electoral cycle*” (Rec# 4).

Some action or activity is ongoing, although at an early stage to address this recommendation and enhance IEBC communications. In its post-election evaluation report, the IEBC concluded that the Commission conducted 1,023 stakeholder *fora* with state and non-state actors at national, county and constituency levels to share information and seek areas of collaboration in the electoral process. The IEBC acknowledged that budgetary constraints inhibited continuous stakeholder engagement and proposed filling budget deficits and implement continuous stakeholder engagement, especially at the grassroots level. According to the IEBC Secretariat, the draft strategic plan, pending IEBC's board approval once in office, reconfirms the

³¹ The [Constitution of Kenya \(Amendment\) Bill 2024](#).

³² [Election Act 2011, section 22](#). And [Musyoka v Returning Officer, Independent Electoral and Boundaries Commission, Machakos County & 3 others \(Constitutional Petition E004 of 2021\) \[2022\] KEHC 160 \(KLR\) \(11 February 2022\) \(Judgment\)](#)

willingness of the IEBC to strengthen information-sharing and consultation with stakeholders and incorporates a thorough review of IEBC's communication policy, including developing a social media strategy to reach out to youth. Additionally, it involves efforts to enhance relations with media outlets and adopt continuous training and capacity building for media on the electoral processes.

The 2022 EU EOM, in its Final Report, concluded that the decentralised recruitment of polling station staff was conducted transparently and effectively, and the IEBC demonstrated competence in delivering cascade training for all levels of permanent and temporary election officials according to the schedule. IEBC staff and participants reported that the training was more intensive and practice-oriented than in past elections. However, the 2022 EU EOM observers noted that limited focus was placed on filling out the polling station statutory form and diary and correctly packaging sensitive materials. On election day, 2022, EU EOM observers reported that several forms arrived incomplete at the constituency tallying centres, and materials were often placed in the wrong envelopes. Thus, the 2022 EU EOM recommended ***“The training of electoral staff to be improved, especially of the presiding officers. Consideration could be given to complement regular training before elections with a knowledge-based online system for all IEBC staff”*** (Rec# 5).

It is too early in the electoral cycle to assess the status of this recommendation on training. In its post-election evaluation report, the IEBC noted that despite improvements in the quality and content of the training for electoral officials, delays in parliamentary approval of legal reviews and last-minute court decisions had negative implications for the content of the training. Moreover, the IEBC admitted that inadequate resources and limited time for the training impacted the overall quality and thus proposed early recruitment of staff and early planning and training provided that adequate resources have been secured. The IEBC Secretariat explained to the EU EFM that the draft strategic plan incorporates tailor-made training, which considers specific needs and priorities, including a more comprehensive training programme for the National Tallying Centre.

C. ELECTORAL TECHNOLOGY

The Elections Act establishes an integrated electronic electoral system that enables biometric voter registration, voter identification and transmission of results. The 2022 EU EOM noted in its Final Report that the IEBC did not publish the evaluation of any election-related procurement processes, undermining transparency and leaving room for assumptions. Further, the audit of the register of voters contracted by the IEBC to an external audit firm revealed severe information security vulnerabilities which impede the accountability of unauthorised operations, such as voters' disfranchisement, besides being against data privacy regulations. The lack of information about the audit execution, its findings and the subsequent improvements undermined the audit's potential to enhance public confidence in the election technology and contributed to speculation.

The lack of information-sharing, coordination and planning between all involved agencies further undermined public trust. These observations led the 2022 EU EOM to recommend ***“IEBC to improve public communication on procurement processes and the suitability and security of the election technology solutions notably with regard to voter registration and identification and the results management processes”*** (Rec# 7). Also, the 2022 EU EOM

emphasised the need for regular and agreed-upon improvement of the technological solutions and recommended as a priority ***“IEBC to implement improvements in election technology based on regular audits and stakeholder consultations and to improve consistency and transparency”*** (Rec# 8). It is too early in the electoral cycle to assess the status of these recommendations. In its post-election evaluation report, the IEBC highlighted that they should improve communication with stakeholders on electoral technology and strengthen their effective participation due to stakeholders' low level of awareness.

An issue of concern for the IEBC remains the disruption of services due to pending bills to suppliers. To date, the IEBC has an unpaid bill to electoral technology suppliers of almost KSH 400,000 million since the 2022 elections. Some KSH 10 billion for the integrated electronic electoral system (biometric voter registration, voter identification and transmission of results) are foreseen in the budget for the 2027 elections. As proposed by the IEBC, funding for electoral technology should be allocated two years before the general elections to allow sufficient time to implement, test, and deploy technology solutions. The IEBC Secretariat said to the EU EFM that rapid advancement of technology requires ongoing staff training and equipment renewal, highlighting the need for sustainable, secure, and cost-effective electoral technology.

D. THE RIGHT TO VOTE AND VOTER REGISTRATION

The law provides an active voter registration system based on continuous voter registration. In preparation for the 2022 general elections and to increase the number of registered voters, the IEBC conducted a national enhanced continuous voter registration exercise, registering 2.5 million new voters out of the projected target of 6 million. According to the IEBC, 74.82 per cent of citizens holding a national identity card were included in the final voter register. The 2022 EU EOM noted that the gap in registration was mainly attributed to a lack of interest or expression of protest by the youth and insufficient IEBC sensitisation caused mainly by delayed and limited funding. According to figures released by the IEBC, 49.12 per cent of registered voters were women, 39.84 per cent were youth, and 18.98 per cent were persons with disabilities. The 2022 EU EOM recommended ***“IEBC to enhance continuous voter registration efforts to target youth, women and persons with disabilities in order to ensure universal suffrage”*** (Rec# 9).

There has been no progress on this recommendation since the planning and conducting of continuous voter registration depend on the IEBC board being in office. In its post-election evaluation report, the IEBC recognised the limited impact of continuous voter registration among citizens, especially the youth. They recommended introducing online pre-registration, mapping mobility patterns of nomadic pastoralist communities to enhance targeted voter registration, allocating consistent and adequate funding for voter registration and maintenance of the voter register, as well as timely distribution of resources throughout the electoral cycle and reviewing the relevant statutory forms and processes of registration of voters. Following the expiration of the tenure of the last three IEBC commissioners in January 2023, continuous voter registration was put on hold.

The IEBC Secretariat mentioned to the EU EFM that all actions related to voter registration activities are included in the draft strategic plan pending approval by the new commissioners once they are appointed. Voter registration of young voters is a priority. The IEBC Secretariat is exploring alternative ways to engage the youth, such as using social media platforms to communicate with them and organising voter registration drives at educational institutions.

Several EU EFM stakeholders raised concerns about the timely issuance of identity cards, a pre-condition for a voter to register. The cost, set at KSH 300 for the issuance of a new identity card and at KSH 1,000 for a replacement one, is largely considered too high. The National Registration Bureau explained to the EU EFM that the process has been improved with the use of digital technology and the delivery times have been reduced to seven days in urban centres. Some stakeholders expressed worries about possible delays in certain geographic areas, potentially intentional, for issuing identity cards for young voters that could prevent them from registering on time.

The General (Elections) Regulations (regulation 90) allows for special voting of election officials, observers, security forces on duty, nomadic pastoralists and hospitalised and homebound voters through procedures that the IEBC may adopt. The 2022 EU EOM concluded that the IEBC did not implement such a procedure, thus *de facto* disenfranchising many voters and recommended as a priority ***“The IEBC to introduce procedures for special voting of election officials, security personnel on duty, homebound and hospitalised voters, as well as, nomadic pastoralists, to vote, if necessary, in another location than the one they registered. This should be balanced against security measures to avoid multiple voting”*** (Rec# 10).

It is too early in the electoral cycle to assess the status of the recommendation. However, the IEBC acknowledged the need for a mechanism for special voting in its post-election evaluation report. In the 2022 elections, over half a million voters were disenfranchised because they were serving as election officials or security personnel on duty on election day. The IEBC Secretariat informed the EU EFM that they are exploring different models for special voting, such as early voting, similar to the system implemented in South Africa. Their proposals will be included in the IEBC’s strategic plan. Nevertheless, the IEBC Secretariat also explained to the EU EFM that it is unlikely that special voting will be introduced for the 2027 general elections due to funding limitations, as the cost of special voting operations is not accounted for in the KSH 55 billion budget.

E. CIVIC AND VOTER EDUCATION

The 2022 EU EOM noted that despite efforts made by the IEBC and accredited civil society organisations, all EU EOM interlocutors considered voter education insufficient. The late dispersal of funds for voter education delayed the start of activities and negatively impacted the capacity of the IEBC staff on the ground, who had limited logistical support and could not reach remote areas. The 2022 EU EOM recommended that as a priority, ***“IEBC to be provided sufficient funds after the end of the current electoral cycle and throughout the next one to implement continuous voter education activities”*** (Rec# 6). There has been no progress on this recommendation. The IEBC acknowledges the importance of continuous voter education targeting especially youth as a tool against voter apathy in its post-election evaluation report and proposed adequate and timely budget allocation for voter education throughout the electoral cycle, development of a mechanism to measure the effectiveness of voter education activities and increasing the capacity building of voter educators. One of the longstanding IEBC recommendations, included also in the 2022 post-election evaluation report, is the timely disbursed of funds by the National Treasury throughout the electoral cycle and not only the year before the elections.

F. CAMPAIGN ENVIRONMENT AND CAMPAIGN FINANCE

The 2022 EU EOM noted several cases of campaign regulation violations and misuse of incumbency, also corroborated by media reports, including campaigning by principal secretaries, chiefs, and assistant chiefs in breach of public officers' legally required political neutrality. However, such rules do not bind cabinet secretaries and certain county officials, and the EU EOM assessed such exemptions as contrary to Kenya's commitments under the UN Convention against Corruption. The EU EOM, therefore, recommended ***“Strengthening the ban on public resources being used for campaigning, including by removing the exemption for cabinet secretaries and members of county executive committees”*** (Rec #11). The issue is not addressed in current election reform proposals. The law generally prohibits state officers from compromising the political neutrality of their offices³³ but a prohibition on the use of state resources applies only to persons qualifying to contest elections. Interlocutors of the EU EFM acknowledged a gap in the law but also pointed to the complexity in delineating between the incumbency advantage of government officials to promote legitimate government programmes and achievements and campaigning.

During the 2022 general elections, the 2022 EU EOM noted that candidates campaigned through a variety of methods. However, the mission also underscored that the election law does not reflect the increased use and specificity of social media, and in particular, it noted that online advertising lacks adequate regulation. The mission said that the airing of commercials on social media contributed to an unaccounted spiralling of campaign spending. There was no code of conduct covering parties' online activities. The mission, therefore, recommended, ***“Include provisions on electoral advertising on online platforms and explicitly extend the existing campaigning rules to the digital sphere”*** (Rec #16).

The issue of online electoral advertising is not addressed in NADCO's election reform proposals. The terms “advert” or “advertising” in an election context are not defined in either the Election Act or the Elections Campaign Financing Act. EU EFM interlocutors argued that the provisions of both laws appear sufficient not to preclude application to the online sphere. They also noted that the Elections Campaign Financing Act gives express authority to the IEBC to prescribe the nature of authorised activities for which campaign expenses may be incurred. The IEBC is empowered, after consultation with authorities responsible for the regulation of media in Kenya, to set the limits of media coverage of a candidate or political party or a referendum, including paid-up advertisements. However, these possibilities do not address the complexity of regulating such rules online, and also where platforms operate outside the country.

Kenya ostensibly enacted the Election Campaign Financing Act in 2013 to enhance income and expenditure accountability in election campaigns. Despite this, necessary regulations have never been activated. During the last elections, the 2022 EU EOM noted widespread cash payments from a multiplicity of candidates to voters, organisers, supporters, and event attendees during campaigns, negatively impacting transparency and accountability and distorting the playing field. Previous IEBC regulatory efforts have been stymied by parliament. Only months before the 2022 elections, a High Court ruling declared there was no need for prior parliamentary approval of key IEBC regulations, especially regarding campaign spending

³³ [The Leadership and Integrity Act, 2021](#), section 23 (2).

limits. This enabling ruling came too late for the 2022 campaign period.³⁴ Accordingly, the 2022 EU EOM made a priority recommendation for the ***“IEBC to operationalise the Election Campaign Financing Act to regulate the amount of money received and spent by candidates and political parties during an election or referendum”*** (Rec #12).

IEBC efforts are ongoing, and it asserts that it is technically ready to proceed with issuing fresh regulations, provided its board, once appointed, adopts the policy to activate the law. Thereafter, regulations will have to go through a public consultation process, and they must then, by law, be issued at least 12 months before a general election.³⁵ Still, EU EFM interlocutors expressed concerns not only about the timeline but also about the sufficiency of dedicated IEBC funding and oversight capacity, elevating the possibility that new rules may not be fully enforceable by the 2027 elections.

G. MEDIA AND SOCIAL MEDIA

The 2022 EU EOM concluded in its Final Report that although Kenya enjoyed a vibrant media landscape with a multiplicity of print and broadcast outlets, a handful of outlets with significant political and business links dominate the media environment. Freedom of the press was generally respected, but some credible journalists admitted to forced self-censorship when covering sensitive political issues, while press associations admitted pressure by media owners over coverage of political topics and expressed concerns over an increase in attacks on media practitioners and the profiling of journalists during the 2022 election campaign. This was underscored by Media Council of Kenya (MCK) reports of various forms of harassment. The mission, therefore, recommended to ***“Uphold the right to freedom of expression, including for media practitioners and ensure that attacks against journalists are properly investigated and sanctioned”*** (Rec #13).

Recent developments regarding safety of journalists are a cause for concern. Following the 2022 elections, journalists experienced increased attacks and harassment, notably around the public protests in 2023 and 2024. Reputable international and domestic media organisations, including Article 19, Reporters without Borders, Freedom House, and the MCK, among others, have all raised concerns about a deteriorating safety context for Kenya’s journalists.³⁶ Various media stakeholders that met with the EU EFM decried ongoing allegations of harassment and intimidation of journalists and media professionals. The Office of the Director of Public Prosecutions has publicly committed to working for justice for victims, but complications with investigations still appear to thwart timely prosecutions.

The Constitution includes hate speech as a form of freedom of expression, but it is not clearly defined, unlike ‘advocacy of hatred’ (a specific offence covering a wide range of indicators).³⁷ Kenya’s National Cohesion and Integration Act of 2008 provides a limited definition of hate

³⁴ [Katiba Institute & 3 others v Independent Electoral Boundaries Commission & 3 others; Law Society of Kenya & another \(Interested parties\) \[2022\] eKLR](#)

³⁵ [Election Campaign Financing Act 2013](#), section 5.

³⁶ E.g. [MCK condemns arbitrary arrests and detentions against Journalists](#)

³⁷ Constitution article 33 (2) (d) (ii) prohibits advocacy of hatred against any person on any ground provided in article 27 (4) of the Constitution - including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

speech based only on ethnic identity.³⁸ While the 2022 EU EOM considered that Kenya's legal framework provides an adequate basis for freedom of expression, it considered further legal steps necessary to ensure alignment with the country's international obligations. Thus, the mission recommended, ***“Detail the legal definition of hate speech in line with international human rights obligations (so both intention to incitement and imminent violence are demonstrated)”*** (Rec #14). Work is ongoing in relation to this recommendation.

The National Cohesion and Integration Commission (NCIC) recently tabled a draft law to parliament to amend its governing legislation.³⁹ The draft offers a revised definition of hate speech, specifically extending its application to the social media space. However, the draft law fails to extend the ambit of hate speech beyond 'ethnicity' to afford wider protections such as applies to the prohibition on advocacy of hatred. Still, NCIC's draft law presents a timely opportunity to address this gap, but it remains to be seen if the issue will be adequately formulated to align with Kenya's international commitments.

While acknowledging overall protection for fundamental freedoms, the 2022 EU EOM assessed that Kenya's Computer Misuse and Cybercrimes Act of 2018 contains vague and subjective terms such as "false", "misleading", and "fictitious" aimed at prohibiting disinformation but which fall short of regional and international standards for freedom of expression. This was assessed as enabling the law to be used to harass journalists, bloggers and activists. The mission, therefore, recommended ***“Remove sections 22 and 23 of the Computer Misuse and Cybercrimes Act and explore less intrusive measures for addressing disinformation”*** (Rec #15). There is no action on this recommendation.

EU EFM interlocutors expressed general concern for the potentially increasing negative impact of disinformation in digital and social media and the potential further adverse impacts on elections due to the increasing use of generative artificial intelligence (AI). Nonetheless, most interlocutors agreed with the need for more precise legislation. However, they opined that there was little political will to revise the law as proposed. The offence of 'cyber-harassment' in the law was recently and controversially invoked against an activist for a post on the 'X' platform.⁴⁰ A Computer Misuse and Cybercrimes (Amendment) Bill had its first reading in late November 2024.⁴¹ This draft does not address sections 22 or 23 but proposes to enable the closing of websites or applications for the promotion of certain acts, including excessively broadly defined "illegal activities."⁴² Such an amendment could enable further marginalisation of already vulnerable communities, including the LGBTI community.

Despite efforts by civil society to monitor social media to counter disinformation and raise public awareness during the 2022 election campaigns and some engagement from leading tech companies to help ensure a safer digital space, monitoring and analysis by the 2022 EU EOM revealed an online space distorted by extensive and sophisticated disinformation campaigns, including by influential figures. The host platforms did not take down most disinformation posts

³⁸ [National Cohesion and Integration Act, 2008](#)

³⁹ [National Cohesion and Integration \(Amendment\) Bill, 2023](#). The draft law was laid before the parliament in 2023 (a previous version lapsed before the last elections).

⁴⁰ [Activist Morara Kebaso charged with Cyber Harassment](#)

⁴¹ [Computer Misuse and Cybercrimes \(Amendment\) Bill, 2024](#)

⁴² The new draft also seeks to expand the scope of "cyber-harassment" to include likely causation of suicide, which could prove difficult to establish in any prosecution.

despite debunking efforts by civil society organisations and advocacy to remove such content. The 2022 EU EOM noted a need for better stakeholder coordination; thus, the mission recommended to ***“Develop a coordinated effort by the media, civil society and tech companies to build a network to debunk disinformation in order to reinforce the existing fact-checking initiatives in view of future elections”*** (Rec #17).

Also, prior to the 2022 elections, a Council for Responsible Social Media demanded better accountability from big tech companies in Kenya to respond to widespread concerns for election integrity online. Still, the 2022 EU EOM observed inciteful quotes falsely attributed to political aspirants, with such content often migrating among different online platforms. Delayed responses to violations of platforms’ own policies on harmful content enabled the spread of incendiary rhetoric about the elections. The 2022 EU EOM recommended ***“Develop a self-regulatory Code of Practice on Disinformation by a multi-stakeholder coalition against disinformation to promote greater transparency and accountability of big tech companies”*** (Rec #18). It is too early in the electoral cycle to assess the status of these recommendations. All key stakeholders, including the IEBC, acknowledge manipulative information's negative impact on the electoral process. Additionally, they raised concerns about recent pronouncements and actions by specific social media platforms to end internal fact-checking policies. Considering such policy about-turns, the prospects for establishing a Code of Practice with big tech/ social media platforms' participation are diminished.

H. PERSONS WITH DISABILITIES

The 2022 EU EOM, in its final report, concluded that the legal provision requiring the presiding officer in the presence of agents to assist a voter in need, if a person of their choice does not accompany the latter, significantly violates the secrecy of the vote. Also, in one-fifth of election day observations, the 2022 EU EOM noted that the layout of the polling stations observed was not suitable for people with reduced mobility. These observations led the 2022 EU EOM to recommend that ***“More efforts be undertaken for the inclusion of persons with disabilities in the election day process. IEBC should consider making a tactile ballot paper available in each polling station for voters with visual impairments to mark the ballot independently”*** (Rec# 19). It is too early in the electoral cycle to assess the status of this recommendation.

In its post-election evaluation report, the IEBC prioritised enhancing inclusivity in the electoral process by providing assistive measures and devices for persons with disabilities. This includes special booths, a Braille system, and tailor-made audio and visual materials to ensure the privacy and secrecy of voting for persons with disabilities. The IEBC Secretariat reconfirmed to the EU EFM that they plan to adopt additional measures to facilitate independent access for persons with disabilities at polling stations. They also aim to introduce additional voting methods for visually impaired voters. According to the IEBC Secretariat, these initiatives are intended to be part of the IEBC's final strategic plan.

I. POLLING, COUNTING AND RESULTS

On election day, the 2022 EU EOM observed that the secrecy of the vote was not fully protected in less than half of the polling stations observed, mainly due to the layout of the polling stations and the placing of the ballot booths recommending ***“The IEBC to consider revising the layout of the polling stations to better safeguard the secrecy of the vote”*** (Rec# 20). It is too early in the electoral cycle to assess the status of this recommendation. However, in its post-election

evaluation report, the IEBC does not reference the issue with polling station layout not ensuring the secrecy of the vote.

The 2022 EU EOM, in its final report, noted that the working method and the data entry display were not uniform in the constituency tallying centres (CTCs) observed. In addition, although the IEBC special software for entering the presidential results in the system was available, most of the CTCs observed that the staff was using the Excel spreadsheet, which did not contribute to the security of the process. Furthermore, the results at the National Tally Centre (NTC), while they were initially aggregated, were also projected on the screens. On 13 August, the projection stopped, and only the results verified by constituency and county were being shown. Until the declaration of the results, no official information was provided by the IEBC on the status of the process. These observations led the 2022 EU EOM to recommend as a priority recommendation to ***“The IEBC to introduce clear and detailed procedures for managing staff and the flow of information at tallying centres to increase the consistency and efficiency of the process, especially the public display of results being aggregated there, and the uploading of all results forms to the public portal to ensure verifiability”*** (Rec# 21). It is too early in the electoral cycle to assess the status of this recommendation. In its post-election evaluation report, the IEBC noted several challenges related to the election results management at the tallying centres. The IEBC concluded that the tallying centre manual did not provide for operation during a crisis and proposed to revise it. The draft strategic plan includes actions to address issues of consistency, efficiency and overall transparency of the election results management process.

J. ELECTORAL JUSTICE

The 2022 EU EOM considered that Kenya’s legal framework for electoral dispute resolution provided effective access to legal remedies but recorded some complications. The Political Parties Disputes Tribunal (PPDT) handled disputes arising from party nominations of candidates, while the IEBC’s Dispute Resolution Committee (DRC) adjudicated disputes on candidate registration processes. High Court appeals with without prescribed time limits were also possible. Thus, some late appeals entailed uncertainty for the IEBC, impacted timely ballot printing, and contributed to errors and delays. Other types of High Court cases also impacted the process (including challenges to IEBC administrative decisions), also created uncertainty for some procedures and timelines. The 2022 EU EOM, therefore, recommended ***“Consider imposition of a deadline on appeals to the HC against PPDT decisions on candidate nomination and IEBC DRC decisions on candidate registration and consider the introduction of a deadline to restrain cases against the IEBC to the HC Constitutional Bench in the two-month period prior to election day. Exceptions should be permitted for urgent matters, where the law is not settled before elections”*** (Rec #2). No action has been taken on this matter.

NADCO proposals foresee a new timeline for determining post-election petitions against presidential results. While such an extension may benefit courts handling complex post-election disputes, the IEBC's vulnerability to pre-election disputes is left unaddressed. The Judiciary Committee on Elections has compiled a solid set of recommendations, yet to be implemented, aimed at greater procedural efficacy in handling election disputes. Still, the judiciary faces many unfilled posts and significant operational and funding constraints. Thus, operational proposals alone cannot overcome the key legal gap and disruption presented by non-time-bound pre-election cases that have previously and can continue negatively disrupting IEBC operations.

V. THE STAKEHOLDER ROUNDTABLE

The stakeholder roundtable took place in Nairobi on 20 February 2025, with a total of 32 participants representing 28 different entities. Attendees included the Independent Electoral and Boundaries Commission (IEBC), represented by the Deputy CEO, as well as various state institutions, the National Cohesion and Integration Commission (NCIC), the Kenya National Human Rights Commission (KNHRC), the Judicial Committee on Elections (JCE), and the Political Parties Liaison Committee (PPLC). Additionally, representatives from political parties, civil society organisations, citizen observer groups, media, online media, and journalists were also present. The event ensured that women, youth, persons with disabilities, and ethnic minorities were represented through various organisations.

The discussion was organised into six thematic areas. The first area focused on strengthening IEBC's communication strategy, formalising stakeholder consultation throughout the electoral cycle, and improving electoral staff training and voting opportunities for voters with disabilities (2022 EU EOM Recommendations # 4, 5 and 19). All participants agreed that IEBC needs to improve its communication strategy, shifting from a reactive approach to a more proactive one in its public communications. Furthermore, the IEBC should strive to engage as many stakeholders as possible to benefit from their expertise and resources. Participants highlighted that the IEBC's website needs to be made more accessible for persons with disabilities while the IEBC must explore alternative ways to disseminate the information on the website to the grassroots as not everyone can access the website directly.

Participants stressed that young people form the majority of the population and voters, the IEBC should seek ways to actively engage youth in the electoral process and, together with youth organisations to develop more effective communication and engagement strategies. This collaboration would help the IEBC to understand the diverse needs and preferences of young voters and tailor their outreach accordingly. The IEBC should move beyond the conventional methods and explore more innovative ways to engage youth, such as leveraging social media and other digital platforms.

Some participants pointed out the lack of direct engagement by the IEBC with political journalists despite their extensive coverage of the elections and the need for the IEBC to improve its accessibility and responsiveness when engaging with the media, especially those covering the political aspects of the electoral process. All participants agreed that the IEBC needs to improve stakeholder engagement and build trust through open communication.

Participants, noted that while the electoral staff training has seen progressive improvements over time, it started quite late—only weeks before the 2022 general elections. Everyone agreed that the IEBC should start training well in advance and maintain it throughout the electoral cycle. The IEBC acknowledged the importance of this recommendation and assured the participants that it is working to implement the necessary training programmes.

Regarding the recommendation to enhance voting opportunities for persons with disabilities, participants noted the need for better voting opportunities and assistance for persons with disabilities, beginning at the voter registration stage. The IEBC should utilise data collected on voters with disabilities to provide targeted accommodations and accessible voting materials. The IEBC indicated that it is actively working to ensure their full participation in the electoral process.

The second thematic area included three recommendations on well- and timely funded continuous voter education, enhanced continuous voter registration targeting youth, women, and persons with disabilities, and the introduction of procedures for special voting for certain categories, such as election officials and security personnel on duty (2022 EU EOM Recommendations # 6, 9, and 10).

Participants acknowledged the necessity of continuous voter education, underlining that the voter education process should be seen as a trust-building exercise. The IEBC should involve a diverse range of stakeholders, including civil society organisations, faith-based groups and the media, to rebuild trust in the electoral process, particularly across different generations. Voter education should also focus on promoting peaceful elections and addressing security aspects as well. The IEBC should ensure that voter education efforts reach marginalised communities, including small ethnic minorities. Participants noted a significant lack of meaningful involvement of youth in the voter education process. Moreover, the IEBC has not established adequate mechanisms to assess voter education's effectiveness and incorporate feedback from different demographics and communities. Funding limitations have severely restricted the IEBC's ability to undertake essential voter education, particularly for special interest groups such as youth, minority communities and women.

Participants noted that voter education materials should be accessible and inclusive. They urged the IEBC to engage directly with the disability community to obtain feedback and ensure the effectiveness of voter education efforts. All participants agreed that the IEBC should explore various methods and approaches for voter education, ranging from traditional grassroots and town hall meetings to technological-driven solutions aimed at reaching younger generations. While the IEBC recognises the need for effective, inclusive and efficient voter education, funding limitations present a significant barrier to these efforts.

On the recommendation to enhance continuous voter registration targeting youth, women, and persons with disabilities, the IEBC noted that they are developing proposals to improve the voter registration process. This includes introducing online pre-registration to reach larger groups of unregistered voters, such as the youth. The National Registration Bureau (NRB) representative explained that there has been notable progress in issuing identity cards, a pre-requisite for an eligible voter to register.⁴³ The NRB is moving towards a more automated and digital system of identity card issuance and is ready to support the IEBC. Some participants expressed concerns about voter apathy and representation and pointed out the need for targeted campaigns to convince the youth to register and vote. Participants also noted the challenges that persons with disabilities face during voter registration, such as physical accessibility, the need for sign language interpretation and the importance of disclosing disabilities during the registration process.

Participants and the IEBC are very positive about the introduction of special voting procedures for certain categories of voters, such as electoral officials and security personnel. The IEBC noted that some draft proposals are pending the appointment of new IEBC commissioners.

⁴³ Since September 2024, the NRB has issued around 3 million ID cards. It has also reduced the timeline for issuing an ID card to 7-8 days in the county headquarters.

The third thematic area focused on transparency in the procurement process and the suitability and security of the election technology solutions, including regular audits, stakeholder consultation, and transparency and clarity of procedures at tallying centres (2022 EU EOM Recommendations # 7, 8 and 21). Participants agreed that while Kenya has some of the most advanced and expensive technological solutions for its electoral cycle to enhance efficiency and transparency, certain key functions, such as the electronic results transmission and display systems, did not perform as expected during the 2022 elections. The cost of the elections is among the highest in the world, driven by a trust deficit in the electoral process, the IEBC, and among stakeholders, as well as the issue of corruption in procuring technological solutions. The IEBC acknowledged the lack of trust as a major issue that needs to be addressed and stated that they publish all procurement adverts on their website and at least two national newspapers. Participants raised concerns about the new technological systems that must be procured before the 2027 general elections regarding cost, procurement process, security, and sustainability.

The fourth thematic area addressed recommendations on freedom of expression, protection of journalists, hate speech, online communication, and integrity of information (2022 EU EOM Recommendations # 13, 14, 15, 16, 17 and 18). Participants highlighted that current policies do not sufficiently address the problem of attacks on journalists, pointing out that journalists and, in particular, women journalists were frequently targeted and were not able to carry out their duties freely. The Media Council of Kenya reported over ten incidents since the start of the year where journalists were targeted, primarily by politicians concerned about the impact of their reporting on the upcoming elections.

Participants noted that even though the Constitution guarantees freedom of expression, there is a need to clearly define hate speech. The National Cohesion and Integration Commission (NCIC) is developing a code to address misinformation and hate speech in the media sector and made some progress in broadening the definition of hate speech. Some participants noted that the Computer and Cybercrimes Act amendment bill appeared politically motivated and did not address the gaps in the Act. Further, they highlighted that the changing landscape of content moderation on platforms like Facebook, shifting responsibility away from big tech companies, raises concerns about who will fill this gap and how online content will be moderated in the future.

The fifth thematic area included the recommendations on removing the exemption for cabinet secretaries and members of county executive committees to campaign and the operationalisation of the Election Campaign Financing Act to regulate campaign expenditures (2022 EU EOM Recommendations # 11 and 12). Participants highlighted the challenges surrounding the implementation of the election campaign financing law, noting the lack of political will to implement the law entirely, which was passed in 2013 but has not been operationalised. Money in politics presents a significant challenge in Kenya, making elections and political campaigns exceedingly expensive. Participants underscored the necessity of regulating campaign finance to provide equal campaign opportunities for all contestants. The IEBC explained that the High Court ruled that they do not need to present the regulations to Parliament but only to share the draft regulations for public feedback.

The final thematic area revolved around enacting the constitutional affirmative provisions and introducing deadlines on specific categories of electoral disputes (2022 EU EOM Recommendations #1 and 2). Participants highlighted the challenges of implementing constitutional affirmative action provisions, particularly concerning the representation of

marginalised groups such as youth, women, persons with disabilities, and ethnic minorities. They pointed out that despite several attempts, legislation addressing this issue has not been successful due to a lack of political will and the structural limitations of the electoral system. Participants shared criticism about political parties and other actors side-lining marginalised groups and limiting their participation in the electoral process. Participants also argued that simply adding women to candidate lists in areas where the party is weak does not provide a viable solution, as these women are unlikely to be elected. They highlighted the need for a practical formula to tackle the gender gap in representation.

VI. CONCLUSIONS

The EU EFM noted limited progress in the implementation of the 2022 EU EOM recommendations. However, there is some positive movement in certain areas as discussions on electoral reforms have commenced. Out of 21 recommendations offered by the 2022 EU EOM, one recommendation on the removal of restrictions requiring an educational degree to stand has been partially implemented, while for a few, some actions or activities are ongoing, several recommendations have not been addressed yet, including those where it is too early in the electoral cycle to assess their status. Twelve recommendations could be implemented through administrative actions, including eight through actions by the IEBC, while seven recommendations require legislative changes, such as reviewing existing laws or enacting new legislation, while two necessitate subsidiary legislation in the form of regulations by the IEBC.

To date, electoral reforms have primarily consisted of proposals, mainly concerning technicalities, and the passage of two laws, one on procedures for regulations and the other aiming at ensuring the appointment of an IEBC board, albeit after considerable delays. The broader picture reveals an apparent lack of political will to address core reforms necessary for promoting transparency and ensuring key institutions' integrity and independent functioning before the next elections.

Although the process has commenced, there is an urgent need for the IEBC board to be appointed swiftly and for the government to follow through with prompt and adequate funding for key electoral preparations, including safeguarding the delivery of essential timely, comprehensive and inclusive voter education and voter registration. While economic concerns are prominent on the national agenda, there is a pressing need to take meaningful action on other pre-electoral promises, such as the two-thirds gender principle. There is also a need to accelerate the reform process to strengthen protections of media freedoms, limit arbitrary action on civil liberties and ensure the timely and robust prosecution of offences and unlawful and arbitrary actions, including against media practitioners. These steps are vital to building trust in the upcoming elections. In this context, the prompt holding and effective management of delayed by-elections will be a crucial test for the new IEBC.

The 2027 general elections are only two and a half years away, and the window of opportunity for action is rapidly closing. Key steps to regulate campaign funding and expenditure, essential to controlling the exorbitant costs of elections in Kenya and promoting the inclusion of women, youth, and other special interest groups, must be assured at least 12 months before the next elections. A similar time pressure applies to the overdue process of boundary delimitation.

There is still time for comprehensive and effective electoral reforms, provided the government and the legislature prioritise such reforms on their agenda. The IEBC, other independent state institutions, and a diverse range of civil society appear ready to engage and support meaningful reform. However, progress is ultimately in the hands of the government and the legislature, and the responsibility is now on these offices to provide a clear roadmap, allay concerns about procedural delays and regulatory shortcomings, and ensure that elections in 2027 are transparent, inclusive, and peaceful.

VII. ANNEXES

A. Press Release

B. Matrix on the implementation status of EOM recommendations

ANNEX A



European Union Election Follow-up Mission to the Republic of Kenya, February 2025

PRESS RELEASE

EU Election Follow-up Mission calls on Kenyan authorities to expedite electoral reform to ensure transparent, inclusive and peaceful 2027 elections.

Nairobi, 21 February 2025

The European Union deployed an Election Follow-up Mission (EU EFM) to the Republic of Kenya from 2 February to 1 March 2025, to assess progress made in the electoral reform process and the implementation status of the recommendations made by the EU Election Observation Mission 2022 (EU EOM 2022). This EU EFM is headed by Mr Ivan Štefanec, former Chief Observer of the EU EOM 2022 and former Member of the European Parliament.

The EU EFM appreciates very good relations and friendly atmosphere during meetings with a large number of interlocutors in the electoral process, including the Independent Electoral and Boundaries Commission (IEBC), relevant state institutions, political parties, civil society, media representatives and development partners. On 20 February, the mission organised a roundtable meeting of electoral stakeholders, where participants discussed the progress made so far in implementing the EU EOM 2022 recommendations and the current status of electoral reform.

In a press conference held today in Nairobi, Mr Štefanec said: *“There is some positive movement in certain areas, as discussions on electoral reforms have commenced. We noted however a lack of tangible progress in the implementation of the recommendations offered by the EU EOM in 2022. Most of our interlocutors agreed on the urgency for an independent and fully functioning Independent Electoral and Boundaries Commission well ahead of the next elections.”*

The EU EOM in 2022 made 21 recommendations, including seven priority ones based on observations, analysis and discussion with various stakeholders. These recommendations included, among others, providing sufficient funds to the IEBC for continuous voter education, implementing improvements in electoral technology through regular audits and stakeholder consultation, operationalising the Election Campaign Financing Act to regulate campaign expenditures effectively, detailing the legal definition of hate speech in line with international human rights obligations, removing sections 22 and 23 of the Computer Misuse and Cybercrimes Act, and establishing clear procedures for managing staff and the flow of

information at tallying centres to increase the consistency and efficiency of the electoral process.

Mr Ivan Štefanec noted: *"The delay in appointing new IEBC commissioners has effectively postponed pending by-elections and the boundaries delimitation, halted continuous voter registration, and compromised the overall preparations for the 2027 elections. It is essential that the IEBC is reconstituted without further delays and has adequate and timely allocated funding to prepare for the 2027 elections".*

Mr Štefanec highlighted the importance of making it possible for all citizens to register as voters, exercise their right to vote and stand as candidates, in line with Kenya's international and regional commitments. He stressed the need to build trust in IEBC's work, strengthening its independence, ensuring transparency in the electoral process, while fostering inclusion and cooperation among electoral stakeholders.

Concluding the press conference, Mr Štefanec reaffirmed that the EU and Member States will continue to advocate for electoral reforms in Kenya.

A comprehensive final report of the EU Follow-up Mission will be published in the coming months.

The Final Report of the EU EOM of 2022 can be found at:

https://www.eeas.europa.eu/sites/default/files/documents/EU_EOM_Kenya_2022_EN.pdf

*** END***

ANNEX B

No.	Year	Recommendation	Electoral Theme	Status (1-6)	Comments and Additional information
1	2022	Enact constitutional affirmative action provisions. In particular: application of the 2/3 gender principle; application of the principle that 5 per cent of members of elected bodies are PwD; provisions on inclusion of marginalised ethnic minorities.	LEGAL FRAMEWORK	Action or activity ongoing	In August 2023, a Multi-sectoral Working Group (MSWG) was tasked to report and recommend a framework for implementing the two-thirds gender principle. It acknowledges that the First-Past-the-Post electoral system is not conducive to realising the two-third principle through elective seats alone and it proposed an alternative solution whereby, after elections, an underrepresented gender is “topped up” from zebra-format political party candidate lists. Subsequent deliberations exposed differences of opinion and cast doubt on implementation before the next elections. Representatives of organisations for persons with disabilities are not optimistic about legal reforms before the next elections to promote their inclusion along constitutional lines
2	2022	Consider imposition of a deadline on appeals to the HC against PPDT decisions on candidate nomination and IEBC DRC decisions on candidate registration and consider introduction of a deadline to restrain cases against the IEBC to the HC Constitutional Bench in the two-month period prior to election day. Exceptions should be permitted for urgent matters, where the law is not settled before elections.	LEGAL FRAMEWORK	No change	NADCO proposals foresee a new timeline for determining post-election petitions against presidential results, but the IEBC's vulnerability to pre-election disputes is left unaddressed. The Judiciary Committee on Elections has compiled a solid set of recommendations aimed at greater procedural efficacy in handling election disputes. Still, operational proposals alone cannot overcome the key legal gap and disruption presented by non-time-bound pre-election cases that disrupted IEBC operations.
3	2022	Consideration could be given to remove restrictions on the right to stand for elections for person with intellectual disabilities as well as restrictions requiring an educational degree to stand.	LEGAL FRAMEWORK	Partial implementation	The courts struck down a section of the Election Act 2011 mandating university qualifications for candidates to the National Assembly. One of the proposals from NADCO is to delete the section to align with the court order. Still, the requirement continues to apply for higher offices such as

					president and governor. There are no indications of intention to lift the restrictions applicable to persons with disabilities.
4	2022	IEBC to strengthen its communication strategy to provide continuous, comprehensive, and prompt information to election stakeholders and to undertake regular and structured stakeholder consultation throughout the electoral cycle.	ELECTION ADMINISTRATION	Action or activity ongoing	In its post-election evaluation report, the IEBC concluded that the Commission conducted 1.023 stakeholder <i>fora</i> with state and non-state actors at national, county and constituency levels to share information and seek areas of collaboration in the electoral process. The IEBC acknowledged that budgetary constraints inhibited continuous stakeholder engagement and proposed strengthening resource mobilisation initiatives to fill budget deficits and implement continuous stakeholder engagement, especially at the grassroots level. According to the IEBC Secretariat, the draft strategic plan, pending IEBC's board approval once in office, reconfirms the willingness of the IEBC to strengthen information-sharing and consultation with stakeholders and incorporates a thorough review of IEBC's communication policy, including developing a social media strategy to reach out youth. Additionally, it involves efforts to enhance relations with media outlets and adopt continuous training and capacity building for media on the electoral processes.
5	2022	The training of electoral staff to be improved, especially of the presiding officers. Consideration could be given to complement regular trainings before elections with a knowledge-based online system for all IEBC staff.	ELECTION ADMINISTRATION	Too early in electoral cycle to determine	In its post-election evaluation report, the IEBC noted that despite improvements in the quality and content of the training for electoral officials, delays in parliamentary approval of legal reviews and last-minute court decisions had negative implications for the content of the training. Moreover, the IEBC admitted that inadequate resources and limited time for the training impacted the overall quality and proposed early recruitment of staff and early planning and training provided that adequate resources have been secured. The IEBC Secretariat explained to the EU EFM that the draft strategic plan incorporates tailormade training, which considers specific

					needs and priorities, including a more comprehensive training programme for the National Tallying Centre.
6	2022	<u>Priority Recommendation</u> IEBC to be provided sufficient funds immediately after the end of the current electoral cycle and throughout the next one, to implement continuous voter education activities.	ELECTION ADMINISTRATION	No change	The IEBC acknowledges the importance of continuous voter education targeting especially youth as a tool against voter apathy in its post-election evaluation report and proposed adequate and timely budget allocation for voter education throughout the electoral cycle, development of a mechanism to measure the effectiveness of voter education activities and increasing the capacity building of voter educators. This is a critical and pressing issue for the IEBC, which is facing funding shortfalls.
7	2022	IEBC to improve public communication on procurement processes and the suitability and security of the election technology solutions notably with regard to voter registration and identification and the results management processes.	ELECTION TECHNOLOGY	Too early in electoral cycle to determine	In its post-election evaluation report, the IEBC highlighted that they should improve communication with stakeholders on electoral technology and strengthen their effective participation due to stakeholders' low level of awareness of electoral technology.
8	2022	<u>Priority Recommendation</u> IEBC to implement improvements in election technology based on regular audits and stakeholder consultations and to improve consistency and transparency.	ELECTION TECHNOLOGY	Too early in electoral cycle to determine	An issue of concern for the IEBC remains the disruption of services due to pending bills to suppliers. To date, the IEBC has an unpaid bill to electoral technology suppliers of almost KSH 400.000 million since the 2022 elections. Some KSH 10 billion are foreseen in the budget for the 2027 elections. As proposed by the IEBC, funding for electoral technology should be allocated two years before the general elections to allow sufficient time to implement, test, and deploy technology solutions. The IEBC Secretariat said to the EU EFM that rapid advancement of technology requires ongoing staff training and equipment renewal, highlighting the need for sustainable, secure, and cost-effective electoral technology.
9	2022	IEBC to enhance continuous voter registration efforts to target youth,	VOTER REGISTRATION	No change	In its post-election evaluation report, the IEBC recognised the limited impact of continuous voter registration among citizens, especially the youth. They recommended introducing online

		women and persons with disabilities in order to ensure universal suffrage.			pre-registration, mapping mobility patterns of nomadic pastoralist communities to enhance targeted voter registration, allocating consistent and adequate funding for voter registration and maintenance of the voter register, as well as timely distribution of resources throughout the electoral cycle and reviewing the relevant statutory forms and processes of registration of voters. Following the expiration of the tenure of the last three IEBC commissioners in January 2023, continuous voter registration was put on hold. The IEBC Secretariat mentioned to the EU EFM that all actions related to voter registration activities are included in the draft strategic plan pending approval by the new commissioners once they are appointed. Voter registration of young voters is a priority. The IEBC Secretariat is exploring alternative ways to engage the youth, such as using social media platforms to communicate with them and organising voter registration drives at educational institutions.
10	2022	<u>Priority Recommendation</u> IEBC to introduce procedures for special voting of election officials, security personnel on duty, homebound and hospitalised voters as well as nomadic pastoralists, to vote, if necessary, in another location than the one they registered. This should be balanced against security measures to avoid multiple voting.	VOTER RIGHTS	Too early in electoral cycle to determine	The IEBC acknowledged the need for a mechanism for special voting in its post-election evaluation report. In the 2022 elections, over half a million voters were disenfranchised because they were serving as election officials or security personnel on duty on election day. The IEBC Secretariat informed the EU EFM that they are exploring different models for special voting, such as early voting, similar to the system implemented in South Africa. Their proposals will be included in the IEBC's strategic plan. Nevertheless, the IEBC Secretariat also explained to the EU EFM that it is unlikely that special voting will be introduced for the 2027 general elections due to funding limitations.
11	2022	Strengthen the ban on public resources being used for campaigning, including by removing the exemption for cabinet	CAMPAIGN ENVIRONMENT	No change	The legal prohibition on the use of state resources applies only to persons qualifying to contest elections. Legal interlocutors of the EU EFM acknowledged a gap in the law but also pointed

		secretaries and members of county executive committees.			to the complexity in delineating between the incumbency advantage of government officials to promote legitimate government programmes and achievements and campaigning, thereby flagging a lack of political impetus for this proposal.
12	2022	<u>Priority Recommendation</u> The IEBC to operationalise the Election Campaign Financing Act to regulate the amount of money received and spent by candidates and political parties during an election or referendum.	CAMPAIGN FINANCE	Action or activity ongoing	IEBC asserts that it is technically ready to proceed with issuing fresh regulations, provided its board, once appointed, adopts the policy to activate the law. Thereafter, regulations will have to go through a public consultation process, and they must then, by law, be issued at least 12 months before a general election. Concerns remain about the timeline but also about the sufficiency of dedicated IEBC funding and oversight capacity.
13	2022	Uphold the right to freedom of expression, including for media practitioners and ensure that attacks against journalists are properly investigated and sanctioned.	MEDIA	Too early in electoral cycle to determine	Recent developments regarding safety of journalists are a cause for concern. Following increased attacks and harassment, reputable international and domestic media organisations, including Article 19, Reporters without Borders, Freedom House, and the MCK, among others, raised concerns about a deteriorating safety context for Kenya's journalists. Various media stakeholders decried to the EU EFM ongoing allegations of harassment and intimidation of journalists and media professionals. The Office of the Director of Public Prosecutions has publicly committed to working for justice for victims, but complications with investigations still appear to thwart timely prosecutions.
14	2022	<u>Priority Recommendation</u> Detail the legal definition of hate speech in line with international human rights obligations (so both intention to incitement and imminent violence are demonstrated).	MEDIA	Action or activity ongoing	The National Cohesion and Integration Commission (NCIC) has recently tabled a draft law with a revised definition of hate speech, specifically extending its application to the social media space. However, the draft law fails to extend the ambit of hate speech beyond 'ethnicity' to afford protection for categories of persons, for example, to whom the prohibition on advocacy of hatred applies. Still, NCIC's draft law presents an opportunity to address this gap.

15	2022	Priority Recommendation Remove section 22 and 23 of the Computer Misuse and Cybercrimes Act and explore less intrusive measures for addressing disinformation.	SOCIAL MEDIA	No change	EU EFM interlocutors expressed concern for the potentially increasing negative impact of disinformation in digital and social media and the potential further adverse impacts on elections due to the increasing use of artificial intelligence (AI). Nonetheless, most interlocutors agreed with the need for more precise legislation. However, they opined that there was little political will to revise the law as proposed. A Computer Misuse and Cybercrimes (Amendment) Bill had its first reading in late November 2024. This draft does not address sections 22 or 23 but proposes to enable the closing of websites or applications for the promotion of certain acts, including excessively broadly defined " <i>illegal activities</i> ."
16	2022	Include provisions on electoral advertising on online platforms, and explicitly extend the existing campaigning rules to the digital sphere.	SOCIAL MEDIA	No change	EU EFM interlocutors argued that the law appears sufficient not to preclude application to the online sphere. The IEBC is empowered, after consultation with authorities responsible for the regulation of media in Kenya, to set the limits of media coverage of a candidate or political party or a referendum, including paid-up advertisements. These possibilities do not address the complexity of regulating such rules online, where platforms operate outside the country. Other law reform proposals on prohibited speech specifically extend existing rules to the digital media space, thereby indicating that the recommendation as regards online political advertising has merit despite parliamentary inaction.
17	2022	Develop a coordinated effort by the media, civil society and tech companies to build a network to debunk disinformation in order to reinforce the existing fact-checking initiatives in view of future elections.	SOCIAL MEDIA	Too early in electoral cycle to determine	It is too early in the electoral cycle to assess the status of this recommendation. All key stakeholders, including the IEBC, acknowledge manipulative information's negative impact on the electoral process. Additionally, they raised concerns about recent pronouncements and actions by specific social media platforms to end internal fact-checking policies.

18	2022	Develop a self-regulatory Code of Practice on Disinformation by a multi-stakeholder coalition against disinformation to promote greater transparency and accountability of big tech companies.	SOCIAL MEDIA	Too early in electoral cycle to determine	It is too early in the electoral cycle to assess the status of this recommendation. All key stakeholders, including the IEBC, acknowledge manipulative information's negative impact on the electoral process. Additionally, they raised concerns about recent pronouncements and actions by specific social media platforms to end internal fact-checking policies. Considering such policy about-turns, the prospects for establishing a Code of Practice with big tech/ social media platforms' participation are diminished.
19	2022	More efforts to be undertaken for the inclusion of persons with disabilities in the election day process. IEBC should consider making available a tactile ballot paper in each polling station for voters with visual impairments, to be able to mark the ballot independently.	POLLING, COUNTING, TABULATION	Too early in electoral cycle to determine	In its post-election evaluation report, the IEBC prioritised enhancing inclusivity in the electoral process by providing assistive measures and devices for persons with disabilities. This includes special booths, a Braille system, and tailor-made audio and visual materials to ensure the privacy and secrecy of voting for persons with disabilities. The IEBC Secretariat reconfirmed to the EU EFM that they plan to adopt additional measures to facilitate independent access for persons with disabilities at polling stations. They also aim to introduce additional voting methods for visually impaired voters. These initiatives will be included in the IEBC's strategic plan.
20	2022	IEBC to consider revising the layout of the polling stations to better safeguard the secrecy of the vote.	POLLING, COUNTING, TABULATION	Too early in electoral cycle to determine	It is too early in the electoral cycle to assess the status of this recommendation. However, in its post-election evaluation report, the IEBC does not reference issues with polling station layout not ensuring the secrecy of the vote.
21	2022	<u>Priority Recommendation</u> IEBC to introduce clear and detailed procedures for managing staff and the flow of information at tallying centres to increase the consistency and efficiency of the process, especially the public display of results being aggregated there, and the uploading of	POLLING, COUNTING, TABULATION	Too early in electoral cycle to determine	In its post-election evaluation report, the IEBC noted several challenges related to the election results management at the tallying centres. The IEBC concluded that the tallying centre manual did not provide for operation under crisis and proposed to revise it. The IEBC Secretariat has prepared a draft strategic plan pending the approval of the IEBC commissioners after they assume office. The draft strategic plan includes actions to

		all results forms to the public portal to ensure verifiability.			address issues of consistency, efficiency and overall transparency of the election results management process.
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Category	Description	Guidance
1	No change	No action has been taken to implement this recommendation.
2	Action or activity is ongoing but implementation of the recommendation has not yet been confirmed	Examples may include the formation of a working group to review legislation, or the preparation of a legislative bill of reform, but the change has not yet been confirmed by legislative change.
3	Partial implementation of recommendation	The recommendation has been addressed/implemented in part, but other elements of the recommendation have not been addressed.
4	Full implementation of recommendation	The recommendation has been implemented in full e.g. electoral legislation has been amended and all aspects of the recommendation have been addressed.
5	Too early in electoral cycle to determine	Some recommendations may relate to administrative action/practice which can only be assessed at a later stage i.e. strengthening of civic/voter information
6	Recommendation is no longer relevant	For example, a change in the electoral system may make redundant a recommendation on candidate registration under the old electoral system.

