
**Kenya Country Programme
2016–2020**

**Thematic Programme for
Governance**

**Development Engagement
Document**

**Support to Electoral Processes in
Kenya**

**(Electoral Institute for
Sustainable Democracy in Africa
– EISA)**

Dev. Engagement Gov.	Outcome	Outputs
Support to Electoral Processes in Kenya	Enhanced credibility of the electoral process in Kenya	<ul style="list-style-type: none"> • Capacity of citizens to participate in the electoral process enhanced. • Electoral dispute resolution in Kenya strengthened. • Capacity of the Independent Electoral and Boundaries Commission (IEBC) to effectively undertake its mandate enhanced.
Budget	DE partner	
The Danish contribution is DKK 15 million. The total budget for the EISA programme is about DKK 24.2 million.	Electoral Institute for Sustainable Democracy in Africa (EISA), a South Africa based non-governmental organization with field offices across Africa.	
Management arrangements		
Denmark will provide core funding for EISA's strategic plan for Kenya. EISA – Kenya office is headed by a Country Director who reports to a Board of Directors. The IEBC has also constituted a technical assistance providers forum which EISA is a part of and that will work with the Commission in a coordinated manner and avoid duplication. Denmark is in discussion with the US, UK, Sweden and Finland to have EISA come up with a joint results framework and project document that we can all align to.		
Description		
The support to electoral processes seeks to provide continuous strengthening of the electoral cycle in a coordinated effort with other development partners and stakeholders. EISA will provide technical assistance (TA) to IEBC based on the IEBC's needs assessment and strategic plan, and avoiding duplication of other TA support. Focus will be on IEBC's dispute resolution mandate and legal reforms. EISA will also provide TA to the Political Parties Dispute Tribunal based at the Judiciary (the custodian of Tribunals). Finally, EISA will provide technical assistance to domestic observation in Kenya, covering the role of the IEBC and that of non-state actors.		

Contents

Abbreviations	4
Development Engagement Document for Support to Electoral Processes in Kenya	5
1. Introduction	5
2. Parties	5
3. Documentation	5
4. Brief description of EISA.....	5
5. Background and Theory of Change.....	6
6. Development Engagement Objectives.....	11
7. Results Framework.....	12
8. Risk Management	15
9. Inputs	18
10. Management Arrangement	18
11. Financial Management and Audit.....	19
12. Monitoring and Evaluation	19
13. Signatures	20
Annex One: The Theory of Change Diagram.....	21

Abbreviations

AU	African Union
CSO	Civil Society Organisation
Danida	Danish International Development Assistance
DED	Development Engagement Document
DFID	Department for International Development (UK)
DKK	Danish Krone
DP	Development Partner
EDR	Electoral Dispute Resolution
EISA	Electoral Institute for Sustainable Democracy in Africa
IEBC	Independent Electoral and Boundaries Commission
M&E	Monitoring and Evaluation
MDKK	Million Danish Kroner
ORPP	Office of the Registrar of Political Parties
PPDT	Political Parties Dispute Tribunal
PVT	Parallel Vote Tabulation
UNDP	United Nations Development Programme
VAP	Voting Age Population

Development Engagement Document: Support to Electoral Processes in Kenya (Electoral Institute for Sustainable Democracy in Africa)

1. Introduction

- 1.1 The present development engagement document details the objectives, expected results, implementation framework and management arrangements for the development cooperation concerning support to Electoral Processes in Kenya 2016–2020, as agreed between the parties specified below. The development engagement document is annexed to the *Bilateral Agreement with the Electoral Institute for Sustainable Democracy in Africa (EISA)* and constitutes an integrated part hereof together with the documentation specified below. The Danish support is provided within the framework of the thematic programme on Governance, one of three thematic programmes under the Danish country programme for Kenya 2015–2020. This engagement document is also available to the External Grant Committee of Danida.
- 1.2 The development engagement entails Danish support in the form of core funding to EISA of DKK 15 million for the implementation of EISA’s strategic plan for Kenya and its successor document. The support covers the period 2016 to 2020.

2. Parties

- 2.1 The Danish Embassy, Nairobi and the Electoral Institute for Sustainable Democracy in Africa (EISA).
- 2.2 Signatories will be the Danish Ambassador representing the Government of Denmark, and the EISA Kenya Country Director.

3. Documentation

- 3.1 The EISA Strategic Plan for Kenya

Other reference documents:

- 3.2 Independent Electoral and Boundaries Commission (IEBC) Strategic Plan 2016 - 2020.
- 3.3 Political Parties Dispute Tribunal 2017 Elections Strategy/Strategic Plan.

4. Brief description of the Electoral Institute for Sustainable Democracy in Africa

- 4.1 The Electoral Institute for Sustainable Democracy in Africa is a non-profit organisation established in 1996, based in Johannesburg, South Africa, with field offices in Kenya, Madagascar, Mozambique, Somalia and Zimbabwe. Continentally, EISA operates six programmes in the areas of elections, democracy and governance in partnership with the African Union (AU), Regional Economic Communities and national election stakeholders, such as civil society organisations, political parties and electoral management bodies.
- 4.2 The EISA Kenya office has been operational in the country since 2010, engaging in the electoral sector in four ways. Firstly, it provides direct support to the electoral commission. Second, EISA supported the training of political party agents in the run up to the elections

as well as during the various by-elections conducted in the country. Third, EISA was directly involved in the legislative strengthening of the sector through the development of electoral sector laws and a hand book for implementation.

- 4.3** Under this support, EISA, as the direct partner, will be working with five government institutions: the Independent Electoral and Boundaries Commission (IEBC), the Office of the Registrar of Political Parties (ORPP), the Political Parties Disputes Tribunal (PPDT), the Political Parties Liaison Committee (PPLC) and supporting non-state actors in domestic observation.
- 4.4** Following the end of DANIDA's support to the IEBC through the UNDP basket in December 2014, EISA is currently implementing a one year project that is bridging our electoral processes support before the new programme starts in January 2016, ensuring that DANIDA remains engaged in the electoral cycle. The project includes legal reform through the IEBC on electoral campaign finance and electoral dispute resolution.

5. Background and Theory of Change

5.1 Context

The enactment of the 2010 Constitution of Kenya laid the ground for a complete overhaul of the Kenyan electoral framework. Among the reforms undertaken were the consolidation of all electoral management laws into one statute, and significant changes to the resolution of electoral disputes. The right to vote and to be elected was also safeguarded in the Bill of Rights. These legal changes provided a framework for the March 2013 general elections, in which Kenyans cast votes for six elective offices, including presidential, gubernatorial, senatorial, parliamentary, civic candidates and other special representatives.

While the 2013 election was peaceful, and commended by local and international observers to be largely free and fair, a substantial part of Kenyans felt that it was not a credible election, given the numerous claims of electoral malpractice that surfaced, and the challenges experienced in the tallying and eventual announcement of presidential election results. The perception of electoral fraud and the inevitable post-election division underscore the need for a comprehensive and stakeholder driven review of the electoral process to forestall the potential effects of voter apathy or distrust in future elections.

Three emerging dynamics are likely to shape the electoral environment in Kenya since the promulgation of the 2010 Constitution.

- The first is the predictability of the electoral cycle. The election date is set out in the Constitution and the electoral statutes. Barring any constitutional amendment, the date of the next election will be Tuesday August 8th 2017, and the election results will be declared by August 15th 2017. If a run-off is necessary, it will be held on September 14th 2017.
- The second dynamic influencing the electoral cycle is the introduction of the devolved system of government. Unlike previous elections, the general elections anticipated in the Constitution provide for the simultaneous election of representatives for both levels of government. This has introduced multiple layers of elected officers, raising the number of elective positions from three, in the previous dispensation, to six in the new election order. These multiple levels of elections directly affect election programming and funding.
- The third dynamic relates to the continued acceptance of the electoral management body. The IEBC and its predecessor, the Interim Independent Electoral Commission, were set up under frameworks presided over by the principal leaders of the coalition government. Whereas

the Commission is designed as independent, there is an obvious perception gap. The acceptance of the IEBC has been influenced along the lines of the 2013 political divisions. While IEBC was considered by over 70% of respondents as independent in pre-election surveys, in the post-election period less than 50% of voters feel that IEBC is independent.

A recurring debate relates to women in the electoral process or their representation — the gender balance — in elective bodies. During the 2013 elections, 775 (6.2%) women out of a total of 12,488 candidates vied for the various elective positions. Out of a total of 237 candidates for the gubernatorial positions, six (3%) were women and none of them got elected. Seventeen women out of a total of 244 candidates (7%) vied for the senatorial positions, and again, none of them were successful. For the members of parliament positions, out of a total of 2097, 129 (6%) were women, out of which 16 (12%) were elected. Finally, for the county assemblies, out of a total of 9910 candidates, 623 (6%) women presented themselves, and 91 (15%) were successful. There was an election of 47 women as women county representatives. In addition, several women were nominated as provided for in the law. A total of 703 women were nominated in parliament, senate and county assemblies.

Although these numbers of successful women candidates are the largest ever witnessed in the country, it still falls short of the constitutional requirement that no gender shall represent more than two thirds in any elective assembly. Upon a petition by the Attorney General to clarify the application of the gender rule, the Supreme Court in its advisory opinion acknowledged that the realization of the constitutional provision regarding the gender rule was to be made progressively but not later than August 2015. The essence of this opinion effectively means that the next election in 2017 should reflect the constitutional requirement respecting the 2/3rd gender rule. Strategies for realizing the foregoing should no doubt dominate the political environment.

5.2 Justification including lessons learnt

While there have been significant positive developments in the implementation of the democratic process in Kenya, a number of significant challenges remain, as outlined briefly in the preceding section. The credibility of the process needs to be ensured — including, but not limited to, guaranteeing a clear and transparent dispute resolution mechanism. Kenyans need to be encouraged to participate in the electoral process, and they need to believe that their active participation is a worthwhile endeavour. To effectively participate, they also need to know how to best engage in the process. Addressing these challenges effectively will be crucial to ensuring a sustainable democratic process in Kenya in the longer term. The Governance thematic programme, with its focus on *'consolidation of an accountable, inclusive and participatory democracy with increased stability'* is the ideal channel to help in addressing some of these challenges.

Recent reviews have generated a number of experiences and lessons that provide guidance on how donor support could best target some of the challenges outlined. In November 2014, the Elections Donor Group commissioned a review of electoral assistance (2008–2013)¹. In assessing donor support, the report has underscored firstly, the importance of appreciating that elections are a process and not an isolated, single event. Secondly, that they involve several actors who relate with each other in a chain. Donors should ensure that their support seeks to strengthen this electoral chain. This requires an analysis of the chain, to identify the weak links that require support. In undertaking the assessment and making consideration for support, the donor group on election distilled the report into six priority areas which will inform how development partners with programmatic interest in the electoral process will engage towards the August 2017 elections. These priorities are as follows:

¹ Odotte, C, Murunga, G and Nyamori B.(2014) *Supporting Kenya's Election processes: Lessons from Past Evaluations* Elections Donor Group, Kenya. Unpublished

	Key Results Area of Support²	Target Institutions/Key Actors	Expected Results	Mechanism/Support Modality
1	Institutional reform and capacity building, including on security and dispute resolution	IEBC, Judiciary, Political Parties, Registrar of Political Parties, CSOs	Institutional capacity of key actors strengthened	IEBC/UNDP; Judiciary, Political parties, CSOs baskets and standalone mechanisms
2	Legal Reforms	IEBC, Judiciary, Political Parties, Registrar of Political Parties, CSOs	Enhanced and enabling legal framework for elections in place	IEBC/UNDP; Judiciary, Political parties, CSOs baskets and standalone mechanisms
3	Stakeholder engagement and internal and external coordination	IEBC, Judiciary, Political Parties, Registrar of Political Parties, CSOs, Private Sector, DPs and Media	Structured national conversation for peaceful electoral environment Enhanced leadership and coordination of electoral assistance	IEBC/UNDP; Judiciary, Political parties, CSOs baskets and standalone mechanisms
4	Democratization of political parties and promotion of issue-based political platforms that ensure inclusion of women and youth	IEBC, Judiciary, Political Parties, Registrar of Political Parties, CSOs	Democratic and professionally-managed political parties that are inclusive to women, youth and marginalized groups	IEBC/UNDP; Judiciary, Political parties, CSOs baskets and standalone mechanisms
5	Voter and civic education, including on voter registration, that is inclusive of women, youth and marginalized groups	IEBC, Judiciary, Political Parties, Registrar of Political Parties, CSOs, Media	Enhanced participation of women, youth and marginalized groups as voters and candidates	IEBC/UNDP; Judiciary, Political parties, CSOs baskets and standalone mechanisms
6	Enhanced domestic observation and strengthened media	Political Parties, Registrar of Political Parties, CSOs, Media	Enhanced electoral accountability and transparency through effective oversight	IEBC/UNDP; Judiciary, Political parties, CSOs baskets and standalone mechanisms

Past electoral support generated three key lessons. The first relates to the use of the basket funding mechanism, which has helped to improve donor coordination and efficiency from the electoral management body by reducing reporting and engagement burdens that would exist were they to engage donors separately. The approach should not only apply to IEBC but to several other areas of electoral support, including voter education, judiciary, political party support and domestic observation. This will ensure that donors see the entire electoral chain as a complete process, coordinate their engagements and support across the entire chain and not just in a few areas.

² Institutional capacity building and Legal Reforms have already started and hopefully will have been completed and/or strengthened at least six months to the elections. The remaining key results areas of support will continue until the elections.

The second lesson relates to the balance between financial and technical support. Evaluation of the 2013 election interventions and other past processes has revealed a skewed bias to receptiveness towards financial assistance and limited enthusiasm to technical support. Financial support is useful where it is based on and follows technical support, rather than the other way round. This calls for a reconsideration of approach that pays due attention to capacity building, stakeholder relationships and targeted institutional support. This will deliver more results and ensure higher chances of knowledge transfer and sustainability.

The third lesson relates to the adoption of an electoral cycle approach to supporting Kenyan elections. International best practice has shown that an electoral cycle approach is the most effective form of support, where elections are viewed as a process and not an event. Current donor support also now generally requires alignment to an electoral cycle approach. This will involve a shift from the current arrangements, where funding for election support decreases drastically after an election and only resumes one to two years prior to the next elections.

The Electoral Institute — EISA — is one of the most reputable organisations in the area of elections support on the African continent. This organization has, among many other things, been involved in the development of norms and standards for political parties. It has broad and comprehensive regional experience, working with continental and sub-regional bodies like the AU, the Pan African Parliament, and sub-regional bodies like the East African Community and the Southern African Development Community, among others. EISA's work with regional and sub-regional bodies aims at strengthening the electoral process in the Africa Continent.

The Institute is also experienced in election preparation — EISA was supported by the donor community in providing support to the Zimbabwe Electoral Commission in preparation for the 2013 elections in that country. The EISA Kenya office has been operational since 2010 and EISA can, with its longstanding experience from across the continent, add a country specific added value. The experiences from Kenya have *inter alia* included support to the Judiciary. EISA conducted induction training for the Court of Appeal Judges, High Court Judges and Magistrates who were identified to hear election petitions. EISA also conducted post-election debriefing sessions with the Judiciary to determine the performance of the bench in electoral dispute resolution, identify challenges and identify electoral law jurisprudence that can be used to influence electoral law reform. During the previous election, EISA through Swedish support offered targeted assistance to political parties in Kenya to stimulate more issue based political dialogue.

EISA adopts an integrated approach to elections programming that appreciates the necessary interaction of multiple interdependent stakeholders. Each of the electoral stakeholders has the potential to impact both negatively and positively on the credibility of the electoral process, and the diversity of actors directly affects programming and funding around elections.

5.3 Narrative for Theory of Change

In order to achieve the objective enhanced credibility of the electoral process in Kenya, it is important to restore the confidence and trust in the entire electoral process by addressing the key challenges and shortcomings. Recognizing the cyclic nature of elections and the interdependence of the electoral stakeholders as outlined above, Danish support to elections, through its partnership with EISA, will be based on long-term process assistance and stakeholder capacity building as opposed to event-based assistance — a successful, dynamic interaction between the loops in the electoral cycle is essential to a free and fair election, and Danida support will contribute to this. The support will be targeted toward sustainably addressing systemic issues such as capacity development; institutional strengthening; and the participation of women and minorities in electoral process.

With the Danish support, EISA will contribute to improving democratic practices through credible electoral systems by building the capacity of four government institutions: (i) the Independent Electoral and Boundaries Commission (IEBC); (ii) the Office of the Registrar of Political Parties (ORPP); (iii) the Political Parties Disputes Tribunal (PPDT); and, (iv) the Political Parties Liaison Committee (PPLC). As critical actors in the electoral process, it is crucial that implementation of their respective mandates be strengthened through provision of adequate support (capacity building and technical assistance to both the personnel and institutions), in order to ensure an improved electoral process in 2017 and beyond. In addition, credible citizen domestic observation groups will receive support for electoral observation.

Support to IEBC is intended *to enhance elections management and administration* in Kenya through activities targeting key aspects of the electoral process. The support will prioritise key electoral cycle activities including voter registration, setting up of key committees within IEBC, promulgation of election sector law regulations, strategic communication, results transmission and dispute resolution among others.

Support to *dispute resolution* will target the PPLC and PPDT. Specifically, the PPDT will be empowered to professionally and independently arbitrate over the political and electoral disputes that are expected to be lodged by parties and candidates. The assistance will thus focus on developing rules of procedure, strengthening political parties' internal dispute resolution, operationalisation of the Strategic Plan, among others. Support to the PPLC (which includes all political parties) will aim at *strengthening the institutional capacity of the Committee and also linkages* between the IEBC, ORPP and political parties. Well-coordinated linkages are expected to enhance the transparency of the electoral process. The support will entail development and operationalisation of the Committee's strategic plan, international experience sharing forums as well as regular national and county dialogue forums between these three key institutions in the electoral process (IEBC, ORPP and PPLC).

Given the critical role of the ORPP in overseeing the operations of the PPLC, the office will also be strengthened to effectively undertake its mandate in regards to the Committee. Specific activities will include development and validation of rules and procedures for the PPLC, development of various publications to inform and enhance understanding of the PPLC by the public as well as understanding by the PPLC of their mandates, and to enhance the capacity of the ORPP to enforce compliance of the parties to the legal provisions. Cumulatively, these interventions will lead to enhanced credibility of the electoral process in Kenya.

Effective citizen observation is critical to a credible electoral process. Citizen observation is not only capable of mounting long term observation and conducting parallel vote tabulations (PVT) but also enhances public confidence in the electoral process due to their familiarity and understanding of the local terrain. Recognising the significant role of citizen observation in enhancing public confidence in the electoral process, it is important to restore the credibility of this process including institutional strengthening of service providers to observe and to enhance awareness of the PVT methodology of observation. Interventions targeting citizen election observation are expected to contribute to four main results namely: (i) informed citizenry on their rights and on the electoral process; (ii) enhanced participation of women in the electoral process; (iii) effective and efficient citizen observation; and (iv) increased awareness of the PVT methodology of election observation. This will be achieved through working with several constituent members of citizen observer groups and will entail support to participatory and thematic civic and voter education. While the entire citizenry will be targeted, specific emphasis will also be given to discussions aimed at encouraging participation of women in the process, both as voters and candidates as well as encouraging voting for female candidates. The results will also be achieved through publication of thematic IEC materials on the electoral process, voter rights and the PVT process of election observation.

Support to the electoral process in Kenya will have a deliberate focus of a gender based approach geared towards the inclusion and mainstreaming of women in the key facets of the electoral process. Specifically, interventions will focus on strengthening the legal framework for elections to be friendlier to women candidates, enhancing women participation in the political and electoral process, participation of women in election management and sound election dispute resolution mechanisms.

In this context EISA will adopt a rights based approach in the implementation of the programme across the outputs. The focus of this approach is anchored on the four pillars of citizen participation, accountability, transparency and respect for the constitutional rights and fundamental freedoms of all citizens regardless of their gender, religion, culture, ethnic background and political affiliation. The Organisation will seek to mobilise and sensitise key segments of society including women, youth, and persons with disability, minorities and marginalised groups as well as key civil society organizations to actively and effectively participate in the electoral process as part of the strategy of promoting their political and electoral rights.

EISA shall engage with the electoral management body in terms of deepening their knowledge and skill base through capacity building and training of commissioners and staff in order to enhance their management capacity in conducting a credible, accountable and transparent electoral process. EISA will also support the mitigation of political party disputes and election disputes, which affect the credibility of the electoral process, including the outcome and the free will of electorates. The support in this aspect will entail capacity building of the relevant institutions involved in election disputes in the Country. The organisation shall further enhance the linkages between the PPLC, ORPP and IEBC to promote peace, transparency and accountability in the entire electoral process.

To achieve the outcome of this intervention, the following assumptions have been made:

- There is a supportive and conducive environment for the implementation of electoral reform; there is willingness and commitment by the IEBC to among others engage in the reform process, implement the requisite reforms, invest required resources and build supporting partnerships with civil society and other actors.
- Electoral reforms agenda and the 2017 elections will not be disrupted by the referendum talks.
- An additional assumption is that there is willingness and keen interest among the citizens to understand and participate in the electoral process.

EISA will closely work with all stakeholders, both state and non-state, in the wider democracy realm in Kenya. This support will greatly contribute to improved democratic practices where credible elections are held and the outcome accepted. It is believed that other EISA projects, namely “Strengthening the Electoral Process, Governance Institutions and Women Political Participation in Kenya and “Strengthening Electoral Sector Laws and Dispute Resolution in Kenya will also partly contribute towards the goal of the project. It is further believed that other stakeholders will provide support to other equally important pillars of democracy in the country.

6. Development Engagement Objectives

- 6.1 The overall vision for the partnership is to support the Government and people of Kenya in implementing their *Vision 2030* to create ‘a globally competitive and prosperous country with a high quality of life by 2030’.
- 6.2 This thematic programme has as its thematic programme objective to contribute to the *implementation of the Constitution, consolidation of an accountable, inclusive and participatory democracy with increased stability*
- 6.3 **Outcome:** Enhanced credibility of the electoral process in Kenya

6.4 Outputs:

Output 1: Capacity of citizens to participate in the electoral process enhanced.

Output 2: Electoral dispute resolution in Kenya strengthened.

Output 3: Capacity of the IEBC to effectively undertake its mandate enhanced.

7. Results Framework

7.1 EISA is responsible for monitoring and reporting on the progress and achievements of the development engagement using its own results framework and M&E system as detailed in Section 12 below. The parties have, however, agreed that the Danish Embassy will use the results framework presented below, with a limited number of outcome and output indicators, for the purpose of reporting back to the Danish constituency. Data to inform the reporting will be supplied by EISA as part of the ordinary monitoring of the engagement.

7.2 The parties have agreed to measure progress and performance by the following key outcome and output indicators, derived from EISA’s current strategic plan and framework. Within the first ½ year of implementation, EISA will, where relevant, establish annual targets for the indicators.

Outcome		Enhanced Credibility of the Electoral process in Kenya	
Outcome indicator 1		Credibility assessment of the 2017 elections	
Baseline	Year	2013	2013 elections were ranked largely compliant ³
Target	Year	2017	Elections deemed Fully compliant (FC) or largely compliant, with a score higher than 3 ⁴ , with international standards for credible elections ⁵
Outcome indicator 2		Ranking of the country in the Freedom House Index ⁶	
Baseline	Year	2013	2013 score: Partly free with a rating of 4 for Political rights and civil liberties (with 1 representing the most free and 7 the least free)
Target	Year	2020	Kenya ranked free with a rating of below 4 (with 1 representing the most free and 7 the least free)
Outcome indicator 3		Share of elective and nominative election positions (MPs, Senators, Governors and MCAs) who are women ⁷	
Baseline	Year	2013	Women took up 31.8% in the 2013 elections (848 of a total of 2663 positions, both elective and nominative), as follows: MPs (19%), Senators (27%), MCAs (34.6%) and Governors (0%).
Target	Year	2017	At least 30% women (elected/ nominated) in each of the various elective positions ⁸
Outcome indicator 4		Level of public confidence in the target democratic institutions in Kenya ⁹	
Baseline	Year	2016	To be determined through a survey commissioned at the beginning of the project
Target	Year	2020	Increase in public confidence of the target democratic institutions by 50%

³ Source: EISA’s Elections Assessment Scorecard

⁴ EISA’s assessment of the 2013 elections in Kenya was largely compliant with a score of 3.

⁵ EISA Elections Assessment Scorecard formulated on the principles listed in Principles for Election Management, Monitoring and Observations. Rating: 1 = Not compliant, 2 = Partly compliant, 3 = Largely compliant, 4 = Fully compliant

⁶ Source: Freedom House ‘Freedom in the World’ Survey. Ratings of 1 to 7, with 1 representing the most free and 7 the least free. <https://freedomhouse.org/report-types/freedom-world#.VdwIpFT6haT>

⁷ Source IEBC official report of the elections

⁸Article 81 (b) of the Constitution states that, ‘not more than 2/3 of members of elective public bodies shall be of the same gender.’ Although this does not apply to Governors, it is applicable to the other elective positions of MPs, Senators and MCAs. Through the project, more so through civic education, EISA will strive to encourage participation of women as contesters and voting of women by both women and men in view of domination of patriarchy in the country.

⁹ Source: EISA commissioned surveys

Output 1		Capacity of citizens to participate in the electoral process enhanced	
Output indicator 1.1		No. of target citizens (Voting Age Population (VAP)) with an enhanced understanding of the electoral process.¹⁰	
Baseline	Year	2016	At the beginning of each of the related interventions ¹¹ questionnaires before and after (target group entry and exit questionnaires) will establish the knowledge baseline.
Target	Year	2020	5,000,000 citizens in the VAP have an increased understanding of the electoral process
Output indicator 1.2		Status of citizen understanding of Parallel Voter Tabulation (PVT)¹² method of citizen election observation¹³	
Baseline	Year	2016	To be determined through a survey conducted at the beginning of the Development Engagement period.
Target	Year	2020	Increase by at least 60% in citizen understanding of the PVT election observation methodology.
Output indicator 1.3		Level of public confidence in the oversight role of citizen observers¹⁴	
Baseline	Year	2015	To be determined through a survey commissioned at the beginning of the Development Engagement period.
Target	Year	2020	Increase in public confidence in oversight role of citizen observers by 60%.
Output 2		Electoral Dispute Resolution in Kenya strengthened	
Output indicator 2.1		Proportion of pre and post-election¹⁵ disputes resolved within the legally stipulated timelines¹⁶	
Baseline	Year	2013	The IEBC resolved 2000 disputes revolving around party Lists and more than 200 decisions touching on internal Political Parties' nominations. 188 petitions were filed in courts. PPDT presided over 30 cases dealing with nominations in the run up to the 2013 general elections. All the disputes and cases, which were not dismissed before hearing, were resolved within the legally stipulated timelines.
Target	Year	2017	80% of disputes resolved within the legally stipulated timelines.
Output indicator 2.2		Increase in the capacity of IEBC, PPDT and Judiciary in EDR ahead of and after the 2017 elections.¹⁷	
Baseline	Year	2015	With EISA's support, the three institutions undertook post-election evaluations of their conduct during the 2013 elections and came up with a number of recommendations aimed at improving their performance as well as EDR in Kenya. The recommendations need to be implemented to ensure enhanced competence. “
Target	Year	2020	At least 70% of the recommendations are adopted and implemented by the

¹⁰ EISA developed entry and exit questionnaires.

¹¹ By 'related interventions' is meant the various EISA supported civic and voter education activities throughout the country.

¹² Parallel Vote Tabulation (PVT) is an election observation methodology used for independent verification of election results. It involves observation of the voting and counting of ballots at the polling stations, collection of official polling station results and independent tabulation of these results, parallel to the election authorities .

¹³ Source: EISA commissioned surveys at the beginning and end of the project.

¹⁴ Source: EISA commissioned surveys to be undertaken at the beginning and end of the project The surveys will collect data for several indicators under the project. This will mean in the entire project, a total of two or three surveys will be conducted at intervals.

¹⁵ Definition: Pre-election disputes are disputes that occur before the elections and are can be placed in five general and overlapping categories; disputes specifically within and between political parties; electoral offences and illegal practices; voter registration disputes; disputes arising from the nomination of candidates; disputes related to violation of the Code of Electoral Conduct. Institutions mainly mandated with their resolution are the PPDT, IEBC and the partly the ORPP through investigation of complaints received under the Political Parties Act. Appeals from the decisions of the Registrar and his/ her agent lie to the PPDT. Post-election disputes are mainly disputes subsequent to the declaration of election results including election petitions. Mandate of their resolution is vested in the judiciary.

¹⁶ Source: IEBC, PPDT and Judiciary reports

¹⁷ Source: EISA, ORPP, PPDT, Judiciary reports.

			institutions.
Output indicator 2.3		% of reversal of appeals from the decisions of the ORPP, PPDT and IEBC dispute resolution committee.¹⁸	
Baseline	Year	2013	To be determined through a research to be undertaken at the beginning of the programme
Target	Year	2017	Decrease in the number of reversals of appeals from the decisions of the ORPP, PPDT and IEBC by 50%.
Output 3		Capacity of the IEBC to effectively undertake its mandate enhanced	
Output indicator 3.1		Percentage reduction in incidence of disputed elections.¹⁹	
Baseline	Year	2013	With reference to the 2013 General Elections, a total of 190 election petitions were filed in the High Court and in the Magistrates Court. Resulting from this process, 100 appeals were filed with some being second appeals to the Court of Appeal and Supreme Court.
Target	Year	2020	At least 60% reduction in incidences of disputed election (i.e. election petitions).
Output indicator 3.2		Reduction in proportion of polling stations with reports of malpractices or major logistical challenges²⁰	
Baseline	Year	2013	70% of the polling stations throughout the country were reported for malpractices or for having major logistical challenges.
Target	Year	2020	Less than 40% of the polling stations have no reports of malpractice or major logistical challenges.
Output indicator 3.3		Increase in the number of registered voters in the 2017 elections²¹	
Baseline	Year	2013	A total of 14,352,533 million voters (64.7% out of a total of 22,177,678 million in the VAP registered as voters for the 2013 elections).
Target	Year	2020	Increase in no. of registered voters to 20,560,000 (80% of the expected VAP of 25,700,000 by 2017).

¹⁸ Source: ORPP, PPDT and IEBC official reports.

¹⁹ Source: IEBC and Judiciary reports

²⁰ Source: Media reports, IEBC reports, International and citizen observer reports

²¹ Source: IEBC and Kenya National Bureau of Statistics official reports

8. Risk Management

Programmatic Risks						
Risk Factor	Likelihood	Background to Assessment of Likelihood	Impact	Background to Assessment of Potential Impact	Risk Response	Combined Residual Risk
Election related violence occurs around the elections.	Likely	Kenya has over the last few years witnessed heightened violence and insecurity arising natural resource based conflict. Increasingly, the political and electoral environment post 2013 demonstrates that the country has not gone through a process of healing and reconciliation following highly polarised elections. The situation may be exacerbated by a less credible 2017 elections and the refusal by the players to seek redress in courts. Additionally, sharp political rhetoric and language, violence witnessed during the various by elections may contribute to further polarisation.	Major	If left unchecked, the current incidence of insecurity may spiral beyond control and have a negative impact in the pre-election and post-election environment and impact on the IEBC to credibly manage the electoral process and the Supreme court to independently arbitrate the presidential dispute may undermine confidence in the conduct of the elections. This will impact negatively on the credibility.	<u>Reduction/mitigation:</u> To avert violence ahead and after he elections, it is vital to ensure that a good and functional early warning system is in place. EISA will continue to support early warning through the Conflict Management Panels established in collaboration with the IEBC as well as ensure that they continue working closely with the Peace Committees. Technical assistance to IEBC and PPDT on dispute resolution strategies will be key to mitigating potential electoral violence.	Minor

Kenya Country Programme 2016-2020 Governance Thematic Programme – Support to Women’s Rights and Empowerment Document

Programmatic Risks						
Risk Factor	Likelihood	Background to Assessment of Likelihood	Impact	Background to Assessment of Potential Impact	Risk Response	Combined Residual Risk
Confidence by stakeholders in the IEBC to conduct the elections is not sufficiently established by 2017	Likely	The 2013 elections, as evidenced by the IEBC taskforce report and reports of various observer groups, pointed to inadequacies and shortcomings that impacted on election administration and management. Specifically, shortcomings were noted in procurement of election materials, voter registration, counting and results transmission among others.	Minor	Reluctance to strengthen electoral administration and management including enacting relevant reforms may impact negatively in the process. Calls for disbandment of the Commission may also create uncertainty in the management and administration of the 2017 elections.	<u>Reduction/mitigation:</u> EISA will support enhanced transparency and accountability of the IEBC in efforts to address the mistrust in the Commission. Targeted activities aimed at strengthening the structures and committees of IEBC, enhanced efficiency and professionalism will serve to boost public confidence in the Commission. Enhanced stakeholder participation and interaction with the commission complemented by strategic communications, will further strengthen the outreach of the Commission.	Insignificant
Amendments to the constitution are made to transfer the jurisdiction of pre-election dispute resolution (arising from the nomination process) from the IEBC to PPDT	Unlikely	There is overlap in jurisdiction of resolution of pre-election disputes. Article 88(4)(e) and article 40 the Political Parties Act, 2011 give the mandate to both the IEBC and PPDT respectively. The majority of the electoral stakeholders, including the political parties, have recommended that the adjudication of pre party pre-election disputes should be vested with the PPDT.	Major	Since support for pre-election electoral dispute resolution (EDR) is planned for both the IEBC and the PPDT, should the mandate be taken away from the IEBC, after resources have been used to support the IEBC Dispute Resolution Tribunal, then the resources would have been wasted.	<u>Reduction/mitigation:</u> Ensure that balanced support is given to election dispute resolution to both institutions. In addition, closely monitor the reform process to ensure that in the unlikely event that the constitution is amended to take away the jurisdiction from the IEBC before the elections; there is adequate time to divert the support from IEBC dispute resolution tribunal to the PPDT.	Minor
The many assistance providers giving support to the IEBC result in overlap of support	Unlikely	As a result of the shortcomings and challenges noted both in the management and conduct of the 2013 elections by the IEBC many organisations are seeking to	Minor	Since the challenges noted are numerous and area specific, EISA’s support will be given according to the institution’s niche capacity. For instance	<u>Reduction/mitigation:</u> EISA will ensure that support given is need based. In addition, EISA will undertake a mapping of and ensure collaboration with the	Insignificant

Kenya Country Programme 2016-2020 Governance Thematic Programme – Support to Women’s Rights and Empowerment Document

Programmatic Risks						
Risk Factor	Likelihood	Background to Assessment of Likelihood	Impact	Background to Assessment of Potential Impact	Risk Response	Combined Residual Risk
		strengthen the institution through various interventions. The support given by the various assistance providers may overlap.		capacity in voter education, dispute resolution, Information Communications Technology, observation and monitoring and also legal reforms.	various assistance providers as needed. Indeed, EISA is a member of the Electoral Technical Assistance Providers convened by the IEBC to ensure coordination of support. In addition interventions will be structured according to EISA’s niche areas of dispute resolution, legal reforms and election observation.	
Inadequate financing for EISA’s Strategic Plan for Kenya and its elections support to an extent that hampers implementation	Likely	Some of the funds included in the budget are not yet committed	Major	If this occurs it would impact negatively on the effectiveness of Danida support and the EISA reform program	<u>Mitigation/reduction</u> To push for a Joint Financing Arrangement (JFA) enabling improved predictability and targeting of support.	Minor

Institutional Risks						
Risk Factor	Likelihood	Background to Assessment of Likelihood	Impact	Background to Assessment of Potential Impact	Risk Response	Combined Residual Risk
Fiduciary risk: Fraud, misuse or misappropriation of funds within the EISA program (also a programmatic risk)	Unlikely	Although unlikely, the risk factor cannot be ruled out	Signifi-cant	Would such events occur, it would impact negatively both on the efficiency and effectiveness of the programme (through delayed/cancelled implementation) This would entail high reputational risk levels for both EISA and Danida. For Danida it is a potential ‘killer risk’, in the long term, with regards to continued support	<u>Mitigation/ reduction:</u> Use of the audit instrument for monitoring the internal control and steering environment, compliance and use of funds in accordance with generally accepted international standards on accounting and auditing an in line Danida “General Guidelines for Accounting and Auditing”.	Minor

9. Inputs

9.1 Overall budget

Budget in million Danish Kroner (DKK)					
	2016	2017	2018	2019	Total
Denmark	8.0	3.0	2.0	2.0	15,0
Other donors	2.6	2.2	2.2	2.2	9.2
Grand total	10.6	5.2	4.2	4.2	24.2

The estimated budget for The EISA Strategic Plan for Kenya, based on current commitments, amounts to approx. 24.2 MDKK. In addition to Danish funding EISA receives support from Sweden²². The current Swedish support, core funding, amounts to approx. 11.7 MDKK over the years 2015-2017, a successor phase is currently discussed. It is also likely that the UK (DFID) will provide support as of 2016.

9.2 Indicative annualised output based budget

The below indicative budget serves the purpose of presenting the allocation towards the outputs defined within this DE.

Support to Electoral Process in Kenya: DKK	2016	2017	2018	2019	Total
Output 1: Capacity of citizens to participate in the electoral process enhanced	3	2	2	2	9
Output 2: Electoral Dispute Resolution in Kenya strengthened	1.2	1.2	1.2	1.2	4.8
Output 3: Capacity of the IEBC to effectively undertake their mandate enhanced	1.5	1.5	1.5	1.5	6
Overheads	1.1	1.1	1.1	1.1	4.4
Total budget	6.8	5.8	5.8	5.8	24.2
DANIDA contribution	4.2	3.6	3.6	3.6	15

10. Management Arrangements

- 10.1** The overall principles for management of the present development engagement are described in the implementing Partner Agreement to which this Development Engagement Document is annexed.
- 10.2** The daily management of the present engagement is undertaken by EISA. The Embassy will also engage directly with both state and non-state electoral process partners under the auspices of the Donor Group on elections for strategic engagement and separately together with EISA for programme management discussions
- 10.3** EISA will provide technical assistance to the Political Parties Dispute Tribunal (PPDT), the Independent Electoral and Boundaries Commission (IEBC) and citizen observer groups. There may be scope for a Joint Financing Arrangement (JFA). The donors who have expressed interest in funding EISA are also in discussion to have a joint programme document, joint budget and joint results framework that our respective documents will feed into and that will enhance coordination and alignment. This has been done by donors funding EISA – Zimbabwe and EISA – Mozambique. The donors in discussion are: Denmark, DFID, US, Finland and Sweden. All are in different stages of programme formulation.

²² The overall objective of this

- 10.4 EISA will be part of the annual Embassy programme consultations that will review progress on the country programme. The consultations will involve the government and all the Embassy’s engagement partners.
- 10.5 The Embassy will also be part of EISA’s donor roundtable for strategic dialogue amongst EISA partners. EISA invites all donors to regular roundtable meetings, minimum twice a year where they share progress and discuss strategic priorities or adjustments. Danida would, as a part of the proposed engagement, continue having a seat at this table which also provides an opportunity to continue working with like-minded donors. EISA will also schedule interactions with the Embassy on a need basis to discuss other technical issues that may relate directly to the Embassy’s programme.

11. Financial Management and Audit

- 11.1 Both parties will strive for full alignment of the Danish support to the implementing partner rules and procedures.
- 11.2 Accounting and auditing of the Danish funds will include accounting and auditing of the whole organisation and will be undertaken by EISA in accordance with generally accepted international standards on accounting and auditing as outlined in the Danida guidelines entitled “General Guidelines for Accounting and Auditing of Grants channelled through Government, Parastatals and International Organizations (<http://amg.um.dk/en/technical-guidelines/financial-management/accounting-and-auditing/>)”. EISA will conduct the audit on annual basis and will be required to submit its annual audit report to the Embassy for the financial years covered by any part of the Danish support.
- 11.3 EISA will maintain accounting records relating to the programme activities in accurate and complete form during implementation and for a minimum of three years after programme completion. Accounting records shall be available for control by the Embassy of Denmark, a representative appointed by the Embassy, or by the Danish Auditor General.
- 11.4 EISA will prepare an annual narrative and financial progress report to be shared with the Embassy within 3 months after each financial year end. In addition to the annual reports, EISA will prepare and submit regular quarterly reports to the Embassy within a month after completion of each quarter.
- 11.5 The Embassy will ensure adequate disbursement to EISA based on the agreed upon annual budgets and workplans. EISA will request funds in two instalments each year with the disbursements based on the progress reported in the expenditure reports and cash expenditure

12. Monitoring and Evaluation

- 12.1 EISA is responsible for monitoring and reporting on the progress and achievements of the development engagement using its own results framework and M&E system.
- 12.2 The Danish Embassy shall have the right to carry out any technical or financial mission that is considered necessary to monitor the implementation of the programme.
- 12.3 The Danish Embassy will contract a strategic monitoring support for the entire country programme and all development engagement partners, including EISA, will provide data needed to measure progress.

12.4 Danida Copenhagen will carry out Real Time Evaluation during the implementation period covered by this agreement and Danida will also, after the termination of the programme support, reserve the right to carry out additional evaluation in accordance with this article.

13. Signatures

On behalf of

EISA – Kenya

On behalf of

The Danish Embassy, Nairobi

Signature

Signature

Country Director

Ambassador

Date

Date

