

## EU ANNUAL REPORT ON HUMAN RIGHTS AND DEMOCRACY IN THE WORLD 2019 COUNTRY UPDATES

### Kenya

**1. Overview of the human rights and democracy situation:** Human rights abuses such as extra-judicial killings, disappearances and unlawful detentions continue to be reported by civil society organisations, with the police singled out as a source of a number of problems. Conflicts over land rights coupled with evictions of tribal groups from ancestral lands, allegedly sometimes in the name of business interests disguised as conservancy needs, continued to occur. 2019 was also dominated by headlines about the fight against corruption, an all-pervasive problem in Kenya, in the wake of the high profile arrests of the Treasury Minister (Cabinet Secretary) Henry Rotich and Nairobi Governor Mike Sonko. These indictments have not yet led to convictions and seizures of assets. Political discourse in Kenya in 2019 was dominated by speculation and discussion about the purpose and substance of the Building Bridges Initiative (BBI). The BBI had been launched by President Kenyatta Raila Odinga, following their 9 March 2018 'Handshake', as a way of exploring an alternative, less conflictual approach to Kenyan politics that would lead to a reduction of violence during elections. The 159-page BBI report, the outcome of the reflection process, was published on 27 November 2019. It recommended a series of political reforms, including changes to the executive, some of which are likely to require constitutional changes. The effect of the publication of the BBI report has so far been two-fold: on the one hand, it has brought a number of the previously sceptical opposition party leaders somewhat closer to the Kenyatta camp. On the other hand, the political rift within the ruling Jubilee Party between the supporters of President Kenyatta and the supporters of his Deputy President William Ruto, which was triggered by the 'handshake', has continued. Ruto, along with several other opposition leaders, consider the BBI as vote-garnering vehicle for Odinga, his rival to the Presidency in 2022. Nevertheless, Ruto and his allies were giving signals that at the very least they could support the general substance of the BBI report, if not the form that the BBI process has taken so far.

**2. EU action - key focus areas:** The EU delegation focused on five key priorities in 2019: (i) Civic Space, (ii) Human Rights and Security Forces, (iii) Impunity and Accountability, (iv) Human Rights Defenders and (v) Women's Rights. These priorities served as a basis for both operational programming and diplomatic outreach.

**3. EU bilateral political engagement:** In autumn 2019, the Head of the EU Delegation invited a broad range of human rights CSOs during a dinner to discuss the human rights challenges in Kenya, and on another occasion in the same period met with representatives of groups defending their ancestral lands. The Head of the EU Delegation also engaged on with key actor such as the Director of Public Prosecution, the Chief Justice, the Director of Criminal investigations and the Ethics and Anti-Corruption Commission on corruption. Throughout 2019, the EU delegation and EU Member States participated in meetings with human rights defenders held (approximately bi-monthly) at the Belgian embassy which served as the EU's designated HRDs' contact point. Human Rights issues were also addressed in the first half of 2019 through the Whole of Society Dialogue.

**4. EU financial engagement:** In 2019, the EU continued implementing the Programme for Legal Empowerment and Aid Delivery (PLEAD), a five-year justice support programme of EUR 34.15 million aimed at improving access to legal aid and the expeditious delivery of justice. The programme targets the counties with the five largest urban centres and seven counties in the most marginalised areas in Kenya and is implemented through the Department of Justice (implementation of the new legal aid act), Amkeni Wakenya (UNDP led facility supporting local Civil Society Organisations contributing to the delivery of legal aid services), and UNODC (supporting Judiciary, the Office of the Director of Public Prosecutions, the Kenya Probation and Aftercare Service, the Witness Protection Agency, and the National Council on the Administration of Justice).

Following an EIDHR call for proposals a focused on 'Human Rights and law enforcement' in 2017, the following projects were being implemented in 2019:

- (a) The Danish Institute for Human Rights (EUR 410,000), working directly with the Independent Police Oversight Authority to provide training on human rights and extra-judicial killings;
- (b) The Kenya National Commission on Human Rights (EUR 387,000), focusing on institutional strengthening, monitoring of Kenya's international obligations, and investigation and redress of human rights violations related to extra-judicial killings and torture, the UPR process, training and awareness raising around torture, etc.;
- (c) Peace Brigades International (EUR 414,000), working at the grassroots level with two community-based organisations to support human rights defenders and enhance dialogue between the police and local population in Nairobi's urban settlements;
- (d) the Death Penalty Project (EUR 393,000) in providing legal assistance and support to criminal defence/human rights lawyers, capacity-building of legal and medical professionals involved in capital cases; and to campaign in favour of the abolishment of the death penalty.

In 2019, the EU launched an EIDHR call for proposals aimed at Human Right Defenders organisations in Kenya. Following this call, the EU delegation awarded grants to the following projects:

- (a) WE EFFECT (EUR 445,000) Enhancing Women Land Rights at Grassroots Level in Kakamega, Busia, Nairobi and Mombasa Counties;
- (b) Protection International Kenya (EUR 445,000): Supporting Women HRDs and their grassroots organisations in Mathare to document and prevent Extrajudicial Executions;
- (c) CESVI (EUR 445,000): Protection and promotion of children best interest in the Kenyan Juvenile Justice System;
- (d) MINORITY RIGHTS Group (EUR 440,000): Ethnic Minority Defenders: Amplifying the voices of indigenous Ogiek (Mau Forest and Mt Elgon), Sengwer (Emubut Forest), Endorois (Bogoria) and Awer (Boni Forest), to advocate for their rights to health & education (contract still to be signed).

**5. Multilateral context:** Kenya will undergo a Universal Periodic Review (UPR) in 2020. In October 2019, Kenyan civil society organisations presented their review of the human rights situation in Kenya and analysed the status of implementation of the UPR recommendations. The Kenyan government accepted 192 (76%) out of the 253 recommendations.