

# Kenya

## 2015 Country Summary

### Country Recommendations

**Kenya's GI ranking in Band D places it in the high risk category for corruption in the defence and security sector.** Kenya's highest risk area is Operations, followed by Procurement, Financial, Political and Personnel. Kenya's high levels of defence spending and lack of political will or systems to confront corruption have created very high corruption risks. This puts into question the effectiveness of Kenya's national security apparatus, as evidenced by repeated domestic attacks from Al Shabaab. The following issues must be tackled urgently to reduce fragility and improve security provision:

**Urgently address corruption within the Kenyan Defence Force (KDF) and implement heavy sanctions against offenders, particularly regarding KDF involvement in charcoal and sugar smuggling from Somalia.**

- A wide range of evidence from UN monitors and journalists links the KDF to the \$400 million illegal charcoal and sugar trade in Somalia, which sustains Al Shabaab. KDF must urgently investigate this and initiate heavy sanctions for offenders. It must also provide comprehensive pre-deployment anticorruption training to commanders at all levels.
- The government must hold the MOD and KDF accountable. It must train and regularly deploy professionals capable of monitoring corruption to regularly report on the status of corruption within KDF operational missions and encourage independent monitors to verify their findings. All reports must be made available to the Defence and Foreign Relations Committee (DFRC), as well as publicly in at least summary form.

**Improve oversight of the National Intelligence Service (NIS). Provide the Defence and Foreign Relations Committee full information for each budget year on the spending of all secret items relating to national security and military intelligence. Require appropriate justification for classifying information and appropriate scrutiny of intelligence heads.**

- Research indicates the NIS is likely to be highly politicised. Parliamentary scrutiny is assessed to be superficial, and the DFRC are still unable to appropriately review its budgets and priorities. The government should revise Article 2b of the National Intelligence Service Act, 2012 to prevent individuals and agencies from inappropriately limiting access to information on secret expenditure.

**Investigate and prosecute corruption within the defence and security institutions. Conduct regular assessments of corruption risk for Ministry and KDF personnel and put in place measures for mitigating such risks. Create independent, well-resourced, and effective institutions to build integrity and countering corruption.**

- There appear to be no specific anti-corruption institutions within the defence sector. Research found no evidence that any significant prosecutions for corruption have occurred despite extensive evidence from the sector. Existing audits and sanctions largely target junior and middle-ranked personnel, allowing senior personnel to behave with impunity.
- No evidence could be found of the MOD's internal effectiveness, which has previously ignored requests to submit information on purchases worth Sh4.5 billion to the Public Procurement Oversight Authority for scrutiny. The national Ethics and Anti-Corruption Commission (EACC) is mandated to carry out integrity-related tasks in the defence sector under the Public Service Integrity Programme (PSIP) but it has not yet carried out any sectoral surveys of defence and security corruption, nor have its recommendations for other sectors been fully implemented to date.
- As public institutions, the MOD and the KDF should urgently create an openly stated anti-corruption policy that is explicit to the defence sector; and proactively implement this under a well-structured set of plans. Both must also meet their obligations under the PSIP to develop specific Codes of Conduct and Ethics and to train Integrity Assurance Officers (IAOs).

**Engage with CSOs on corruption issues.**

- Urgently roll back restrictive laws, policies and practices that target CSO activity. Establish policies that legally protect CSOs, and ensure that defence and security institutions are open towards and proactively engage with CSOs.
- There is evidence that the government and security forces have harassed and threatened journalists, leading to self-censorship. The state should urgently address this. It must also review the 2014 Security Laws (Amendment) Act, which gave the government expansive powers to restrict basic rights in the interest of national security; and the cap on foreign funding that CSOs can receive under the 2013 Statute Law (Misc Amendments) Bill.
- Policy-makers should create broader, strategic engagement with civil society and the media, in line with internationally accepted good practice for security sector reform.

## Scorecard

Political	Defence & Security Policy	Legislative Scrutiny	1
		Defence Committee	1
		Defence Policy Debated	2
		CSO Engagement	0
		International AC Instruments	3
		Public Debate	1
		AC Policy	2
		AC Institutions	2
		Public Trust	2
		Risk Assessments	0
	Defence budgets	Acquisition Planning	2
		Budget Transparency & Detail	1
		Budget Scrutiny	1
		Budget Publicly Available	1
		Defence Income	0
		Internal Audit	1
		External Audit	2
	Other Political Areas	Natural Resources	2
		Organised Crime Links	2
		Organised Crime Policing	1
		Intelligence Services Oversight	2
Intelligence Services Recruitment		2	
Export Controls		1	
Finance	Asset Disposals	Asset Disposal Controls	2
		Asset Disposal Scrutiny	2
	Secret Budgets	Percentage Secret Spending	0
		Legislative Access to Information	1
		Secret Program Auditing	1
		Off-budget Spending in Law	2
		Off-budget Spending in Practice	2
		Information Classification	2
	Links to Business	Mil. Owned Businesses Exist	2
		Mil. Owned Business Scrutiny	1
Unauthorised Private Enterprise		0	
Personnel	Leadership	Public Commitment	2
		Measures for Corrupt Personnel	2
		Whistleblowing	1
		Special Attention to Sensitive Personnel	1
	Payroll and Recruitment	Numbers of Personnel Known	0
		Pay Rates Openly Published	2
		Well-established Payment System	3
		Objective Appointments	2
		Objective Promotions	2
	Conscription	Bribery to Avoid Compulsory Conscription	
		Bribery for Preferred Postings	
Salary Chain	Ghost Soldiers	3	

		Chains of Command and Payment	3
	<b>Values, Standards, Other</b>	Code of Conduct Coverage	3
		Code of Conduct Breaches Addressed	2
		AC Training	2
		Prosecution Outcomes Transparent	2
		Facilitation Payments	1
<b>Operations</b>	<b>Controls in the Field</b>	Military Doctrine	1
		Operational Training	0
		AC Monitoring	1
		Controls on Contracting	2
		Private Military Contractors	1
<b>Procurement</b>	<b>Government Policy</b>	Legislation	1
		Transparent Procurement Cycle	1
		Oversight Mechanisms	1
		Purchases Disclosed	1
		Standards Expected of Companies	1
	<b>Capability Gap</b>	Strategy Drives Requirements	1
		Requirements Quantified	1
	<b>Tendering</b>	Open Competition v. Single-Sourcing	1
		Tender Board Controls	2
		Anti-Collusion Controls	1
	<b>Contract Delivery / Support</b>	Procurement Staff Training	1
		Complaint Mechanisms for Firms	2
		Sanctions for Corruption	2
	<b>Offsets</b>	Due Diligence	
		Transparency	
		Competition Regulation	
	<b>Other</b>	Controls of Agents	1
Transparency of Financing Packages		0	
Subsidiaries / Sub-Contractors		0	
Political Influence		3	