

Kenya

<b>Background</b>	<b>Name of EMB:</b>	Independent Electoral and Boundaries Commission (IEBC), Kenya
	<b>Status:</b>	Permanent
	<b>Number of commissioners:</b>	Eight commissioners and the chairperson.
	<b>Number of full-time EMB staff:</b>	926 staff, permanently employed.
	<b>Constitutional and/or legislative provisions for establishment of the EMB:</b>	The EMB is established under Article 88 of the Constitution of Kenya; its structures are set up under the Independent Electoral and Boundaries Commission Act, 2011. Its substantive law is codified in the Elections Act and the accompanying regulations and the Campaign Financing Act.
<b>Establishment of the EMB</b>	<b>EMB's mandate:</b>	<p>Responsible for conducting or supervising referenda and elections to any elective body or office established by the constitution, and any other elections as prescribed by an act of parliament, and in particular for:</p> <ul style="list-style-type: none"> <li>a. the continuous registration of citizens as voters;</li> <li>b. the regular revision of the voters' roll;</li> <li>c. the delimitation of constituencies and wards;</li> <li>d. the regulation of the process by which parties nominate candidates for elections;</li> <li>e. the settlement of electoral disputes, including disputes relating to or arising from nominations, but excluding petitions and disputes subsequent to the declaration of election results;</li> <li>f. the registration of candidates for elections;</li> <li>g. voter education;</li> <li>h. the facilitation of the observation, monitoring and evaluation of elections;</li> <li>i. the regulation of the amount of money that may be spent by or on behalf of a candidate or party in respect of any election;</li> <li>j. the development of a code of conduct for candidates and parties contesting elections; and</li> <li>k. the monitoring of compliance with the legislation required by the constitution relating to nomination of candidates by parties.</li> </ul>
	<b>EMB model:</b>	Independent

<b>Appointment, tenure and removals</b>	<p><b>Provisions for the appointment of commissioners and senior staff:</b></p> <p>With respect to commissioners, a selection panel is established which receives applications, interviews applicants and recommends to parliament for approval; thereafter the president appoints.</p> <p>With respect to senior staff, the commission recruits competitively.</p> <p><b>Political status:</b></p> <p>Appointments are based on expertise, with consideration for regional/ethnic and gender balancing.</p> <p><b>Chair/commissioner qualifications:</b></p> <p>The chairperson must be qualified to hold office as a Supreme Court judge, i.e. must be a judge, lawyer or academic in the legal field of not less than 15 years standing.</p> <p><b>Tenure of commissioners and senior staff:</b></p> <p>Commissioners are appointed for a six-year non-renewable term.</p> <p><b>Provisions for the removal of commissioners and senior staff:</b></p> <p>Commissioners can only be removed by the president on a recommendation by a tribunal established for the purpose, and only on five grounds: serious violation of the constitution, gross misconduct, physical or mental incapacity, incompetence or bankruptcy.</p> <p>Senior staff are subject to the commission's disciplinary process set out under the IEBC Act.</p>	<p>With respect to commissioners, a selection panel is established which receives applications, interviews applicants and recommends to parliament for approval; thereafter the president appoints.</p> <p>With respect to senior staff, the commission recruits competitively.</p> <p>Appointments are based on expertise, with consideration for regional/ethnic and gender balancing.</p> <p>The chairperson must be qualified to hold office as a Supreme Court judge, i.e. must be a judge, lawyer or academic in the legal field of not less than 15 years standing.</p> <p>Commissioners are appointed for a six-year non-renewable term.</p> <p>Commissioners can only be removed by the president on a recommendation by a tribunal established for the purpose, and only on five grounds: serious violation of the constitution, gross misconduct, physical or mental incapacity, incompetence or bankruptcy.</p> <p>Senior staff are subject to the commission's disciplinary process set out under the IEBC Act.</p>
<b>Funding arrangements</b>	<p><b>Setting and control of EMB's budget:</b></p> <p>The IEBC Act sets up the Commission Fund, into which funds obtained from the national treasury are paid along with those obtained from donors and other financiers.</p> <p><b>Financial autonomy:</b></p> <p>No, clearance from the Treasury would be required under the Public Finance Management Act.</p>	<p>The IEBC Act sets up the Commission Fund, into which funds obtained from the national treasury are paid along with those obtained from donors and other financiers.</p> <p>No, clearance from the Treasury would be required under the Public Finance Management Act.</p>
<b>Electoral system</b>	<p><b>Legal provisions for financial autonomy:</b></p> <p>Though the IEBC Act was crafted with the intention of granting financial independence to the commission, the subsequent enactment of the Public Finance Management Act has somewhat eroded the commission's financial independence.</p> <p><b>Number of chambers/houses within the legislature:</b></p> <p>Bicameral: Senate and National Assembly. There are also legislative assemblies for each of the 47 devolved units.</p> <p><b>Voting system:</b></p> <p>Mixed member proportional representation. FPTP and party list for special interest groups and gender top-ups in the county assemblies.</p> <p><b>Amendments to electoral laws:</b></p> <p>The legislative authority is wholly vested in parliament, with the limited exception that the commission can make regulations which still have to be adopted by parliament. The commission participates in law making just like any other body.</p> <p><b>Drafting of electoral regulations:</b></p> <p>The EMB does have the authority to draft and adopt electoral regulations, and to forward them to parliament for adoption.</p>	<p>Though the IEBC Act was crafted with the intention of granting financial independence to the commission, the subsequent enactment of the Public Finance Management Act has somewhat eroded the commission's financial independence.</p> <p>Bicameral: Senate and National Assembly. There are also legislative assemblies for each of the 47 devolved units.</p> <p>Mixed member proportional representation. FPTP and party list for special interest groups and gender top-ups in the county assemblies.</p> <p>The legislative authority is wholly vested in parliament, with the limited exception that the commission can make regulations which still have to be adopted by parliament. The commission participates in law making just like any other body.</p> <p>The EMB does have the authority to draft and adopt electoral regulations, and to forward them to parliament for adoption.</p>

<p><b>Electoral disputes</b></p>	<p><b>Electoral dispute resolution mechanisms:</b></p>	<p>Disputes are settled at two stages: pre-poll disputes are determined by the commission and the courts, while post-poll disputes are the exclusive mandate of the judiciary.</p>
<p><b>Other issues:</b></p>		
<p><b>Secretariat</b></p>	<p><b>Administrative autonomy:</b></p>	<p>The EMB does have the power to create, promote or abolish staff posts.</p>
	<p><b>Women in senior positions:</b></p>	<p>At the commission level, three out of the nine commissioners are women, while at the Secretariat level, out of the 11 senior staff, five are women.</p>
	<p><b>Structure:</b></p>	<p>The commissioners are the policy organ of the commission, while the Secretariat is headed by the CEO (who is also the commission secretary), who is assisted by two deputies – one in charge of operations and the other in charge of support services. There are eight directorates:</p> <ol style="list-style-type: none"> <li>1. Voter Registration and Electoral Operations</li> <li>2. Legal and Public Affairs</li> <li>3. Voter Education and Partnerships</li> <li>4. Research and Development</li> <li>5. Risk and Compliance</li> <li>6. Human Resource and Administration</li> <li>7. Finance and Procurement</li> <li>8. Information Communication and Technology</li> </ol> <p>For ease of operations, the commission has clustered the 290 constituencies into 17 regions – each headed by a regional elections co-ordinator. Each constituency is headed by a constituency elections co-ordinator.</p>