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ANNEX

Neighbourhood, Development and International Cooperation Instrument (NDICI) – Global Europe

Exceptional Assistance Measure regarding Kenya

1. IDENTIFICATION

- Action: Support to the prevention of electoral conflict and violence in Kenya's 2022 general elections.
- Action Reference: NDICI CR 2021 /-37
- Cost: EUR 7 000 000 (European Union contribution).
- Budget Line: 14 02 03 10
- Duration: Maximum 18 months. The authorising officer responsible may decide to extend this period twice by a further period of up to six months, up to a total maximum duration of 30 months, under the conditions laid down in Article 23(6) of Regulation (EU) 2021/947.
- Lead service: FPI

2. ACTION SUMMARY

The 2022 general elections in Kenya are set to take place in a context of ethnic polarisation, political tension and a partisan media landscape coupled with high levels of unemployment, especially amongst the youth and inequalities deepened by the impact of COVID-19. On 20 August 2021, the Court of Appeal of Kenya upheld the earlier ruling by the High Court that the constitutional amendment bill initiated by President Kenyatta, and passed by parliament, was illegal and unconstitutional. The court ruling is set against rifts in the ruling coalition about the succession of President Kenyatta and divisions in Kenyan society over the constitutional amendment. Recent elections for vacant seats in Parliament have been marred by violence and Kenya's history of election violence shows that electoral tension can quickly degenerate into widespread intercommunal violence, leading to deaths and displacement. The EU is committed to the promotion of democracy and peace in Kenya and peaceful elections are critical for the stability of the country and the wider Horn of Africa region. This action will support the prevention of conflict and violence ahead of, during and after the general elections. There will be a focus on support to state and non-state infrastructures for conflict prevention and resolution, as well as on female and youth-led action, and engagement with media.

3. BACKGROUND AND RATIONALE

3.1 BACKGROUND

In Kenya, national and local elections are scheduled for 9 August 2022. There are mounting tensions in the ruling coalition about the succession of President Kenyatta and increased competition is also expected over governor positions, given a majority of governors will finish their final term. On 20 August 2021, Kenya's court of appeal upheld an earlier ruling by the High Court that the constitutional amendment bill, initiated by President Kenyatta and passed by parliament was illegal and unconstitutional. Kenyan society is divided about the proposed amendments and struggles with high levels of unemployment, particularly amongst the youth, and inequalities, which have been deepened by the impact of Covid-19. The elections also risk exacerbating tensions regarding additional underlying conflict drivers such as the competition over land and other natural resources, which are under increasing stress, given the ongoing drought situation, as well as the vulnerability of the population in the face of the weak security apparatus. Recent by-elections – elections for vacant seats in Parliament – have been marred by violence and Kenya's history of election violence shows that electoral tension can quickly degenerate into widespread intercommunal violence, leading to many deaths and displacement. Tensions are often re-enforced by a partisan media landscape and through social media, which – given the increased connectedness and mobile phone usage also in rural areas – plays a more significant role compared to previous elections.

Kenya's National Cohesion and Integration Commission (NCIC) is mandated to promote national unity, equity and the elimination of all forms of ethnic discrimination by facilitating equality of opportunities, the peaceful resolution of conflicts and respect for diversity among Kenyan communities. The NCIC has developed and launched a roadmap for peaceful elections and aims to lead other peace actors to ensure a peaceful election environment.

Potential hotspots for election-related violence include the historically marginalized communities in coastal and north-eastern Kenya, which have long experienced insecurity, have low levels of trust in government authorities and may be affected by proposed changes to some of the counties' boundaries under the constitutional amendment. In Marsabit county, the recent escalation of long-standing violent communal conflicts coupled with a continued proliferation of arms, raise fears about a further deterioration and escalation in the run-up to the 2022 elections. Urban centres, where violence through the police has increased since the beginning of the COVID-19 pandemic, are equally considered as potential hotspots. Youth in informal urban settlements are particularly affected by unemployment which makes them both more susceptible to incitement of political violence for financial gain as well as more vulnerable to the effects of election violence, including to sexual violence. Young people, particularly young women, are often excluded from meaningful political participation, sometimes actively through targeted intimidation. At the same time, there is a dynamic youth-led and community-led civil society which is committed to a peaceful and constructive political discourse and is well placed to prevent, mitigate and report electoral tension or violence.

The EU is committed to the promotion of democracy and peace in Kenya and peaceful elections are critical for the stability of the country and the wider Horn of Africa region. In response to this situation, this action will aim to support the prevention of election related conflict and violence in Kenya's 2022 general elections.

3.2 RATIONALE FOR CRISIS RESPONSE ACTIONS UNDER THE RAPID RESPONSE PILLAR OF THE NEIGHBOURHOOD, DEVELOPMENT AND INTERNATIONAL COOPERATION INSTRUMENT

Increasing political and ethnic polarisation and violent outbreaks in the run-up to the 2022 general election, constitute an exceptional and unforeseen situation in the sense of Article 4(4) of the NDICI Regulation. An adequate response cannot be provided under any other European Union Instrument due to the urgency with which the funds are required and due to available resources already being firmly committed.

Annex IV, paragraph 1, points (b), (n) and (q) of Regulation (EU) 2021/947 specifically provides for the use of the NDICI rapid response pillar to support (b) the implementation of UNSCRs on women, youth, peace and security; (n) measures to promote and defend respect for human rights and fundamental freedoms, democracy and the rule of law, and the related international instruments, and (q) measures to promote the development and organisation of civil society and its participation in the political process, including measures to enhance the role of women in such processes and measures to promote independent, pluralist and professional media.

3.3 RISKS AND ASSUMPTIONS

Risks	High, medium, low	Mitigation
Absence of a genuine commitment to codes of conduct among contesting political leaders.	High	Sustained bilateral and multilateral engagements on the importance and relevance of peaceful elections.
Insufficient alignment with authorities' efforts for prevention of election violence and conflict.	Medium	Action to be implemented in close coordination and collaboration with national and local stakeholders.
Participants are exposed to increased risks as a result of their participation in the action.	Medium	Continuous conflict analysis and do-no-harm analysis as well as pro-active information and communication by implementing partners. Training on risk identification and mitigation.
The security situation during election period deteriorates affecting the implementation of the action.	Medium	Action to be implemented with a high degree of flexibility and adaptability to react to changes on the ground.

The COVID-19 pandemic affects implementation of the action.	Medium	The implementation of the action will follow national and international sanitary guidelines.
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4. OBJECTIVES

4.1 OVERALL OBJECTIVE

The overall objective of the action is to support the prevention of election-related conflict and violence in Kenya’s 2022 general elections.

4.2 SPECIFIC OBJECTIVES

- 4.2.1 Support to the prevention of election-related conflict and violence at national-level;
- 4.2.2 Support to the prevention of electoral conflict and violence in potential hotspot areas.

5. ACTION COMPONENTS AND EXPECTED RESULTS

The main expected results/outcomes include:

Expected Result (1): Increased cooperation between the National Cohesion and Integration Commission (NCIC), the Independent Electoral and Boundaries Commission (IEBC) and other state and non-state actors to prevent electoral conflict and violence.

Activities (indicative):

- 5.1.1 Conduct and disseminate relevant analysis on causes, drivers and potential hotspots of election-related violence and conflict;
- 5.1.2 Conduct trainings and meetings at national and regional level to enhance joint work around early warning, violence prevention and mitigation and human rights;
- 5.1.3 Establish an election violence situation room;
- 5.1.4 Identify and train mediators for election-related conflicts;
- 5.1.5 Conduct inter-and intra-community dialogue meetings on grievances;
- 5.1.6 Conduct meetings with religious and community leaders on conflict resolution mechanisms;
- 5.1.7 Conduct and promote media monitoring to detect hate speech and incitement to violence;
- 5.1.8 Conduct media campaign to promote peace, cohesion and peaceful elections.

Expected Result (2): Increased inclusive community-led prevention of electoral conflict and violence in coastal and northern Kenya.

Activities (indicative):

- 5.2.1 Conduct training and enhance co-operation of conflict monitors to identify early signs of election-related violent conflict;
- 5.2.2 Conduct mediation training for local dispute resolution structures and civil-society leaders;
- 5.2.3 Support community initiatives for conflict resolution;

- 5.2.4 Mentor mediators on resolution of local conflicts;
- 5.2.5 Conduct media campaigns to promote peaceful resolution of conflict;
- 5.2.6 Organise coordination meetings with other stakeholders on the monitoring of hate speech and online dynamics.

Expected Result (3): Increased involvement of female and male youth in selected urban areas in prevention of electoral conflict and violence as well as in peacebuilding and political processes.

Activities (indicative):

- 5.3.1 Provision of training courses on gender-sensitive conflict analysis, conflict resolution and conflict sensitive advocacy;
- 5.3.2 Facilitation of intra and inter-ethnic youth-led dialogue meetings on grievances and potential violence triggers;
- 5.3.3 Facilitation of meetings between youth and electoral stakeholders as well as political and security actors;
- 5.3.4 Establish and support networks between youth leaders and youth groups and election, political and community stakeholders on early warning, rapid response mechanisms as well as on advocacy engagement.

Expected Result (4): Reduced risk for violent escalation of election conflict in Marsabit county.

Activities (indicative):

- 5.4.1 Conduct localised and cross-border conflict analysis;
- 5.4.2 Identify and train inclusive local conflict and ceasefire monitoring committees;
- 5.4.3 Conduct inter-and intra-community dialogue meetings on grievances;
- 5.4.4 Facilitate local ceasefire agreements;
- 5.4.5 Facilitate a conduct of conduct with political stakeholders;
- 5.4.6 Facilitate coordination meetings both of local peace actors and together with the National Cohesion and Integration Commission (NCIC);
- 5.4.7 Support advocacy initiatives for sustained resource allocation.

6. IMPLEMENTATION

6.1 IMPLEMENTATION MODALITIES

The Commission will ensure that the appropriate EU rules and procedures for providing financing to third parties are respected, including review procedures, where appropriate, and compliance of the action with EU restrictive measures¹.

¹ www.sanctionsmap.eu Please note that the sanctions map is an IT tool for identifying the sanctions regimes. The source of the sanctions stems from legal acts published in the Official Journal (OJ). In case of discrepancy between the published legal acts and the updates on the website, it is the OJ version that prevails.

6.1.1 Grant: direct award (direct management)

(a) Purpose of the grant

The grant will contribute to achieving the expected result 1 related to specific objective 1.

(b) Type of applicants targeted

The type of applicants targeted for these direct awards are non-governmental and not for profit organisations.

(c) Justification of a direct grant

Under the responsibility of the Commission's authorising officer responsible, the recourse to an award of a grant without a call for proposals is justified because **the action entails crisis management aid as referred to in Article 195(a) and as defined in Article 2(21) of the Financial Regulation** at the date of the Financing Decision.

(d) Exception to the non-retroactivity of costs

The Commission authorises that the costs incurred may be recognised as eligible as of 1 November 2021 because the quickly rising tensions ahead of the August 2022 elections, including violent clashes in by-elections and in Marsabit, underline the need for urgent and timely support to efforts of peace building actors, especially the National Cohesion and Integration Commission, in their prevention of electoral violence efforts.

6.1.2 Grant: direct award (direct management)

(a) Purpose of the grant

The grant will contribute to achieving the expected result 2 related to specific objective 2.

(b) Type of applicants targeted

The type of applicants targeted for these direct awards are non-governmental and not for profit organisations.

(c) Justification of a direct grant

Under the responsibility of the Commission's authorising officer responsible, the recourse to an award of a grant without a call for proposals is justified because **the action entails crisis management aid as referred to in Article 195(a) and as defined in Article 2(21) of the Financial Regulation** at the date of the Financing Decision.

6.1.3 Grant: direct award (direct management)

(a) Purpose of the grant

The grant will contribute to achieving the expected result 3 related to specific objective 2.

(b) Type of applicants targeted

The type of applicants targeted for these direct awards are non-governmental and not for profit organisations.

(c) Justification of a direct grant

Under the responsibility of the Commission's authorising officer responsible, the recourse to an award of a grant without a call for proposals is justified because **the action entails crisis**

management aid as referred to in Article 195(a) and as defined in Article 2(21) of the Financial Regulation at the date of the Financing Decision.

6.1.4 Grant: direct award (direct management)

(a) Purpose of the grant

The grant will contribute to achieving the expected result 4 related to specific objective 2.

(b) Type of applicants targeted

The type of applicants targeted for these direct awards are non-governmental and not for profit organisations.

(c) Justification of a direct grant

Under the responsibility of the Commission’s authorising officer responsible, the recourse to an award of a grant without a call for proposals is justified because **the action entails crisis management aid as referred to in Article 195(a) and as defined in Article 2(21) of the Financial Regulation** at the date of the Financing Decision.

6.2 INDICATIVE BUDGET

The total European Union contribution under this Financing Decision **will not exceed EUR 7 000 000**. A breakdown among components is provided hereunder, and is indicative.

Indicative budget breakdown

Components	EU contribution (amount in EUR)	Indicative third party contribution, in currency identified
Component 1: Increased ability and collaboration of the National Cohesion and Integration Commission (NCIC), the Independent Electoral and Boundaries Commission (IEBC) and other non-state actors to prevent electoral conflict and violence.		
6.1.1 – Direct grant (direct management)	3 500 000	N.A.
Component 2: Increased inclusive community-led prevention of electoral conflict and violence in coastal and northern Kenya.		
6.2.1 – Direct grant (direct management)	1 500 000	N.A.
Component 3: Increased involvement of female and male youth in selected urban areas in prevention of electoral conflict and violence as well as in peacebuilding and political processes.		
6.3.1 – Direct grant (direct management)	1 000 000	N.A.
Component 4: Reduced risk for violent escalation of election conflict in Marsabit county		

6.4.1 – Direct grant (direct management)	1 000 000	N.A.
Total	7 000 000	N.A.

6.3 ORGANISATIONAL SET-UP AND RESPONSIBILITIES

The action shall be implemented under direct management. It will be devolved and sub-delegated to the **European Union Delegation in Kenya**, with the support of the Commission for the conclusion of the contracts implementing the action.

6.4 PERFORMANCE AND RESULTS MONITORING AND REPORTING

The day-to-day technical and financial monitoring of the implementation of this action will be a continuous process and part of the implementing partner's responsibilities. To this aim, the implementing partner shall establish a permanent internal, technical and financial monitoring system for the action and elaborate regular progress reports (not less than annual) and final report. Each report shall provide an accurate account of implementation of the action, difficulties encountered, changes introduced, as well as the degree of achievement of its results (outputs and outcomes) as measured by corresponding indicators, using as reference the Logframe matrix. The report shall be laid out in such a way as to allow monitoring of the means envisaged and employed and of the budget details for the action. The final report, narrative and financial, will cover the entire period of the action implementation.

The Commission may undertake additional project monitoring visits both through its own staff and through independent consultants recruited directly by the Commission for independent monitoring reviews (or recruited by the responsible agent contracted by the Commission for implementing such reviews).

6.5 EVALUATION

Having regard to the nature of the action, an evaluation will not be carried out for this action or its components.

The Commission may, during implementation, decide to undertake such an evaluation for duly justified reasons either on its own decision or on the initiative of the partner.

The financing of the evaluation shall be covered by another measure constituting a financing decision.

6.6 AUDIT

Without prejudice to the obligations applicable to contracts concluded for the implementation of this action, the Commission may, on the basis of a risk assessment, contract independent audits or expenditure verification assignments for one or several contracts or agreements.

The financing of the audit shall be covered by another measure constituting a financing decision.

6.7 COMMUNICATION AND VISIBILITY

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU.

This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated at the start of implementation.

In terms of legal obligations on communication and visibility, the measures shall be implemented by the Commission, the partner country, contractors, grant beneficiaries and/or entrusted entities. Appropriate contractual obligations shall be included in, respectively, the financing agreement, procurement and grant contracts, and delegation agreements.

The Communication and Visibility Requirements for European Union External Action (or any succeeding document) shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.

7. COMPLEMENTARITY, COORDINATION AND FOLLOW-UP

This measure has been designed in coordination with the European Union Delegation to Kenya and will complement planned institutional support to the elections through the UNDP basket fund. The action will also complement support to local electoral monitoring. Kenya is a priority country for EU election observation and should the EU receive an invitation by Kenyan authorities to observe the general elections in 2022, a strong cooperation between implementing partners and an EU election mission should be strongly encouraged when possible and necessary. Coordination with other donors has taken place in the development of this action and will continue, through the elections donor group and the conflict prevention donor group to ensure complementarity.