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**ETHICS AND ANTI-CORRUPTION COMMISSION**




# **ANNUAL REPORT 2017/2018**

*Tuangamize Ufisadi, Tuijenge Kenya*



## ETHICS AND ANTI-CORRUPTION COMMISSION

REPORT OF ACTIVITIES  
AND FINANCIAL STATEMENTS FOR THE  
FINANCIAL YEAR 2017/2018 FOR  
THE ETHICS AND ANTI-CORRUPTION COMMISSION (EACC)

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>	
<b>DATE:</b> 18 DEC 2018	
<b>DAY:</b> TUESDAY	
<b>TABLED BY:</b>	Leader of the Majority Party
<b>CLERK-AT THE TABLE:</b>	Don Wasike



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## LIST OF ABBREVIATIONS AND ACRONYMS

- AAACA** African Association of Anti-Corruption Authorities
- ACC** Anti-Corruption Court
- ACEC** Anti-Corruption and Economic Crimes (a Division of the High Court of Kenya)
- ACECA** Anti-Corruption and Economic Crimes Act, 2003
- ADR** Alternative Dispute Resolution
- AG** Attorney General
- AP** Administrative Police
- ARINSA** Asset Recovery Inter-Agency Network for Southern Africa
- ASK** Agricultural Society of Kenya
- CAACC** Commonwealth Africa Anti-Corruption Centre
- CASB** County Assembly Service Board
- CBAMs** Community Based Anti-Corruption Monitors
- CBO** Community Based Organization
- CDF** Constituency Development Fund
- CMCC** Chief Magistrate's Court Civil Case
- CPCs** Corruption Prevention Committees
- CPC** Criminal Procedure Code
- CPD** Continuous Professional Development
- CPSB** County Public Service Board
- CRAs** Corruption Risk Assessments
- DIALs** Declaration of Income, Assets and Liabilities (The Public Officer Ethics Act, 2003)
- DPP** Director of Public Prosecutions
- EAAACA** East African Association of Anti-Corruption Authorities
- EACC** Ethics and Anti-Corruption Commission
- ELC** Environmental and Land Court
- ELRC** Employment and Labour Relations Court
- ESAAAG** East and Southern African Association of Accounts General





- EVID** Electronic Voter Identification Devices
- FBOs** Faith Based Organizations
- FPE** Free Primary Education
- FY** Financial Year
- HCC** High Court Civil Case
- HR** Human Resource
- IAOs** Integrity Assurance Officers
- ICT** Information and Communications Technology
- IEBC** Independent Electoral and Boundaries Commission
- IEC** Information, Education and Communication
- IMF** International Monetary Fund
- IPCRM** Integrated Public Complaints Referral Mechanism
- JR** Judicial Review
- KCB** Kenya Commercial Bank
- KEPSA** Kenya Private Sector Alliance
- KES** Kenya Shillings
- KIP** Kenya Integrity Plan
- KLIF** Kenya Leadership Integrity Forum
- KPA** Kenya Ports Authority
- KRA** Kenya Revenue Authority
- KURA** Kenya Urban Roads Authority
- LIA** Leadership and Integrity Act, 2012
- MAT** Multi-Agency Team
- MCA** Member of County Assembly
- MDAs** Ministries, Departments and Agencies
- Misc.** Miscellaneous
- MOA** Matatu Owners' Association
- N/A** Not Applicable
- NACCSC** National Anti-Corruption Campaign Steering Committee
- NG-CDF** National Government – Constituency Development Fund





- NHIF** National Hospital Insurance Fund
- NLC** National Land Commission
- NSSF** National Social Security Fund
- ODPP** Office of the Director of Public Prosecutions
- PC** Performance Contracting
- PFM (CG) R** Public Finance Management (County Government) Regulations
- POCAMLA** Proceeds of Crime and Anti-Money Laundering Act, 2009
- POEA** Public Officer Ethics Act, 2003
- PPADA** Public Procurement and Asset Disposal Act, 2015
- PPRA** Public Procurement Regulatory Authority
- T/A** Trading As
- TI** Transparency International
- TVCs** Television Video Commercials
- UNCAC** United Nations Convention against Corruption
- YMCA** Young Men Christian Association





## **MISSION STATEMENT**

### **MANDATE**

To combat and prevent corruption and economic crime in Kenya through law enforcement, preventive measures, public education and promotion of standards and practices of integrity, ethics and anti-corruption

### **MISSION**

To promote integrity and combat corruption through law enforcement, prevention and education

### **VISION**

An integrity driven Kenyan society

### **CORE VALUES**

Integrity

Professionalism

Fidelity to the law

Courage

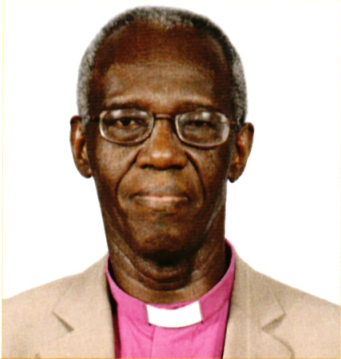
Teamwork

Innovation





## MEMBERS OF THE ETHICS & ANTI-CORRUPTION COMMISSION



*Archbishop (Rtd) Eliud Wabukala, EBS*  
**Chairperson**



*Comm. Sophia Lepuchirit*  
**Vice-Chairperson**



*Dr. Dabar Abdi Maalim*  
**Commissioner**



*Rose Mghoi Mtambo Macharia*  
**Commissioner**



*Paul Gachoka Mwaniki FCI Arb*  
**Commissioner**



*Halakhe D. Waqo, CBS, MCI Arb*  
**Secretary/Chief Executive Officer**





## MESSAGE FROM THE CHAIRPERSON

An institution can live up to its vision and soar to greater heights of progress when its key stakeholders stand solidly behind it. Good performance begets value, reputation and prosperity, driven by the people who make it happen. Our valued stakeholders in the justice chain have played a key role in the successes of the financial year ended 30<sup>th</sup> June, 2018.

I am profoundly glad in presenting the FY 2017/2018 Annual Report, which is the last in the Strategic Plan 2013-2018, during which the Commission recorded good performance in a challenging governance sector environment. In spite of the anxiety and shocks experienced in the economy occasioned by the long electioneering period, the Commission continued to discharge its mandate undeterred.

I wish to thank the key stakeholders, especially the Office of the Attorney General and the Department of Justice, which has been at the forefront in strengthening the policy, legal and regulatory framework in line with the Taskforce Report, 2016. Notable achievements in the year include the draft Whistle-Blowers Protection Bill, 2017; Anti-Corruption Laws Amendment Bill, 2017; and False Claim Bill, 2017. It is my hope that these bills, once enacted into law, will tighten loose ends in the anti-corruption legal environment.

The Commission registered exemplary performance in the year under review as demonstrated by 39 convictions, which translates to an 80 percent conviction rate. The Alternative Dispute Resolution mechanism has increased the success rate in asset recoveries.

(Corruption is multifaceted and the citizenry, regrettably, seems to be accepting it as a norm.) In response, the Commission in its Strategic Plan 2018-2023 has reoriented its strategies to mitigate the occurrence through measures such as focused investigations, asset recovery and prevention activities. Greater responsiveness lies at the heart of our strategy for the future as we strive to have an integrity driven Kenyan society.

We will strive to face tomorrow with resolve for greater results. Our core values reinforce this. I wish to thank my fellow Commissioners, the management and staff for a job well done. Finally, I reiterate that the war against corruption is the responsibility of every individual, whatever their station in life.

God bless EACC! God bless Kenya!

**ARCHBISHOP (RTD) ELIUD WABUKALA, EBS**  
**CHAIRPERSON**





## MESSAGE FROM THE SECRETARY/CHIEF EXECUTIVE OFFICER

The Commission draws its mandate from the Constitution and various statutes that include the Ethics and Anti-Corruption Commission Act, 2011 and the Leadership and Integrity Act, 2012 (LIA) amongst others. The Commission also enforces the Anti-Corruption and Economic Crimes Act, 2003 which is the principal law that provides for the investigations, prosecution and adjudication of corruption and economic crimes offences in Kenya. In this light, the FY 2017/2018 Report is prepared pursuant to the provisions of Article 254 (1) of the Constitution, Section 27 of the Ethics and Anti-Corruption Commission Act, 2011 and Section 45(1) LIA.

This Annual Report, the last prepared under Strategic Plan 2013-2018, outlines the achievements of the Commission's programmes. It details the programmes and activities implemented and resultant achievements; information relevant to the enforcement of and compliance with the provisions of LIA; requisite statistical information; challenges encountered; and the financial statement of the Commission.

Below are key highlights of the programmes and activities of the Commission and challenges encountered in the year under review.

**Law Enforcement:** The Commission received and analysed 6,235 reports/complaints out of which 2,898 fell within its mandate. The remainder were referred to other agencies for specified actions. In the same year, 426 reports on violations of Chapter Six of the Constitution were received, out of which 154 reports were analysed and completed. Consequently, 183 files on corruption and economic crime were finalized and submitted to the Office of the Director of Public Prosecutions (ODPP); from these 135 were recommended for prosecution, 14 for administrative action and 34 for closure. The Commission also forwarded four case files on ethical breaches to the ODPP. Forty-nine cases were finalized in court resulting in 39 convictions and 10 acquittals. In addition, 126 cases were withdrawn on account of *Civil Appeal No. 102 of 2016: Michael Sistu Mwaura Kamau-vs-EACC and 4 Others*. On the other hand, 67 Petitions challenging ongoing investigation and prosecution were filed against the Commission.

The integrity of any nation is based on the respect for the rule of law. Thus, the Commission moved a notch higher in enforcement of Chapter Six of the Constitution and the LIA with Petitions for removal of three State Officers for contravention of the same. Overall, there are nine cases in Court in relation to LIA. In the same vein, 41 cautions, 136 advisories and 36 notices were issued to public entities for violation of Chapter Six and LIA.

The Commission traced 14 illegally acquired public assets estimated at KES 2.3 billion and the recovery process is ongoing. Notably, assets valued at approximately KES 352 million were recovered through Court process and out-of-Court settlement and 26 Applications for Preservation of assets estimated at KES 2.6 billion were made. In addition, the Commission carried out 12 proactive covert investigations, averting a possible loss of public funds estimated at KES 4.2 billion.

**Corruption Prevention:** The Commission released a report on the examination of the systems, policies, procedures and practices of service delivery at the Ministry of Lands





and Physical Planning. In addition, the Commission completed and presented four reports of Corruption Risk Assessments (CRAs) on County Executives and County Assemblies with the aim of identifying and profiling corruption risks in public institutions and advising on the strategies that should be implemented to mitigate against the identified risks.

**Public Education:** The Commission undertook public education, training and awareness. It particularly conducted county anti-corruption outreach clinics where millions of people were reached, 225 school-based programmes implemented and eight Community Based Anti-Corruption Monitors sensitized.

**Partnerships, Networks and Coalitions against Corruption:** One of the key strategies of engaging stakeholders in the fight against corruption and unethical conduct has been realized through Kenya Leadership Integrity Forum (KLIF) which brings together 15 sectors drawn from State and non-State actors. EACC is currently the Secretariat for KLIF. The Commission is also a key partner of the Multi-Agency Team (MAT) which carries out joint investigations, shares information, and provides quick interventions in investigations, recovery and preservations of property acquired through corruption and organized crime.

**Retirement of Strategic Plan 2013-2018:** The Commission identified achievements, gaps in implementation, challenges experienced and the lessons learnt during the implementation of the Strategic Plan 2013-2018. The lessons learnt informed content and focus of the new Strategic Plan 2018-2023.

**Status of Corruption:** A survey conducted by the Commission suggests that the perceived levels of corruption and unethical conduct dropped to 70.4 percent in 2017 from 79.4 percent recorded in the 2016.

It also shows that the proportion of people who paid bribes when seeking services from public offices recorded no significant change in the proportion of those seeking services in public offices between 2016 (63.6%) and 2017 (63.5%). As a response, the Commission initiated and sustained new media-based education and public awareness activities by tweaking the public outreach programmes for impactful engagements.

**Institutional Capacity:** The Commission enhanced its staff complement to 717 up from 675. However, this number still falls short of the approved staff establishment of 2,246. The Commission will continue to request the Government for more funds to increase the staff complement annually until the establishment is achieved. In addition, the Commission invested in building the technical capacity of its staff in the face of emerging anti-corruption trends and the dynamic world.

**Funding:** During the period, the Commission received from the Government KES 4,336,540,000 out of which KES 3,068,540,000 and KES 1,268,000,000 was voted as recurrent and development budgets, respectively. The budgetary allocation rose by 25 percent from the FY 2016/2017.

**Challenges:** A number of challenges impacted negatively on the execution of our mandate during the reporting period, among them inadequate staff capacity; politicization of the fight against corruption and unethical conduct; enforcement of Chapter Six of the Constitution; lengthy legal process for Mutual Legal Assistance slowing the conclusion of investigations into cross-border corruption and economic crimes; and absence of





proper wealth declaration management and administrative procedures in Responsible Commissions. In corruption prevention, there is lack of clear mechanisms for enforcing systems review recommendations made to public institutions in order to seal corruption loopholes and strengthen systems of service delivery and operations.

**Way Forward:** It is worth noting that despite the challenges, positive legal and institutional reforms and interventions were realized. Nevertheless, there is need to make legal provisions that allow penalization of heads of public institutions for failing to implement recommendations made by the Commission.

I reiterate as a Commission we look forward to a better Kenya and an empowered citizenry which abhors corruption and upholds ethics and integrity.

A handwritten signature in black ink, appearing to be 'Halakhe D. Waqo', is positioned above the name. The signature is stylized and cursive.

**HALAKHE D. WAQO, CBS, MCI Arb**  
**SECRETARY/CHIEF EXECUTIVE OFFICER**







## CHAPTER 1: BACKGROUND

### 1.1 Introduction

The Ethics and Anti-Corruption Commission (EACC) is a statutory body established under the Ethics and Anti-Corruption Act, 2011 pursuant to Article 79 of the Constitution. Its mandate is to combat and prevent corruption and economic crime in Kenya through law enforcement, preventive measures, public education and promotion of standards and practices of integrity, ethics and anti-corruption.

Further, the mandate of the Commission on Ethics and Leadership is derived from Chapter Six of the Constitution; the Leadership and Integrity Act No. 19 of 2012; the Anti-Corruption and Economic Crimes Act, 2003; and Section 11 of the Ethics and Anti-Corruption Commission Act No. 22 of 2011.

This Annual Report is prepared pursuant to the provisions of Article 254 (1) of the Constitution, Section 27 of the Ethics and Anti-Corruption Commission Act, 2011 and Section 45(1) of the Leadership and Integrity Act (LIA) 2012. The Report contains the financial statement of the Commission; details of activities undertaken and achievements realized; information relevant to the enforcement of and compliance with the provisions of LIA; requisite statistical information; and challenges encountered in the review period.

### 1.2 Functions and Structure of EACC

#### 1.2.1 Functions

The functions of the Commission are:

- a) To investigate and recommend to the Director of Public Prosecutions the prosecution of any acts of corruption and violation of codes of ethics;
- b) To trace public assets and institute court action towards recovery and/or protection of such assets;
- c) To initiate court proceedings towards freezing or confiscation of proceeds of corruption or related to corruption, payment of compensation, or other punitive or disciplinary measures, and for forfeiture of unexplained asset;
- d) To carry out prevention, education and public awareness programmes;
- e) To undertake conciliation, mediation and negotiation on matters within its mandate;
- f) To provide advisory services to other institutions on matters within its mandate;
- g) To enforce ethics and integrity laws under Chapter Six of the Constitution;
- h) To build partnerships with State and Public Officers to promote ethics and integrity;
- i) To develop and promote standards and best practices in integrity;
- j) To develop codes of conduct;
- k) To oversee enforcement of codes of ethics for Public Officers; and
- l) To monitor the practices and procedures of public bodies to detect corruption and secure revision of methods of work.





### 1.2.2 Structure

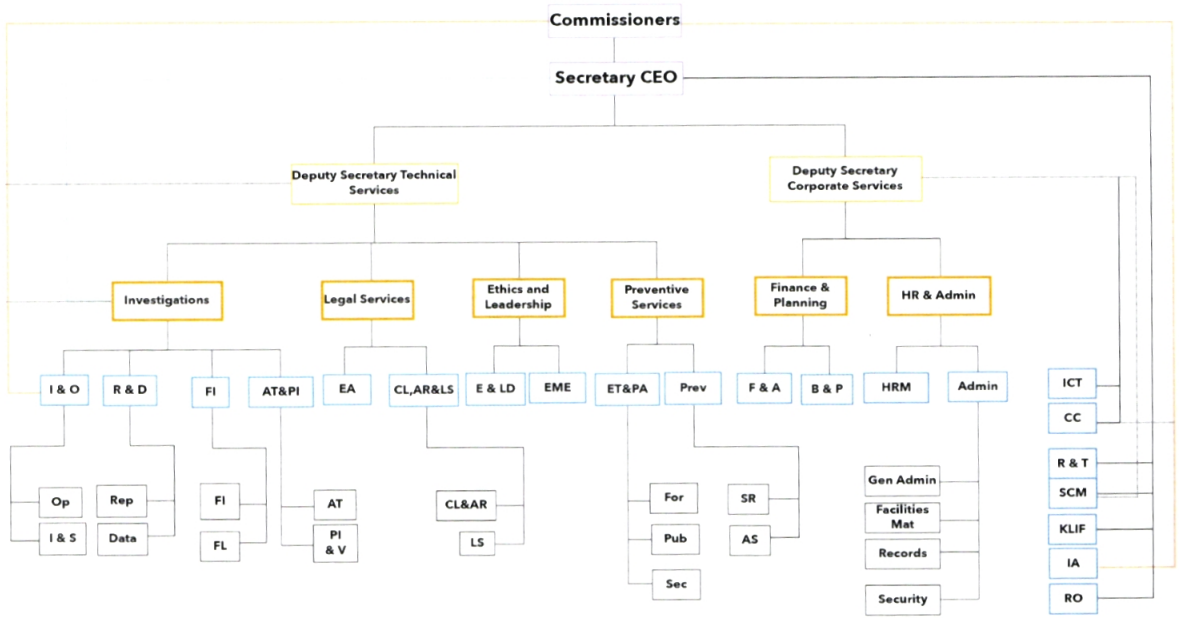


Figure 1: Organizational Structure of EACC

#### KEY

- Adm** Administration
- AS** Advisory Services
- AT** Asset Tracing
- AT&PI** Asset Tracing and Preliminary Investigations
- B&P** Budget and Planning
- CC** Corporate Communications
- CL&AR** Civil Litigation and Asset Recovery
- CL, AR & LS** Civil Litigation, Asset Recovery and Legal Support
- E&LD** Ethics and Leadership Development
- EA** Evidence Analysis
- EME** Ethics Monitoring and Enforcement
- ET&PA** Education Training and Public Awareness
- F&A** Finance and Accounts
- F&P** Finance and Planning





<b>FI</b>	Forensic Investigations
<b>FL</b>	Forensic Laboratory
<b>For</b>	Formal
<b>Gen Adm</b>	General Administration
<b>HR &amp; Adm</b>	Human Resource and Administration
<b>HRM</b>	Human Resource Management
<b>I&amp;O</b>	Investigations and Operations
<b>I&amp;S</b>	Intelligence and Surveillance
<b>IA</b>	Internal Audit
<b>ICT</b>	Information and Communications Technology
<b>KLIF</b>	Kenya Leadership Integrity and Forum
<b>LS</b>	Legal Support
<b>Op</b>	Operations
<b>PI&amp;V</b>	Preliminary Investigation and Vetting
<b>Prev</b>	Prevention
<b>Pub</b>	Public
<b>R&amp;D</b>	Report and Data
<b>R&amp;T</b>	Research and Transformation
<b>Rep</b>	Report
<b>RO</b>	Regional Offices
<b>SCM</b>	Supply Chain Management
<b>Sec</b>	Sectoral
<b>SR</b>	Systems Review



## CHAPTER 2: ENFORCEMENT

### 2.1 Introduction

This chapter presents the key activities under the enforcement mandate of the Commission. These include receipt of complaints and allegations on corruption, economic crimes and ethical breaches, investigation, conducting of operations, disruption of corruption and recovery of unlawfully acquired and unexplained assets.

### 2.2 Complaints and Allegations Received

The Commission received, analysed and processed 6,235 complaints and allegations on corruption and unethical conduct during FY 2017/2018, out of which 5,009 were from the Headquarters and Regional Offices while 1,226 were from Huduma Centres, representing 80.3 percent and 19.6 percent, respectively. Figure 2 illustrates the trend of reports received from FY 2013/2014 to FY 2017/2018.

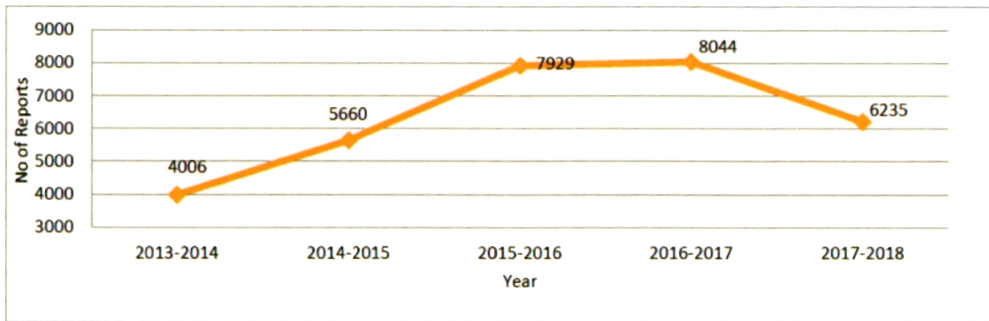


Figure 2: Trends in Reports Received

#### 2.2.1 Action Taken on Complaints and Allegations Received

The 6,235 complaints and allegations on corruption, economic crime and unethical conduct received were processed as illustrated in Table 1.

Table 1: Action Taken on the Complaints and Allegations Received

Action Taken	No. of Reports
Reports taken up by the Commission	2,898
Advisory to the complainants on where to report	1,879
Advisory to the complainants to pursue the matter in Court	328
Reports to Public Service organisations	423
Reports to other investigative agencies	70
Sought additional information/unprocessed	86
Referred through the Integrated Public Complaints Referral Mechanism (IPCRM)	24
Closed/ No further action	527
<b>Total No. of Reports</b>	<b>6,235</b>



### 2.2.2 Categorization of Complaints and Allegations Received

The Commission took up 2,898 cases for investigation of offences that fall within its mandate. Figure 3 outlines the offences in which bribery constituted 22 percent, maladministration 16 percent and embezzlement of public funds 13 percent.

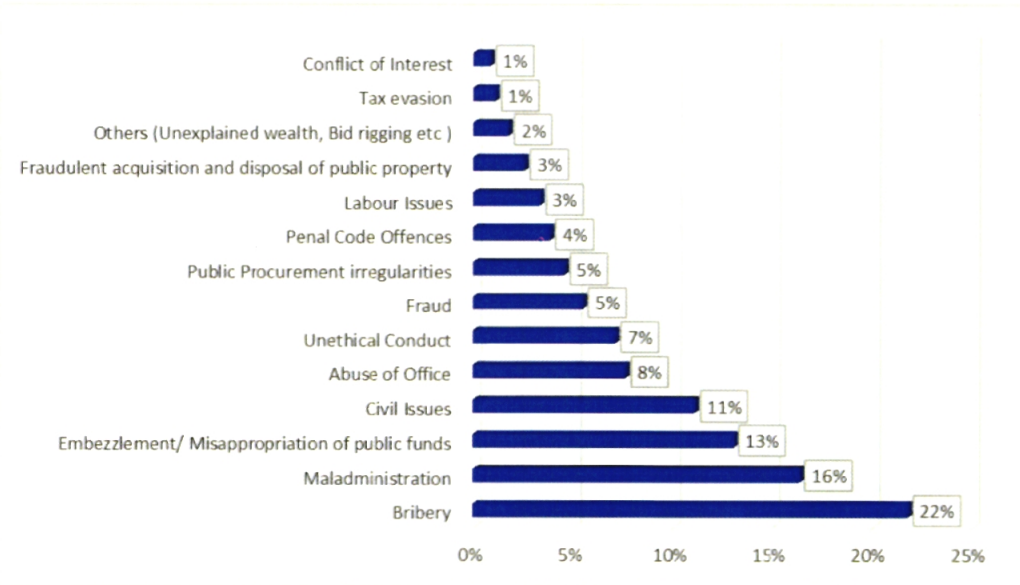


Figure 3: Categorization of Complaints and Allegations Received

### 2.2.3 Reports within the Commission’s Mandate

Over the last five years, the Commission received an average of 47.8 complaints and allegations relevant to its mandate as shown in Figure 4.

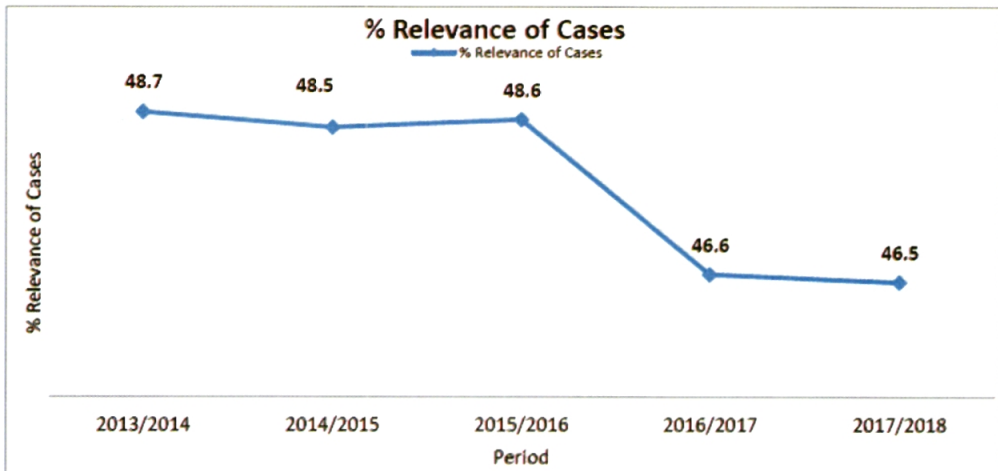


Figure 4: Percentage of Relevant Cases Reported over the last Five Years





### 2.2.4 Complaints and Allegations on Ethical Breaches

Out of the 6,235 reports received, 426 were allegations on violations of Chapter Six of the Constitution and ethical breaches. The number of concluded investigations was 154, representing an increase of 39 percent from the previous financial year. Table 2 is a summary of how the reports were handled.

Table 2: Status of Complaints and Allegations on Ethical Breaches (FY 2015/2016 – 2017/2018)

S/No.	Status of Complaints	2015/2016	2016/2017	2017/2018	TOTAL
1.	Reports received	288	535	426	1,249
2.	Concluded	56	111	154	321
3.	Active investigations	112	137	69	318
4.	Referred to other agencies	116	301	208	625
5.	Closed/No further action	11	82	119	212

NB: The figures include reports carried over from previous financial years as active investigations.

Figure 5 shows the graphical presentation of reports on unethical conduct that the Commission has received and concluded.

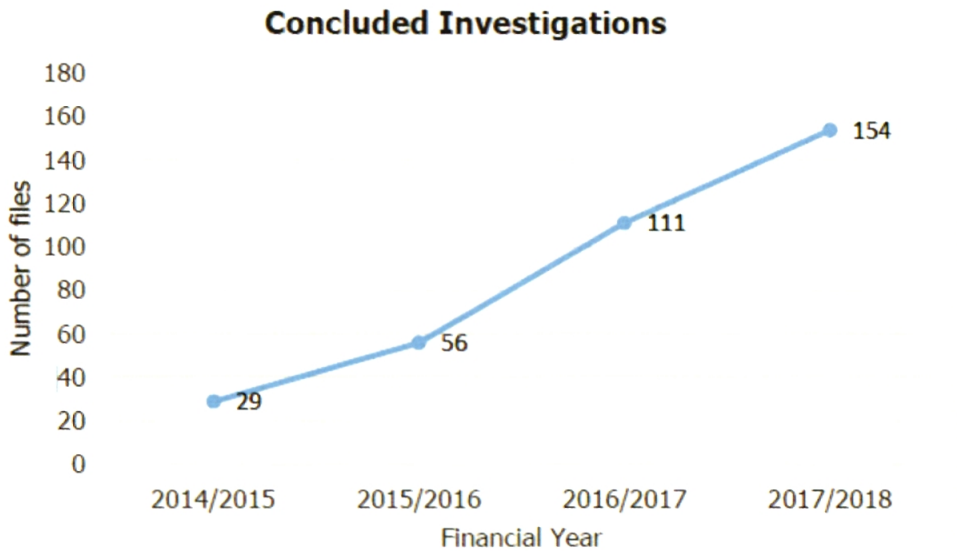


Figure 5: Trend of Unethical Complaints Concluded





Figure 6 shows a graphical presentation of complaints categorized by the nature of allegation.

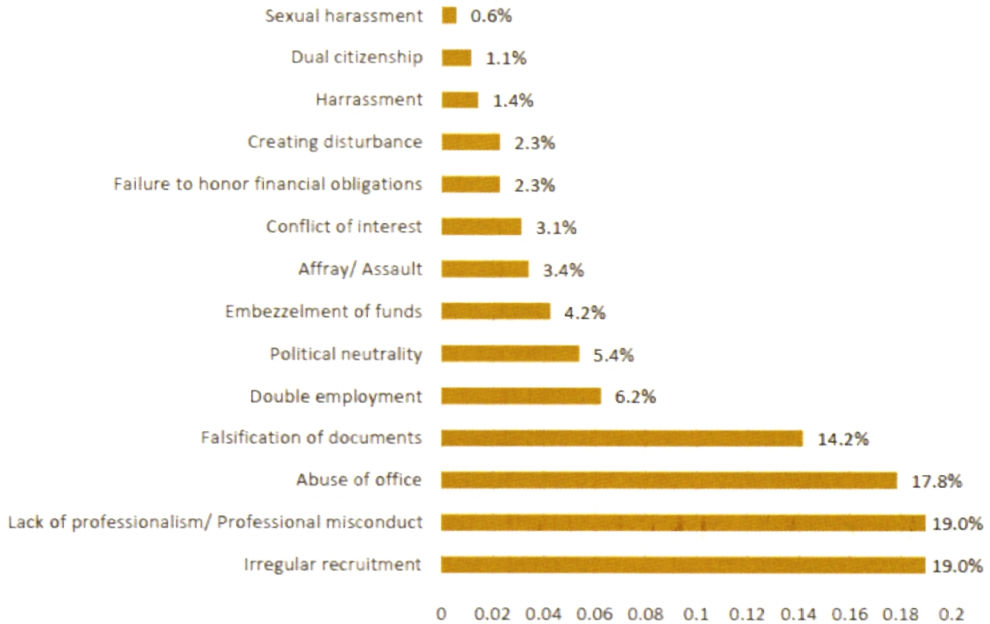


Figure 6: Complaints on Unethical Conduct Categorized by Nature of Allegation

## 2.3 Status of Investigations and Cases before Court

This section highlights cases under investigation, completed investigations, action taken by the ODPP, cases pending before Court and finalized cases.

### 2.3.1 Cases Under Investigation

The Commission is investigating a total of 1,510 cases, some of which are highlighted in Table 3.

Table 3: Highlights of Active Investigation Cases

S/No.	Inquiry Number	Nature of Inquiry/ Allegation	Institution	Amount Involved (KES)
1.	EACC/ELD/FI/ INQ/25-30/ 2018	Allegation of irregular purchase of maize at Kitale Depot, Moi's Bridge, Bungoma and Eldoret Silos	National Cereals and Produce Board	11,300,000,000
2.	EACC/FI/ INQ/89/2017	Allegation of irregularities in procurement of textbooks for public schools using Government-allocated Free Primary Education (FPE) funds	Ministry of Education	10,000,000,000





S/No.	Inquiry Number	Nature of Inquiry/ Allegation	Institution	Amount Involved (KES)
3.	EACC/FI/ INQ/17/2018	Allegation of fraud and embezzlement of public funds by Government officials in respect of the e-Citizen platform	National Treasury	5,600,000,000
4.	EACC/FI/ INQ/30/2018	Allegation of fraud and irregular compensation for acquisition of houses for use by senior Government officers	Ministry of Interior and Coordination of National Government	2,400,000,000
5.	EACC/GSA/FI/ INQ/15/2017	Allegation of irregular award of various contracts	County Government of Mandera	1,800,000,000
6.	EACC/MSA/ FI/7/2018	Allegation of irregular procurement for repairs/ maintenance and renovation of scheme residential houses during FYs 2015/2016 and 2016/2017	KPA Pension Scheme	1,575,889,000
7.	EACC/FI/ INQ/29/2018	Allegation of partial irregular compensation for acquisition of a road reserve on Outering Road in respect of L.R. No. 7879/4.	The Kenya Urban Roads Authority (KURA) & National Land Commission	1,400,000,000
8.	EACC/FI/ INQ/30/2017	Allegation of procurement irregularities in the construction of river drifts and road works	County Government of Kitui	1,300,000,000
9.	EACC/KSM/FI/ INQ/04/2016	Allegation of embezzlement of funds allocated for the construction and repair of Luanda Old Post Office Road	County Government of Vihiga	800,000,000
10.	EACC/MBS/FI/ INQ/16/2017	Allegation of irregular award of tender for the construction of Kwale County Headquarters in FY 2014/2015	County Government of Kwale	462,197,054
11.	EACC/FI/ INQ/93/2017	Allegation of abuse of office and procurement irregularities by County Government Executive Committee Members in the award of various construction projects	County Government of Busia	405,874,988
12.	EACC/FI/ INQ/32/2018	Allegation of loss of public funds in the construction of a tourist hotel at Kapenguria	County Government of West Pokot	352,123,565





S/No.	Inquiry Number	Nature of Inquiry/ Allegation	Institution	Amount Involved (KES)
13.	EACC/FI/INQ/16/2018	Allegation of irregular payment for an incomplete project and irregular variation of contract in respect of construction of Agricultural Training College in Kapenguria	County Government of West Pokot	351,192,669
14.	EACC/INQ/AT/136/2016(B)	Allegation of irregular procurement of training equipment from five firms in the FY 2014-2015	Ministry of Devolution and Planning, State department of Planning	348,000,000
15.	EACC/ISL/FI/INQ/51/2016	Allegation of embezzlement of public funds meant for construction of a health centre by a public official through his own firm	County Government of Samburu	300,000,000
16.	EACC/ELD/FI/INQ/13/2017	Allegations of loss of public funds	County Government of Nandi	300,000,000
17.	EACC/ISL/FI/INQ/3/2018	Allegation of irregular award of contract for the construction of the Marsabit Abattoir at Segel area	County Government of Marsabit	300,000,000
18.	EACC/GSA/FI/INQ/70/2017	Allegation of purchase of 27 used motor vehicles at inflated costs	County Government of Garissa	246,000,000
19.	EACC/FI/INQ/63/2017	Allegation of irregular award of contract for transport and infrastructure	County Government of Murang'a	217,703,297
20.	EACC/ISL/FI/INQ/23/2017	Allegation of irregular procurement of various goods and services through 23 proxy companies	County Government of Meru	210,767,578
21.	EACC/KSM/FI/INQ/13/2018	Allegation of irregular procurement and payment for ICT infrastructure	County Government of Kisumu	206,587,546
22.	EACC/FI/INQ/61/2017	Allegation of embezzlement and misappropriation of public funds by an official	Kenya Forest Service	169,260,586
23.	EACC/KSM/FI/INQ/41/16	Allegation of irregular procurement for the preparation of a spatial plan	County Government of Kisumu	150,000,000
24.	EACC/FI/INQ/26/2018	Allegation of procurement irregularities and abuse of office in the supply and delivery of equipment and machines	National Youth Service	135,290,000





S/No.	Inquiry Number	Nature of Inquiry/ Allegation	Institution	Amount Involved (KES)
25.	EACC/FI/ INQ/60/2017	Allegation of embezzlement of public funds by County Government officials between January 2015 and February 2017.	County Government of Machakos	132,917,900
26.	EACC/FI/ INQ/92/2017	Allegation of loss of public funds in respect to a legal agreement and procurement irregularities in the 'Food Handlers Project'.	Kenya Medical Research Institute	120,000,000
27.	EACC/ISL/FI/ INQ/2/2018	Allegation of procurement irregularities in respect of 12 vehicles for use as ambulances and misuse of four Government vehicles	County Government of Marsabit	120,000,000
28.	EACC/MCKS/ FI/INQ/08/2017	Allegation of failure to follow procurement procedure in the procurement of eight drilling rigs	County Government of Machakos	110,000,000
29.	EACC/AT/ INQ/03/2018	Allegation of embezzlement of public funds by senior officials in FY 2017/2018	Asset Recovery Agency	100,000,000
30.	EACC/MCKS/ INQ/FI/01/2016	Allegation of several irregular payments to various companies for goods and services that were not rendered	County Government of Kitui	93,487,990
31.	EACC/NYR/FI/ INQ/26/2017	Allegation of procurement irregularities and financial malpractices	Kandara NG-CDF Committee	74,000,000
32.	EACC/KSM/FI/ INQ/145/2017	Allegation of procurement irregularities in the award of tender for the construction of Bondo Sub-County Commissioner's Headquarters	Ministry of Interior and Coordination of National Government	73,000,000
33.	EACC/ISL/FI/ INQ/4/2018	Allegation of embezzlement of funds meant for relief food for FY 2016/2017	County Government of Isiolo	65,000,000
34.	EACC/MSA/FI/ INQ/10/2017	Allegation of irregular payment of public funds to a private company	County Government of Mombasa	64,072,264
35.	EACC/AT/ INQ/01/2018	Allegation of illegal transfer of public property to a private person	National Social Security Fund	60,000,000





S/No.	Inquiry Number	Nature of Inquiry/ Allegation	Institution	Amount Involved (KES)
36.	EACC/MCKS/ FI/INQ/9/2018	Allegation of procurement irregularities in the supply and delivery of five trucks	County Government of Kitui	59,750,000
37.	EACC/FI/ INQ/27/2018	Allegation of procurement irregularities and abuse of office in the supply and delivery of equipment and machines	National Youth Service	59,250,000
38.	EACC/NYR/FI/ INQ/05/2018	Allegation of irregular expenses in respect of the Kaa Soba Project	County Government of Murang'a	56,000,000
39.	EACC/KSM/FI/ INQ/08/2018	Allegation of irregular withdrawal of funds from the Mortgage and Car Loan Scheme	Kisumu County Assembly	52,000,000
40.	EACC/GSA/FI/ INQ/01/2018	Allegation of abuse of office and procurement irregularities in respect of Bura Irrigation Scheme Hotel construction	Bura NG-CDF	51,000,000

### 2.3.2 Investigatory Applications

During the period under review, the Commission filed Applications and obtained warrants to investigate 409 bank accounts in respect of persons or associates of persons suspected of engaging in corruption, economic crimes or related offences.

### 2.3.3 Completed Investigation Cases

Highlights of the 183 completed investigation cases are provided in Table 4.

Table 4: Highlights of Completed Investigation Cases

S/No.	Inquiry No.	Nature of Inquiry / Allegation	Institution	Amount Involved (KES)
1.	EACC/FI/ INQ/086/2014	Allegation of procurement irregularities in respect of the Mombasa–Nairobi Standard Gauge Railway turnkey project	Kenya Railways Corporation	220,921,502,221
2.	EACC/FI/ INQ/28/2018	Allegation of irregular compensation in respect of land occupied by Ruaraka High School and Drive-In Primary School	National Land Commission & Ministry of Education	3,269,040,600





S/No.	Inquiry No.	Nature of Inquiry / Allegation	Institution	Amount Involved (KES)
3.	EACC/FI/ INQ/7/2016	Allegation of tax evasion in respect of a private firm in a National Youth Service contract	National Youth Service	383,241,621
4.	EACC/MSA/FI/ INQ/39/2016	Allegation of irregular procurement for the hire of trucks, bulldozers and shovels for garbage collection and disposal	County Government of Mombasa	350,000,000
5.	EACC/MSA/FI/ INQ/28/2015	Allegation of irregular purchase of a printing machine	Kenya Bureau of Standards	300,000,000
6.	EACC/FI/ INQ/116/2014	Allegation of irregular award of tender for pre-fabrication of offices	County Government of Siaya	225,000,000
7.	EACC/PI/ INQ/383/2017	Allegation of fraud and irregular procurement in the tender for supply, delivery and installation of asphalt plant	County Government of Nairobi City	150,000,000
8.	EACC/FI/ INQ/109/2015	Allegation of irregular procurement and installation of solar mass lights in Busia Town and benefit by a senior county official	County Government of Busia	91,000,000
9.	EACC/NYR/FI/ INQ/28/2016	Allegation of irregular variation of the cost of refurbishment of an office block	Laikipia County Assembly	90,000,000
10.	EACC/MCKS/FI/ INQ/21(A)/2017	Allegation of irregular payment to a law firm	Kajiado County Assembly	32,552,500
11.	EACC/FI/ INQ/50/2016	Allegation of irregular procurement of three Mitsubishi Tipper trucks	County Government of Kitui	27,840,000
12.	EACC/FI/ INQ/91/2015	Allegation of hiking of legal fees paid to a law firm	Kenya Pipeline Company	18,000,000
13.	EACC/FI/ INQ/1/2015	Allegation of fraud in respect of a medical cover	Makueni County Assembly	10,000,000





S/No.	Inquiry No.	Nature of Inquiry / Allegation	Institution	Amount Involved (KES)
14.	EACC/MLD/FI/INQ/12/2015	Allegation of irregular award of tender for construction of a dormitory at Lamu Girls Secondary School	Lamu West CDF	10,200,000
15.	EACC/PI/INQ/07/2013	Allegation of financial mismanagement by a public official	Export Processing Zones Authority	7,709,866

### 2.3.4 Reports to the Office of the Director of Public Prosecutions (ODPP)

Under Section 35 of the Anti-Corruption and Economic Crimes Act, 2003, the Commission is required to report to the Office of the Director of Public Prosecutions the results of an investigation. During the year a total of 183 files on corruption and economic crime were forwarded to the ODPP, representing an increase from the previous year's total of 143 files. Out of these reports, the Commission recommended 135 for prosecution, 14 for administrative action and 34 for closure. Table 5 shows the action taken by the ODPP on reports submitted.

Table 5: Reports to the ODPP and Action Taken

Action	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Total
<b>Recommendation to prosecute</b>					
Accepted	38	24	0	51	113
Not accepted	0	0	0	6	6
<b>Recommendation for administrative action</b>					
Accepted	3	1	0	5	9
Not accepted	0	0	0	1	1
<b>Recommendation for closure</b>					
Accepted	6	10	0	15	31
Not accepted	1	1	0	0	2
<b>Files returned for further investigations</b>					
No. of files awaiting Director of Public Prosecutions' action	0	1	0	2	3





### 2.3.5 Cases Pending before Court

The Commission has 414 cases pending before Court. This is a decline from 601 reported the previous year. This decline is attributed to cases affected by the decision of the *Civil Appeal No. 102 of 2016: Michael Sistu Mwaura Kamau-vs-EACC and 4 Others*. Table 6 highlights some of the cases pending before Court.

**Table 6: Highlights of Cases Pending before Court**

S/No.	Criminal Case Number	Accused and Charges	Amount Involved (KES)
1.	ACC 13/2015 Nairobi	Sara Njuhi Mwenda and Others Breach of trust by a person employed in the public service contrary to Section 127 of the Penal Code	8,000,000,000
2.	ACC 4/2015 Nairobi	David Mwiraria (deceased) and Others Conspiracy to commit an economic crime contrary to Section 47A as read with Section 48 of ACECA	5,575,370,000
3.	ACC 19/2014 Nairobi	Bitange Ndemo and Others Willful failure to comply with applicable laws/ procedures relating to procurement contrary to Section 45(2)(B) of ACECA and abuse of office contrary to Section 46 of ACECA	5,000,000,000
4.	ACC 2/2015 Nairobi	Rashmi Chamanlal Kamani and Others Engaging in a project without prior planning contrary to Section 45(2) (c) as read with Section 48(1) of ACECA	4,712,817,058
5.	ACC 3/2010 Nairobi	Shem Odongo Ochuodho and Others Conspiracy to defraud contrary to Section 317 of the Penal Code	2,000,000,000
6.	ACC 15/2010 Nairobi	Francis Moturi Zuriels and Others Fraudulent acquisition of public property contrary to Section 45 as read with Section 48 of ACECA Conspiracy to defraud contrary to Section 47A of ACECA Deceiving principal contrary to Section 41 of ACECA	1,600,000,000
7.	ACC 16/2013	James Humphrey Oswago and Others Abuse of office contrary to Section 46 of ACECA Willful failure to comply with the law relating to procurement contrary to Section 45 (2)b of ACECA	1,300,000,000





S/No.	Criminal Case Number	Accused and Charges	Amount Involved (KES)
8.	ACC 1/2010 Nairobi	Davy Koech and Others Fraudulent acquisition of public property contrary to Section 45(1)(a) of ACECA Abuse of office contrary to Section 46 of ACECA	536,986,493
9.	ACC 3/2016 Eldoret	Fredrick Sifuna Wakofula and Others Abuse of office contrary to Section 46 as read with Section 48(10) of ACECA	500,000,000
10.	ACC 15/2015 Nairobi	Gladys Boss Shollei and Others Abuse of office contrary to Section 46 as read with Section 48 of ACECA	310,000,000
11.	ACC 11/2015 Nairobi	Mwangi Maingi and Others Willful failure to comply with applicable procedures and guidelines relating to the management of public funds contrary to Section 45 (2) (b) as read with Section 48 (1) of ACECA	300,000,000
12.	ACC 13/2016 Nairobi	Catherine Akello Namuye (deceased) and Others Conspiracy to commit an economic crime contrary to Section 47A (3) as read with Section 48 (1) of ACECA	180,900,000
13.	ACC 5/2010 Nairobi	Joshua C. Kulei and Others Conspiracy to defraud contrary to Section 317 of the Penal Code	130,000,000
14.	ACC 19/2013 Nairobi	Adan Katello Adano and Others Conspiracy to commit an offence of corruption contrary to Section 47A (3) as read with Section 48 of ACECA	127,400,000
15.	ACC 12/2013 Nairobi	Richard Kerich and Others Conspiracy to defraud contrary to Section 317 of the Penal Code	116,935,800
16.	ACC 10/2016 Nairobi	William Nyabola Okedi and Others Willful failure to comply with the law relating to procurement contrary to Section 45(2) (b) as read with Section 48(1) of ACECA	99,000,000
17.	ACC 5/2015 Eldoret	Vitalis Wafula Kamwesa & Others Conspiracy to commit an economic crime contrary to Section 47(A) as read with Section 48 (1) of ACECA	68,000,000





S/No.	Criminal Case Number	Accused and Charges	Amount Involved (KES)
18.	ACC 2/2017 Nairobi	Humphrey Obanda Oswago & Others Willful failure to comply with applicable procedures and guidelines relating to procurement of goods contrary to Section 45(2) (b) as read with Section 48 of ACECA	50,000,000
19.	ACC 26/2016 Nairobi	Selesio Karanja Conspiracy to commit an economic crime contrary Section 47A (3) as read with Section 48(1) of ACECA	47,600,000
20.	ACC. 36/2010 Nairobi	1. David Bwana 2. John Suter Willful failure to follow procurement procedures contrary to Section 45(2)(b) of ACECA	40,000,000
21.	ACC 3/2015 Eldoret	Vitalis Wafula and Others Conspiracy to commit an offence of economic crime contrary to Section 47(a) as read with Section 48(1) of ACECA.	20,000,000
22.	ACC 22/2009 Nairobi	Davy Koech Fraudulent acquisition of public property contrary to Section 45(1) of ACECA	19,300,000
23.	CF. 796/2007 Nairobi	John Moguche Zacharia Uttering false document contrary to Section 353 of Penal Code as read with Section 349 of the Penal Code	18,000,000
24.	ACC 13/2014 Nairobi	Perminus Njoroge Kamau & Others Uttering forged document contrary to Section 353 of the Penal Code	17,800,000
25.	ACC 5/2015 Kisumu	Margaret Mbuya Jobita Willful failure to comply with the applicable law relating to the procurement of services contrary to Section 45(2) (b) as read with Section 48 of ACECA	15,400,000
26.	ACC 15/2012 Nairobi	Perminus Njoroge Kamau Unlawful acquisition of public property contrary to Section 45(1)(a) as read with Section 48(1) of ACECA	12,980,000





S/No.	Criminal Case Number	Accused and Charges	Amount Involved (KES)
27.	ACC 18/2018 Nairobi	John Kimani Mwega Failure to disclose a private interest to one's principal contrary to Section 42(1) (a) and (b) as read with section 48(1) of ACECA Abuse of office contrary to Section 46 as read with Section 48 (1) of ACECA	12,500,000
28.	ACC 40/2007 Nairobi	1. Johnson Jackson Githaka 2. John Faustin Kinyua Fraudulent acquisition of public property contrary to Section 45 as read with Section 48 of ACECA	12,100,000
29.	ACC 9/2015 Nairobi	Ibrahim Haji Isaak and Others Conspiracy to commit an economic crime contrary to Section 47A as read with Section 48(1) of ACECA	11,500,000
30.	ACC 4/2016 Eldoret	Tioko Logiron and Others Abuse of office contrary to Section 46 of ACECA	10,728,000

### 2.3.6 Cases on Unethical Conduct Pending before Court

As part of the enforcement of Chapter Six of the Constitution and the Leadership and Integrity Act, 2012, the Commission filed several cases in Court. Table 7 outlines some of the cases of unethical conduct pending before Court.

**Table 7: Cases of Unethical Conduct Pending before Court**

S/No.	Case Number	Accused Persons(s) / Respondents	Offence / Nature of Ethical Breach
1.	ACC 14/2016	Oscar Sudi	Forgery of academic certificates Uttering false documents Providing false information Making a false declaration
2.	ACC 08/2017	Teresia Nakhungu Barasa	Giving false information
3.	ACC 1000/2017	Naomi Mangatu	Conflict of interest
4.	ACC 3/2017	Sofia Mohamed Ahmed	Irregular promotions/abuse of office
5.	CF No 1223/2017	Nelson Kivali Musyoka	Falsification of academic certificates
6.	ACC 20/2017	Patrick Ochieng Odipo	Impersonation
7.	ACC. 4/2018	William Muraa	Abuse of office
8.	ACC 1 /2018	Joy Gwendu	Stealing Issuing a bad cheque Abuse of office





The Commission instituted several Petitions for removal of State Officers from office for violation of Chapter Six of the Constitution and the Leadership and Integrity Act, 2012. Table 8 gives details of the Petitions.

**Table 8: Petitions Instituted for Removal of State Officers from Office for Violation of Chapter Six of the Constitution and the Leadership and Integrity Act, 2012**

S/No.	Name of State / Public Officer	Details of the Petitions	Status
1.	Franklin Mithika Linturi (Senator Meru County)	Nairobi Constitutional Petition No.7 of 2018 (As consolidated with JR No. 683 of 2017 and Petition No. 394 of 2017)  Franklin Mithika Linturi-vs-EACC, DPP, UON & IEBC  Petition filed for removal from office for violation of Chapter Six of the Constitution	Ruling on the matter was delivered on 18th May, 2018 and the Commission is appealing against the ruling
2.	Nelson Kivali Musyoka (MCA Kitui County)	Nairobi Petition No. 384 of 2017  EACC-vs-Nelson Kivali Musyoka, IEBC & University of Nairobi  Petition filed for removal from office for violation of Chapter Six of the Constitution	Pending before Court
3.	Granton Samboja (Governor –Taita Taveta County)	Nairobi Petition No. 399 of 2017  EACC-vs-Granton Samboja, IEBC & Kenyatta University  Petition filed for removal from office for violation of Chapter Six of the Constitution	Pending before Court

### 2.3.7 Cases Finalized in Court

During FY 2017/2018, 49 corruption cases were finalized in Court. Table 9 gives highlights of the cases.

**Table 9: Cases Finalized in Court**

S/ No.	Court File Number	Accused and Charges	Amount Involved (KES)	Judgement
1.	ACC 465/2012 Nairobi	David Kamunya and Others  Uttering a false document Contrary to Section 353 of the Penal Code (3 counts)  Obtaining registration of land by false pretense contrary to Section 313 of the Penal Code (3 counts)	60,000,000	Counts I, II, III, V and VI: 1st Accused Person was fined a total of KES 8,500,000. In default serve one year for each Count with the sentences running concurrently  2nd Accused Person was acquitted.



S/ No.	Court File Number	Accused and Charges	Amount Involved (KES)	Judgement
				Counts I, II, III, V and VI: 3rd and 4th Accused Persons were fined a total of KES 8,500,000. The companies were ordered to pay the monies in six months, or EACC is to institute civil recovery of the same from them
2.	ACC 20/2013 Nairobi	Nicholas Muriuki Kagoko Corruptly soliciting and receiving a benefit contrary to Section 39(3)(a) as read with Section 48(1) of ACECA	3,000	Counts I, II and III- Fined KES 50,000 in default serve six months' imprisonment on each Count
3.	ACC 22/2015 Nairobi	Viron Otieno Corruptly soliciting and receiving a benefit contrary to Section 39(3)(a) as read with Section 48(1) of ACECA	1,500	Counts I, II and III - Fined KES 30,000 in default serve three months' imprisonment on each Count
4.	ACC 9/2016 Nairobi	Boniface Otieno Odhiambo Corruptly soliciting and receiving a benefit contrary to Section 39(3)(a) as read with Section 48(1) of ACECA	1,000	Count II - Fined KES 100,000 in default to serve six months' imprisonment
5.	ACC 4/2017 Nairobi	Abdi Khalif Shadrack Ngatia Dealing with suspect property contrary to Section 47(2)(a) as read with Section 48(1) of ACECA	14,300	The accused persons were fined KES 1,000,000 each or in default serve twelve months' imprisonment. The Court further fined the Accused Persons a mandatory fine of KES 28,600 each in default serve six months' imprisonment
6.	ACC 27/2011 Nairobi	Stephen Mbugua Deceiving principal contrary to Section 41 (2) as read with Section 48 (1) of ACECA	3,446,362	Count I: Fined KES 1,000,000, in default serve one year's imprisonment





S/ No.	Court File Number	Accused and Charges	Amount Involved (KES)	Judgement
		Fraudulent acquisition of public property contrary to Section 45 (1) as read with Section 48 (1) of ACECA (Five Counts)		Counts II, III, IV, V and VI: Fined KES 500,000 in default serve one year's imprisonment on each Count  Further fined KES 2,162,000 in default serve twelve months' imprisonment
7.	ACC 4/2016 Nakuru	Osebe Rawlings Peter  David Okemwa Obwori  Soliciting and receiving a benefit contrary to Section 39(3) (a) as read with Section 48(1) of ACECA	50,000	Counts I, II and III: Fined KES 50,000 in default serve eleven months' imprisonment on each Count
8.	ACC 7/2015 Nairobi	Raphael Nzuki Mwikya  Soliciting and receiving a benefit contrary to Section 39(3) (a) as read with Section 48(1) of ACECA	500,000	Count I: Fined KES 150,000 in default serve three months' imprisonment for soliciting KES 500,000  Count II: Fined KES 50,000 in default serve three months' imprisonment for receiving KES 80,000
9.	ACC. 17/2017 Nairobi	Stephen Nguli John  Requesting and receiving a financial advantage contrary to Section 6 of the Bribery Act, 2016	2,000	Count I: Fined KES. 10,000 in default serve three months' imprisonment for requesting for a financial advantage of KES 2,000  Count II: Fined KES 5,000 in default serve three months' imprisonment for requesting for a financial advantage of KES 1,000  Count III: Fined KES 10,000 in default serve three months' imprisonment for receiving KES 1,000





S/ No.	Court File Number	Accused and Charges	Amount Involved (KES)	Judgement
10.	ACC 6/2017 Nairobi	Vincent Ndirangu Kiguta Soliciting and receiving a benefit contrary to Section 39(3) (a) as read with Section 48(1) of ACECA	3,000	Fined KES 90,000 in default serve nine months' imprisonment
11.	ACC 3/2014 Nairobi	David Maitha Mutwiwa Impersonating an Investigator Contrary to Section 34(1) as read with Section 34(2) of ACECA  Uttering a false document contrary to Section 353 of the Penal Code	N/A	Counts I and II: Fined KES 300,000, in default serve one year's imprisonment on each Count
12.	ACC 13/2011 Nairobi	Elizabeth Kaloki Fraudulent acquisition of public property contrary to Section 45(1) (a) as read with Section 48(1) of ACECA	7,604,700	Counts I and II: Acquitted  Count III: Fined KES 100,000 in default serve six months' imprisonment
13.	ACC 3/2017 Voi	Joseph Kioko Musyoka Offering a benefit contrary to Section 6 of Bribery Act, 2016	3,000	Fined KES 50,000 in default six months' imprisonment.
14.	ACC 597/ 2016 Machakos	Paul Muyale Omusula Paul Sichangi Makhanu Impersonating an Investigator contrary to Section 34(1) as read with Section 34(2) of ACECA	N/A	Counts I and II –1st and 2nd Accused Persons acquitted  Counts III and IV – 1st Accused Person fined KES 20,000 and in default serve five months' imprisonment  Counts VI, VII and VIII - 2nd Accused Person fined KES 20,000 and in default serve five months' imprisonment on each Count
15.	ACC 5/2016 Nairobi	Caleb Kiprono Bett Soliciting and receiving a benefit contrary to Section 39 (3) (a) as read with section 48 (1) of ACECA	8,000	Fined KES 40,000





S/ No.	Court File Number	Accused and Charges	Amount Involved (KES)	Judgement
16.	ACC 17/2015 Nairobi	Paul Kariuki Maina Offering and giving a benefit contrary to Section 39(3) (b) of ACECA	10,000	Count I - Acquitted Count II - Fined KES 120,000 in default serve one year's imprisonment
17.	ACC 6/2015 Nairobi	Mary Wanjiku Maina Soliciting and receiving a benefit contrary to Section 39 (3) (a) as read with Section 48 (1) of ACECA	20,000	Fined KES 50,000 in default serve six months' imprisonment
18.	ACC 17/2013 Nairobi	Jorum Ouma Wangila Soliciting of a benefit contrary to Section 39(3) (a) as read with Section 48(1) of ACECA	N/A	Fined KES 70,000 in default serve one year's imprisonment
19.	ACC 67/2007 Nairobi	Richard Loisa Sekengei Soliciting of a benefit contrary to Section 39(3) (a) as read with Section 48(1) of ACECA	10,000	Count I: Fined KES 100,000, in default serve six months' imprisonment Count II: Fined KES 75,000, in default serve six months' imprisonment
20.	ACC. 6/2017	Anthony Charo Katana Offering a bribe contrary to Section 6 of Bribery Act 2016	2,000	Fined KES 50,000 in default serve six months' imprisonment.
21.	ACC 16/2015	Evans Orina Soliciting and receiving a benefit contrary to Section 39(3) (a) as read with Section 48(1) of ACECA	5,000	Counts I and II: Fined KES 50,000 on each Count Count III - Fined KES 70,000
22.	ACC 1035/2012	Ignatius Katasi Maina and Others Uttering false document contrary to Section 353 of the Penal Code Fraudulent acquisition of public property contrary to Section 45 (1) (a) as read with Section 48(1) of ACECA	N/A	Count I - Fined KES 300,000 in default serve three years' imprisonment





S/ No.	Court File Number	Accused and Charges	Amount Involved (KES)	Judgement
		Misappropriation of public funds contrary to Section 51 of the Constituency Development Fund Act, 2013		Counts II and III - Each fined KES 500,000 plus a mandatory fine of KES 1,400,000 and in default serve five years' imprisonment
23.	ACC 28/2014	Christopher Njenga Kamau Soliciting and receiving financial benefit contrary to section 39 (3) as read with section 48 (1) of ACECA	5,000	Counts I and II: Acquitted  Count III: Fined KES 70,000, in default serve one year's imprisonment  Count IV: Fined KES 80,000 in default serve one year's imprisonment  Count V: Fined KES 50,000, in default serve one year's imprisonment
24.	ACC 44/2010	Geoffrey Odhiambo Majiwa and others  Conspiracy to commit an offence of corruption Contrary to Section 47A (3) as read with Section 48 (1) of ACECA against four accused persons  Three counts of willful neglect to perform official duty contrary to Section 128 as read with Section 36 of the Penal Code against the three Public Officers  Fraudulent acquisition of public property contrary to Section 45 (1) A as read with Section 48 (1) of ACECA against Boniface Okerosi Misera and Cephas Kamande Mwaura	283,200,000	1st and 2nd Accused Persons acquitted on all Counts  3rd Accused Person fined KES 40,000,000 in default serve one year's imprisonment in addition serve a mandatory sentence of two years' imprisonment  4th Accused Person fined KES 37,200,000 in default serve one year's imprisonment in addition serve a mandatory sentence of two years' imprisonment





S/ No.	Court File Number	Accused and Charges	Amount Involved (KES)	Judgement
25.	ACC 3/2011	Samuel Odingo Michira Knowingly deceiving the principal contrary to Section 41 as read with Section 48 (1) of ACECA.	364,447	Fined KES 300,000 in default serve six months' imprisonment in addition to a mandatory fine of KES 564,000 in default serve another six months' imprisonment
26.	ACC 7/2017	Bonface Muthiani Kamuya Corruptly offering and giving a benefit contrary to Section 39 of ACECA	2,000	Count I: Fined KES 50,000, in default serve eight months' imprisonment Count II: Fined KES 20,000, in default seven months' imprisonment
27.	ACC 10/2015 Nairobi	Yassin Said Nyerere Corruptly soliciting for a benefit contrary to Section 39(3) (a) as read with Section 48(1) of ACECA	1,000	Counts I and II: Fined KES 30,000 in default serve four months' imprisonment on each Count
28.	ACC 12/2012 Nairobi	Wycliffe Marega Mitema Fraudulent acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of ACECA Willful failure to comply with applicable procedures and guidelines relating to the management of public funds contrary to Section 45 (2) (b) as read with Section 48 (1) of ACECA Abuse of office contrary to Section 46 as read with Section 48 (1) of ACECA	3,804,931	Count I: Fined KES 1,000,000 in default serve one year's imprisonment plus a mandatory fine of KES 15,219,724 and in default serve four years' imprisonment Count II: Fined KES 500,000 in default serve one year's imprisonment. Count III: Discharged





S/ No.	Court File Number	Accused and Charges	Amount Involved (KES)	Judgement
29.	ACC 20/2010	<p>Sammy Kipngetchi Kirui – 1st Accused</p> <p>Abuse of office contrary to Section 46 as read with Section 48 (1) of ACECA</p> <p>John Gakuo – 2nd Accused</p> <p>Willful failure to comply with law relating to procurement contrary to Section. 45(2) (b) as read with Section 48 (1) of ACECA</p> <p>Mary Ngechi Ngethe – 3<sup>rd</sup> Accused &amp; Alexander Musanga Musee – 4th Accused</p> <p>Knowingly giving a misleading document to principal contrary to Section 41(2) as read with Section 48 (1) of ACECA</p> <p>Mary Ngechi Ngethe – 3<sup>rd</sup> Accused</p> <p>Knowingly giving a false document to principal contrary to Section 41 (2) as read with Section 48 of ACECA</p>	283,200,000	<p>Counts I and II, the 1st and 2nd Accused Persons both sentenced to three years' imprisonment or to pay a fine of KES1,000,000 each</p> <p>Count III, the 3rd and 4th Accused Persons sentenced to three years' imprisonment each</p> <p>Further, the 3rd Accused Person to pay a mandatory fine of KES 52,000,000 in default to serve another one year's imprisonment. The 4th Accused to pay a mandatory fine of 32,000,000 in default to serve another one year's imprisonment</p> <p>Count IV, the 3rd Accused Person to serve three years' imprisonment to run concurrently with the sentence in Count III</p>
30.	ACC 15/2016	<p>Robert Kiriago</p> <p>Corruptly soliciting and receiving a benefit contrary to Section 39 (3) (a) as read with Section 48(1) of the ACECA.</p>	140,000	<p>Count I: - Fined KES 100,000 in default to serve one year's imprisonment for soliciting for KES 140,000</p> <p>Count II: Fined KES 250,000 in default to serve one year's imprisonment and a further mandatory fine of KES 180,000 for receiving of a benefit of KES 90,000</p>





S/ No.	Court File Number	Accused and Charges	Amount Involved (KES)	Judgement
31.	ACC 18/2017 Nairobi	Justinah Synzua Malela Corruptly soliciting and receiving a benefit contrary to Section 39(3) (a) as read with Section 48 (1) of ACECA	3,000	Counts I and II: Fined KES 250,000 in default serve two years' imprisonment for each Count
32.	ACC 3/2014 Eldoret	Wycliffe Shipwakula Susan Maina Corruptly soliciting for a benefit contrary to Section 39(3) (a) as read with Section 48 (1) of ACECA	50,000	Count I: Acquitted Count II: 1st Accused Person fined KES 100,000 in default serve one year's imprisonment Count III: 1st and 2nd Accused Persons fined KES 200,000 in default serve two years' imprisonment
33.	ACC 2/2013	Nelson Kibet Metto and Others Conspiracy to commit an economic crime contrary to Section 47(a) as read with Section 48 (1) of ACECA Fraudulent acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 (1) of ACECA (two counts)	490,000	Count I: Each Accused Person fined KES 200,000 in default serve two years' imprisonment Count II: 1st, 2nd and 3rd Accused Persons each fined KES 260,000 in default serve two years' imprisonment Count III: 1st, 2nd and 4th Accused Persons each fined KES 63,334 in default serve one year's imprisonment The sentences to run concurrently
34.	ACC 1/2016 Migori	Godwin Musungu Kitui Corruptly soliciting for a benefit contrary to Section 39(3) (a) as read with Section 48 (1) of ACECA	20,000	Counts I and II: Fined KES 30,000 in default serve six months' imprisonment on each Count
35.	ACC 1/2014 Nairobi	Paul Nduve Sila Corruptly soliciting for a benefit contrary to Section 39(3) (a) as read with Section 48 (1) of ACECA	10,000	Convicted to six years' imprisonment





S/ No.	Court File Number	Accused and Charges	Amount Involved (KES)	Judgement
36.	ACC 2/2017 Kakamega	John Juma Matsanza (1st Accused) and Others  Willful failure to follow applicable law relating to incurring of expenditure and tendering of contracts contrary to Section 45(2) (b) as read with Section 48(1) of ACECA  Willful failure to follow applicable law relating to procurement contrary to Section 45(2) (b) as read with Section 48(1) of ACECA (two Counts)	983,880	Counts I and II: 1st Accused fined KES 400,000 in default to serve two years' imprisonment for each Count  Counts II and III: 2nd – 8th Accused fined KES 300,000 each for both, in default serve one and a half years' imprisonment
37.	ACC. 5/2014 Machakos	Richard Mwanzia Mwenga Titus Mbai Muia  Conspiracy to commit an offence of corruption contrary to Section 47A (3) as read with Section 48 (1) of ACECA  Abuse of office contrary to Section 46 as read with Section 48 (1) of ACECA  Soliciting and receiving a benefit contrary to Section 39(3) (a) as read with Section 48 (1) of ACECA	5,250	Counts I to VII fined a total of KES 430,000 in default serve two years' imprisonment
38.	ACC 12/2016 Nairobi	Francis Kingori Githaiga  Failure to disclose a private interest to one's principal contrary to Section 42(1) (a) of ACECA and 43 (1) (b) as read with Section 137 and Schedule 3 Clause 7 of PPADA, 2015	N/A	Count I and VI: Acquitted  Count II, III, IV, V, VII, VIII, IX, X, XI and XII: Convicted and fined KES 300,000 per Count in default serve six months' imprisonment for each Count

During the period under review, the Commission recorded 23 acquittals.





## 2.4 Illegally Acquired and Unexplained Assets Traced

The Commission completed 14 asset tracing inquiries in respect of public assets illegally acquired. These assets included land/immovable properties and cash. The total estimated value of the assets is KES 2,320,140,000. The highlights of some of these assets traced are provided in Table 10.

Table 10: Highlights of Assets Traced

S/No.	Brief Details	Amount involved (KES)	Status
1.	Land belonging to GK Prisons Isiolo (subdivided into two)	710,000,000	Preservation order placed
2.	Land belonging to Kenya School of Law	500,000,000	Caveat placed
3.	Cash belonging to the Ministry of Health on Mobile Clinics	491,140,000	Preservation done, ADR underway
4.	Land belonging to Garden Estate Secondary School	350,000,000	Caveat placed
5.	Land belonging to State Department of Housing, Meru (3 plots)	105,000,000	Caveat placed
6.	Cash belonging to Ministry of Public Service, Youth and Gender Affairs	60,000,000	Preservation order placed
7.	Cash belonging to National Youth Service	45,000,000	Preservation order placed
8.	Land belonging to State Department of Housing	30,000,000	Caveat placed

## 2.5 Civil Proceedings

This section covers particulars of civil proceedings instituted by the Commission for preservation and recovery of illegally acquired assets, unexplained assets, restored assets and cases filed against the Commission.

### 2.5.1 Applications for Preservation of Assets

The Commission filed 26 Applications for Preservation of Assets valued at approximately 2,600,000,000. Table 11 shows highlights of the Applications.

Table 11: Highlights of Applications for Preservation of Assets

S/No.	Case No. / Particulars	Subject Matter	Approximate Value (KES)	Remarks Current Status
1.	Nairobi ACEC Misc. Civil Application No. 60 of 2017  EACC-vs-Andrew W. Ngugi & 4 Others	Application for preservation of funds held at Equity Bank in the accounts of Fastlane Freight Forwarders Limited and Stephen Otieno Onyango	32,000,000	Orders Issued





S/No.	Case No. / Particulars	Subject Matter	Approximate Value (KES)	Remarks Current Status
2.	Nairobi ACEC Misc. Application No. 62 of 2017  EACC-vs-Evanson Thuo Waweru & 2 Others	An application for Preservation Orders to prohibit transfer or disposal or other dealings with two accounts held at Barclays Bank of Kenya Limited in the name of Era Two Thousand Enterprises and Big Sale Superstores/ Big Sale Chemicals respectively	30,000,000	Orders issued
3.	Nairobi ACEC Misc. Application No. 23 of 2017  EACC-vs-Lulu Company Limited and Co-operative Bank	An Application for freezing accounts of Lulu Company Holding	9,999,035	Orders issued
4.	Nairobi ACEC Misc. Application No. 68 of 2017  EACC-vs-NSSF, Sospeter Ojaamong and Charles Wesonga	An Application for preservation of immoveable assets of the Respondents	70,000,000	Orders issued
5.	Nairobi ACEC Misc. Application 79 of 2017  EACC-vs-Jared Peter Odoyo Oluoch Kwega & 9 Others	An Application for preservation of bank accounts in KCB and Equity Bank as well as various properties registered in Suna East Migori County	611,895,000	Preservation Orders in place
6.	Nairobi ACEC Misc. Application No. 64 of 2017  EACC-vs- Thomas Gitau Njogu & Others	An Application for preservation of funds suspected to have been fraudulently acquired from the Ministry of Interior and Coordination of National Government	34,119,263	Preservation Orders in place
7.	Nairobi ACEC Misc. Application No. 2 of 2018  EACC-vs-Alama Trading Company Limited	An Application for preservation of motor vehicle Chassis Number JTEEB71J807028406 that was not delivered to the County Government of Garissa	4,086,310	Orders issued





S/No.	Case No. / Particulars	Subject Matter	Approximate Value (KES)	Remarks Current Status
8.	Nairobi ACEC Misc. Application No. 76 of 2017 EACC-vs-Stima SACCO Society Limited & Serah Musyimi	An Application for preservation of funds suspected to have been fraudulently acquired from the County Government of Kilifi	592,000	Orders issued
9.	Nairobi High Court Misc. Application No. 57 of 2017 EACC-vs-Cooperative Bank of Kenya & Barawah Limited	An Application for preservation of funds suspected to have been fraudulently acquired from the County Government of Kilifi	307,225.55	Orders issued
10.	Nairobi ACEC Misc. Application No. 1 of 2018 EACC-vs-Equity Bank & Maweni Mada Excavation Project (CBO)	An Application for preservation of funds suspected to have been fraudulently acquired from the County Government of Kilifi	382,649.10	Orders issued
11.	Nairobi ACEC Misc. Application No. 55 of 2017 EACC-vs- Equity Bank & Dankies Agencies	An Application for preservation of funds suspected to have been fraudulently acquired from the County Government of Kilifi	716,203.66	Orders issued
12.	Nairobi ACEC Misc. Application No. 74 of 2017 EACC-vs-Stima SACCO Society Limited & Josephat Lango Vaya	An Application for preservation of funds suspected to have been fraudulently acquired from the County Government of Kilifi	2,081,937.70	Orders issued
13.	Nairobi ACEC Misc. Application No. 75 of 2017 EACC-vs-Barclays Bank & Raphael Kioli Mutiso	An Application for preservation of funds suspected to have been fraudulently acquired from County Government of Kilifi	2,805,603.05	Orders issued





S/No.	Case No. / Particulars	Subject Matter	Approximate Value (KES)	Remarks Current Status
14.	Nairobi ACEC Misc. Application No. 20 of 2018 EACC-vs- Equity Bank & Samuel Muriithi Muriuki	An Application for preservation of funds held in the name of Samuel Muriithi Muriuki at Equity Bank, Kapenguria	110,593	Orders issued
15.	Nairobi ACEC Misc. Application No. 21 of 2018 EACC-vs-KCB & Samuel Muriithi Muriuki	An Application for preservation of funds held in the name of Samuel Muriithi Muriuki at KCB, Kerugoya	1,255,468	Orders issued
16.	Nairobi ACEC Misc. Application No. 4 of 2018 EACC-vs-Bob Kephias Otieno & Nyangume Enterprises	An Application for preservation of funds held in the name of Nyangume Enterprises at Equity Bank	636,200	Orders issued
17.	Machakos ELC Misc. Application No. 68 of 2017 EACC-vs-Musembi Ngunu & Martin Ngunu	An Application for Preservation Orders to prohibit the Respondents from interfering with parcel No. Kitui Municipality Block F reserved for Government offices	3,000,000	Orders issued
18.	Meru ELC Misc. Application No. 14/2017 EACC-vs-Peter Mareteh Muinga	An Application for Preservation Orders to prohibit the Respondent from interfering with Meru Plot No. T/183	40,000,000	Orders issued
19.	Meru HC Misc. Application No. 65 of 2017 EACC-vs-Beatrice Kagwiria Mugambi	An Application seeking Preservation Orders against the Respondent in respect to monies held at Consolidated Bank	3,000,000	Orders issued
20.	Meru ELC Application No. 01 of 2018 EACC-vs-Fresh N' Nice	An Application seeking preservation of Isiolo FR/41 (LR No. 7918/736) land belonging to Kenya Prisons	480,000,000	Orders issued





S/No.	Case No. / Particulars	Subject Matter	Approximate Value (KES)	Remarks Current Status
21.	Meru ELC Application No. 02 of 2018 EACC-vs-Karomon Impex & Transport Limited	An Application seeking preservation of Isiolo FR/560/42 land belonging to Kenya Prisons	230,000,000	Orders issued
22.	Meru HC Misc. Application No. 02 of 2018 EACC-vs-Lydia Ngini Lentinina	An Application seeking Preservation Orders against the Respondent in respect to monies held at KCB	2,500,000	Orders issued
23.	Meru ELC Application No. 15 of 2018 EACC-vs-Samuel Kimathi & Daniel Rukunga	An Application seeking preservation of Meru Block 1 /319, Milimani Estate within Meru County	30,000,000	Orders issued
24.	Meru ELC Application No. 16 of 2018 EACC-vs-G. Mbugua & Tudor Holdings	An Application seeking preservation of Meru Plot No. T/184 Milimani Estate	35,000,000	Orders issued
25.	Nakuru Misc. Application No. 102 of 2018 EACC-vs-Noreen Shariff Choge & 2 Others	An application for Preservation Orders to prohibit transfer or disposal or other dealings with the properties being: Nakuru Municipality Block /144,147,149,150 & 221	420,000,000	Orders issued
26.	Kericho Misc. Application No. 6 of 2018 EACC-vs-Rebecca Sang & 2 Others	An application for Preservation Orders to prohibit transfer or disposal or other dealings with L.R. No. 631/1833 within Kericho County	25,000,000	Orders issued



## 2.5.2 Recovery Suits Filed

A total of 16 cases for Recovery of Assets were filed during the Financial Year as shown in Table 12.

**Table 12: Recovery Suits Filed**

S/No.	Case Number and Parties	Details of Claim	Institution	Status
1.	ACEC No. 5 of 2018 EACC-vs-Stephen Ndung'u Kinuthia & 15 Others	Suit for recovery of KES 36,089,966 and properties (M/V KBW 533L and Makuyu Kariani Blocks 3/291, 399, & 400)	Auditor General	Pending Hearing
2.	ACEC No. 61 of 2017 EACC-vs-Jamal Bare Mohammed	Suit for Recovery of unexplained assets worth KES 47,000,000		Pending Hearing
3.	ACEC No. 1 of 2018 EACC-vs-Estama Investments Limited & 14 Others	Suit for recovery of KES 800,000,000 Declaratory Orders and costs of the suit	Ministry of Health	Pending Hearing
4.	ELC No. 84 of 2018 EACC-Vs-Sosik Ltd & 2 Others	Suit for recovery of L.R. No. 25435 (Grant No. IR 86611)	Kenya Forest Service	Pending Hearing
5.	ACEC No. 6 of 2018 EACC-vs-Catherine Nkirote Maingi & 2 Others	Suit for Recovery of KES 45,517,240	National Youth Service	Pending Hearing
6.	Malindi CMCC No. 47 of 2017 EACC-vs- Zohali Services, Lucy Wanjugu Kibogo & Jamii Bora Bank	Suit for recovery of fraudulent acquisition of public funds amounting to KES 9,230,645	County Government of Kilifi	Pending Hearing
7.	Malindi CMCC No. 151 of 2017 EACC-vs- Jahazi Investment Ltd, Lucy Wanjugu Kibogo, Benaya Kisaka Mugavana, Danson Buya Mungatana & Equity Bank Kenya Ltd	Suit for recovery of KES 6,102,950 that was fraudulently acquired	County Government of Kilifi	Pending Hearing
8.	ACEC Civil Suit No. 29 of 2017 EACC-vs- Charity Mueni Musyimi & 15 Others	Suit for recovery of a sum of KES 22,675,778 in respect to an irregular and fraudulent procurement process of Tender No. KCG/392/2014/2015 for upgrading of data centre	County Government of Kilifi	Pending Hearing





S/No.	Case Number and Parties	Details of Claim	Institution	Status
9.	ACEC Civil Suit No. 7 of 2018 EACC-vs-Stephen Sanga Barawah T/A Mediscope Agencies & 2 Others	Suit for recovery of KES 26,460,000 irregularly paid for tender number KCG/644/2014/2015 for supply of mosquito nets	County Government of Kilifi	Pending Hearing
10.	Kisumu ELC No. 31 of 2018 EACC-vs-Patrick Mahulo Okumu & Sammy Komen Mwaita	Suit for recovery of land Kisumu Municipality Block 12/422 valued at KES 27,000,000	Ministry of Transport, Infrastructure, Housing and Urban Development	Pending Hearing
11.	Mombasa ELC No. 145 of 2018 EACC-vs-Ann Wanjiku & 4 Others	Suit for recovery of land reference No. MN/1/9776 valued at KES 70,000,000	Kenya Civil Aviation Authority	Pending Hearing
12.	Mombasa ELC No. 146 of 2018 EACC-vs- Mehasani Hatibu Mwinyihaji & Another	Suit for recovery of L.R. No. MN/1/12425 valued at KES 70,000,000	Kenya Civil Aviation Authority	Pending Hearing
13.	Nairobi: ACEC No. 4 of 2018 EACC-vs-Bob Kephias Otieno & Nyangume Enterprises	Suit for recovery of KES 26,272,460 for work not done in regard to Homabay County Assembly	County Government of Homabay	Pending Hearing
14.	Nakuru ELC No. 242 of 2018 EACC-vs- Saleh Chepkole & 5 Others	Suit for recovery of Nakuru Municipality Block 5/221 worth KES 300,000,000	Ministry of Transport, Infrastructure, Housing and Urban Development	Pending Hearing
15.	Nairobi ELC No. 573 of 2017 EACC-vs-Wilson Gachanja & 10 Others	Suit for recovery of illegally and irregularly alienated public land being L.R. No. 209/19473 (State House Crescent Land)	County Government of Nairobi City	Pending Hearing
16.	Nairobi CMCC No. 9061 of 2017 EACC-vs-Samuel Ondigo Michira	Suit for recovery of KES 364,447 being the amount of imprest not surrendered and/or not properly accounted for	Ministry of Education	Pending Hearing
17.	Nairobi ELC No. 433 of 2017 EACC -vs- Muktar Sheikh & 3 Others	Suit for recovery of land originally set aside for public use (clinic) in Akiba Estate South C	County Government of Nairobi City	Pending Hearing





### 2.5.3 Cases Against EACC

During the year under review, 67 new cases were filed against the Commission in relation to investigations that were being undertaken. Table 13 provides highlights of Petitions and Appeals in FY 2017/2018.

**Table 13: Highlights of Constitutional References and Judicial Review Applications**

S/No.	Court Case No. & Parties	Relief Sought	Status
1.	Kisumu ELC JR No. 1 of 2018 United Millers-vs-County Land Registrar and Others	Judicial Review Application seeking Order of Mandamus to compel the Respondents to remove restriction registered against Title No. Kisumu Municipality Block/12/40 and an Order of Prohibition prohibiting the Respondents from placing any further restriction, caution or encumbrance on the suit property.	Pending Hearing
2.	Kisumu ELC Petition No. 30 of 2017 Sisters of Notre Dame De Namur Registered Trustees-vs-National Land Commission & others	Judicial Review Application for Conservatory Orders against the Respondents from interfering with, revocation of and/or in any way dealing with parcel of land Kisumu Municipality/ Block 12/124	Pending Hearing
3.	Mombasa Petition 15 of 2018 Salome Koskei Yatich-vs-EACC and Others	Petition seeking to quash prosecution in Criminal Case No. Mombasa ACC. No. 4 of 2012	Pending Ruling
4.	Mombasa ELC No. 395 of 2017. Petro Oil Kenya Limited-vs- National Police Service & Others	Application seeking injunction orders against the Defendants from entering property, interference and dealing with Mombasa/Block/ XVII/1457 (Tononoka AP's Camp)	Pending Judgement
5.	Mombasa High Court Misc. No. 2 of 2018 KAA-vs- EACC & Others	Judicial Review Application seeking orders to quash the decision of NLC in relation to property L.R. MN/VI/4114 (formerly MN/VI/3853-62) Moi International Airport	Pending Hearing
6.	Nairobi Petition No. 15 of 2017 Kefah Momanyi Tendere-vs-DPP & Others	Petition seeking Injunction Orders restraining the Respondents from arresting, arraigning and charging the Petitioner before the Chief Magistrate's Court Mombasa	Application dismissed





S/No.	Court Case No. & Parties	Relief Sought	Status
7.	JR. No. 2 of 2018 Kenya Airport Authority-vs- National Land Commission & Others	Judicial Review Application seeking Orders of Certiorari to quash the decision of NLC on review of grants on property MN/ VI/4114 (formerly MN/VI/3852)	Pending Hearing
8.	Mombasa Petition No. 9 of 2018 James Oyondi & Another- vs-KPA & EACC	Petition seeking orders that EACC be directed to conduct investigations into the conduct of KPA tender committee members in relation to Tender No. KPA/124/2015-2016/MO and Tender No. KPA/001/2016-17/ ADM	Pending Hearing
9.	Nairobi ACEC No. 32 of 2017 Martin Luther Ongaya-vs- DPP & EACC	Petition seeking a declaration that the decision of the DPP on recommendations of the EACC to charge the Petitioner in Kericho ACC No. 1 of 2017	Petition dismissed
10.	Nairobi ACEC No. 25 of 2017 Effie Monica Aluoch-vs- DPP & EACC	Petition seeking a declaration that the decision of the DPP on recommendations of the EACC to charge the Petitioner in Kericho ACC No. 1 of 2017	Petition dismissed
11.	Nairobi ACEC No. 27 Of 2017 Robert K. Chirchir-vs-DPP & EACC	Petition seeking a declaration that the decision of the DPP on recommendations of the EACC to charge the Petitioner in Kericho ACC No. 1 of 2017	Petition dismissed
12.	Kerugoya High Court Petition No. 7 of 2017 Margaret Lorna Kariuki & 5 Others-vs-DPP & EACC	A petition challenging the legitimacy of the prosecution of the petitioners, in light of the fact that the EACC was not properly constituted when it prepared the Report under Section 35 of ACECA and forwarded it to the DPP	Pending Hearing
13.	Nyeri Court of Appeal No. 41 of 2017 The County Government of Murang'a-vs-Mwangi wa Iria & 4 Others	An appeal against the Ruling as delivered on 17.02.2017 by the High Court of Kenya at Murang'a in Constitutional Petition No. 2 of 2016: Mwangi wa Iria-vs-EACC and 3 Others, and the County Government of Murang'a	Pending Hearing





S/No.	Court Case No. & Parties	Relief Sought	Status
14.	Nyeri ELC No. 5/2018 Ephantus Mabu Mate-vs- EACC	Judicial Review Application seeking the Court's leave to challenge the decision of the Land Registrar who registered a restriction against the title to a parcel of land registered in the Applicant's name	Pending Ruling
15.	Meru HC Petition No. 22 of 2017 Ibrahim Wako-vs-EACC & DPP	Petition seeking Orders of Certiorari to quash the charge sheets proceedings in Isiolo EACC No. 2 & 3 of 2017, among other orders	Petition dismissed
16.	Nanyuki HCR Revision 4 of 2018 DPP & EACC-vs-Lasi Letiwa	Application seeking revision of the trial Court's termination of Samburu ACC No. 1/2017 under Section 202 of CPC	Pending Hearing
17.	Meru HCR Revision 172 of 2018 DPP & EACC-vs-Joyce Kamire & Salesio Miriti	Application seeking revision of the trial Court's termination of Meru ACC No. 8/2015 under Section 5(1)(iii) of ODPP Act	Pending Hearing
18.	Meru HCR Revision 173/2018 DPP & EACC-vs-Salesa Abudo	Application seeking revision of the trial Court's termination of Isiolo ACC No. 1/2017 under Section 210 of CPC	Pending Hearing
19.	Meru HC Revision No. 308 of 2017 DPP & EACC-vs-Republic	Application seeking revision of the trials court's termination of Meru ACC No. 5/2015 under Section 202 of CPC	Revision dismissed
20.	Meru JR No. 13 of 2017 (Formerly Marsabit JR No. 1 of 2017) R-vs-DPP & EACC ex-parte Godana Adhi Doyo	Judicial Review Application seeking orders to quash charges and charge sheet in Isiolo ACC No. 2 of 2017	Application dismissed
21.	Nairobi Constitutional Petition No. 385 of 2017 Sostenah Ogero Taracha-vs-EACC & AG	Petition seeking orders compelling the Commission to refund the funds seized from the Petitioner	Pending Ruling
22.	Nairobi ELC Petition No. 27 of 2017 Paul Moses Ngetha-vs-National Land Commission & Others	Petition seeking conservatory orders restraining the National Land Commission from interfering or dealing in L. R. 209/13539/154	Petition settled





S/No.	Court Case No. & Parties	Relief Sought	Status
23.	Nairobi – ACEC Revision No. 6 of 2017  Gilbert Mongare Arasa-vs-EACC & 3 Others	Revision against the Magistrate’s Ruling in ACC No. 11 of 2015	Pending Hearing
24.	Nairobi ACEC Petition No. 30 of 2017  Sofia Mohammed-vs-EACC & DPP	Petition seeking orders of prohibition to stop EACC from conducting further investigations, arresting, charging and/or prosecuting the Petitioner in relation to matters of alleged abuse of office	Pending Hearing
25.	Nairobi Petition 590 of 2017  Anjarwalla & Khanna Advocates-vs-EACC	Petition challenging warrants to investigate the Petitioners client account at I&M Bank Limited	Pending Hearing
26.	Nairobi ACEC JR Misc. No. 6 of 2018  Wilson Kipkoti-vs-EACC	Judicial Review Application seeking Orders of Certiorari to quash the decision of the Commission to investigate the Applicant	Pending Hearing
27.	Nairobi ELC No. 295 of 2018  National Land Commission-vs-Afrison Import and Export Limited	Judicial Review Application in reference to acquisition of land for schools (Compulsory acquisition of LR No. 7879/4)	Pending Hearing
28.	Nairobi ELC JR No. 30 of 2018  Afrison Export & Import Limited & Another-vs-EACC, NLC and Nairobi City County Government	Judicial Review Application seeking:  (a) Order of Certiorari to quash letter of EACC to NLC stopping further payments over the portion occupied by Ruaraka High School & Drive-In Primary School.  (b) Order of prohibition to stop EACC from conducting further investigations on the 13.5 acres occupied by the schools	Pending Hearing
29.	Makueni JR No. 1 of 2018  James Momanyi Nyaberi-vs-EACC	Judicial Review Application seeking to bar Respondents from conducting further investigation and charging the Applicant with corruption offences	Petition dismissed





## 2.6 Recovered Assets

Illegally acquired assets valued at approximately KES 352,185,804 were recovered through Court proceedings and out-of-Court settlements as shown in Table 14.

**Table 14: Recovered Assets**

<b>CASH</b>			
<b>S/No.</b>	<b>Case No. &amp; Parties (where applicable)</b>	<b>Institution recovered for</b>	<b>Amount (KES)</b>
1.	ACEC No. 2 of 2017 EACC-vs-Josphat Kipkoech Sirma	Kenya Pipeline Company	2,905,009
2.	ACEC Misc. Application No. 67 of 2017 EACC-vs-Evanson Thuo Waweru & 2 Others	Kenya Revenue Authority	60,000,000
3.	HCC JR 78 of 2015 Chamanlal Kamani-vs-EACC & others	Taxation costs	801,880
4.	ACEC Misc. Appl. No. 7 of 2017 EACC-vs-Charles Kiai Gacheru & Another	Ministry of Tourism (Kenyatta International Convention Centre)	5,500,000
5.	Investigations into allegations of the irregular expenditure by officers of the County Assembly of Murang'a on a foreign trip	County Assembly of Murang'a	223,915
6.	Investigations into allegations of embezzlement of funds by Administration Police Commanders of Trans-Nzoia County in regards to private hire of police officers to various entities	Administration Police	55,000
<b>LAND/IMMOVABLE PROPERTIES</b>			
<b>S/No.</b>	<b>Asset</b>	<b>Institution recovered for</b>	<b>Estimated value (KES)</b>
1.	HCC ELC 333 of 2008 KACC-vs-Stephen Kirima Kogi- LR Number 209/13539/76- IR 81614-Woodley Estate	County Government of Nairobi City	75,000,000
2.	HC ELC No. 1936 of 2007 EACC-vs-Steroda Investments Limited & Another – Nairobi/Block 112/354	Ministry of Transport & Infrastructure	40,000,000
3.	Eldoret ELC No. 581 of 2012 EACC-vs-Broadway Edible Oil Plant	County Government of Uasin Gishu	32,000,000
4.	Kisumu ELC No. 775 of 2015 Kotrop Consultants Limited Kisumu Block VII/454	Railways Corporation of Kenya	55,000,000





<b>LAND/IMMOVABLE PROPERTIES</b>			
<b>S/No.</b>	<b>Asset</b>	<b>Institution recovered for</b>	<b>Estimated value (KES)</b>
5.	Kisumu ELC No. 714 of 2015 Stephen Okeyo Olus & Sammy Mwaita Kisumu Block VII/548	Railways Corporation of Kenya	50,000,000
6.	Kisii HCCC No. 119 of 2008 KACC-vs-Lucy Kerubo Ogeto & Another Kisii/Mun Block 3/420	Gusii Training Institute	8,000,000
7.	Kisii HCCC No. 43 of 2008 KACC-vs-Charles Maranga Matundura & Another Kisii/Mun Block 3/442	Gusii Training Institute	4,000,000
8.	Kisii HCCC No. 50 of 2009 KACC-vs-Charles O. Mokora & Another Kisii/Mun Block 3/450	Gusii Training Institute	4,500,000
9.	Kisii HCCC No. 121 of 2008 KACC-vs-Andrew Peter Gesora Kisii/Mun Block 3/431	Gusii Training Institute	5,000,000
10.	Kisii HCCC No. 44 of 2009 KACC-vs- Jane Nyariki Kisii/Mun Block 3/443	Gusii Training Institute	4,500,000
11.	Kisii HCCC No. 49 of 2009 KACC-vs- Joseph Makuge Kisii/Mun Block 3/461	Gusii Training Institute	4,700,000
<b>Total</b>			<b>352,185,804</b>

## 2.7 Proactive Investigations

The Commission frequently undertakes proactive measures to prevent loss of public funds through corrupt practices.

### 2.7.1 Disruption of Corruption

The Commission carried out 12 Proactive investigations which resulted in averting possible loss of public funds of approximately KES 4,702,004,878 as indicated in Table 15.





Table 15: Highlights of Loss Averted through Disruption of Corruption

S/No.	Details	Organization Involved	Amount Involved (KES)	Status
1.	Allegation of irregular payments to several proxy firms and irregular use of the County funds in real estate development	County Government of Migori	1,500,000,000	Restraining Orders in place
2.	Allegation of tax evasion through diversion of tobacco meant for export	Kenya Revenue Authority	1,344,000,000	Goods intercepted
3.	Allegation of tax evasion through diversion of petroleum products meant for export	Kenya Revenue Authority	1,060,000,000	Goods intercepted
4.	Allegation of irregular calibration of weighing machine to falsify the weight of maize products	National Cereals and Produce Board	550,000,000	Investigations underway
5.	Allegation of irregular payments to private firms	National Youth Service	44,208,158	Accounts frozen Investigations underway
6.	Allegation of irregular payments to a private firm	County Government of Kitui	40,000,000	Accounts frozen Investigations underway
7.	Allegation of tax evasion through diversion of tobacco meant for export	Kenya Revenue Authority	35,000,000	Goods intercepted
8.	Allegation of irregular payments to a private firm	Office of the Auditor General	30,900,000	Payment stopped Investigations underway
9.	Allegation of unexplained cash deposits into the accounts of two KRA officers	Kenya Revenue Authority	30,000,000	Accounts frozen Investigations underway
10.	Allegation of irregular payments to private firms	National Youth Service	18,000,000	Accounts frozen Investigations underway
11.	Allegation of attempted embezzlement of public funds for proposed Youth Business Challenge Day	County Government of Meru	19,896,720	Payment stopped
12.	Allegations of procurement irregularities in respect of Tender Nos. ICG/004;/2017/2018 and ICG/ 005/2018/2018 for supply and delivery of motor vehicles	County Government of Isiolo	30,000,000	Tendering process terminated





### 2.7.2 Integrity Testing Programme

The Commission randomly conducts integrity testing at service points in various Government Institutions to gauge the existence of corruption and unethical practices. In this regard, integrity tests were administered on 303 public officers, with 165 officers failing the test and 138 passing. The results of the tests were sent to the respective Government Ministries, Departments and Agencies to take administrative action based on their respective Codes of Conduct and Ethics.

### 2.7.3 Sting Operations

The Commission carried out sting operations in corruption-prone areas in various Government Ministries, Departments and Agencies. Table 16 highlights the resultant action taken.

Table 16: Actions on Sting Operations

S/No.	Action Taken	Number
1.	Cases completed and forwarded to ODPP	28
2.	Referred to other agencies	2
3.	Pending arrest of known accused persons	9
4.	Pending under investigations	60
5.	Cases closed	43
	<b>Total</b>	<b>142</b>

## 2.8 Strengthening the Legal Framework in the Fight against Corruption

The Commission supports the development and strengthening of the policy and legal anti-corruption framework in the country. One of the key initiatives was the implementation of the recommendations by the Task Force on Review of the Legal, Policy and Institutional Anti-Corruption Framework, whose Report was adopted in 2016. The Legal Bills that have been progressed during the year are the Anti-Corruption Laws (Amendment) Bill 2017, the Whistle Blower Protection Bill, 2017 and the False Claims Bill, 2017. In addition, draft Corruption Prevention Guidelines and Regulations under the Bribery Act, 2016 have been developed.

## 2.9 Enforcement of Chapter Six of the Constitution

In enforcing Chapter Six of the Constitution, the Commission undertook several measures that included cautions, notices, advisories, integrity verification and development of codes, among others, as highlighted below.

### 2.9.1 Issuance of Cautions, Notices and Advisories

The Commission issued 41 cautions, 136 advisories and 36 notices to public entities and persons for violation of Chapter Six and LIA as summarized in Table 17.





Table 17: Cautions, Notices and Advisories Issued

S/No.	Nature of Enforcement of Chapter Six	Nature of Enforcement of Chapter Six	No.
1	Cautions	Neglect of financial obligations	1
		Failure to submit Declaration of Income, Assets and Liabilities	4
		Irregular issuance of salary advance	2
		Fighting in public	34
		<b>Sub-Total</b>	<b>41</b>
2	Advisories	Advisory on integrity verification and clearance of persons seeking appointment to State and Public Office	125
		Advisory on Declaration of Income, Assets and Liabilities	4
		Advisory on State Officers who are trade union officials	1
		Advisory to a university to commence administrative proceedings against a person for forging academic certificates	1
		Advisory on allegations of harassment	1
		Advisory for institution of disciplinary proceedings against a Public Officer for professional misconduct	1
		Advisory on the right of access to information	1
		Advisory on Section 12A of LIA regarding submission of self-declaration form by all new appointees to County Public Service	2
		<b>Sub-Total</b>	<b>136</b>
		3	Notices
Notice to produce documents related to ongoing investigations	2		
Notice issued as a press statement on implementation of LIA on the Specific Leadership and Integrity Code	1		
Notice to public entities with State Officers in the County Government that had failed to develop Specific Leadership and Integrity Codes	11		
Notice to Responsible Commissions to coordinate the Declaration of Income, Assets and Liabilities	1		
Notice requiring all newly appointed State Officers to make Declarations of Income, Assets and Liabilities	1		
<b>Sub-Total</b>	<b>36</b>		

### 2.9.2 Integrity Verification and Clearance for Appointment and Election to Public Office

The Commission received and processed 5,858 integrity verification requests from different institutions and individuals. Out of these 1,393 were requests from National Government, 4,346 from County Governments and 119 from private institutions. Sixty-





seven out of the 5,858 individuals were found to have contravened Chapter Six of the Constitution.

The Commission received 84,077 self-declaration forms in line with LIA. This was a 42.6 percent increase from the previous year. This increase may be attributed to amendment of Section 12A of LIA, which made it mandatory for persons seeking public appointment to submit a self-declaration form to the Commission.

### 2.9.3 Development and Implementation of Specific Leadership and Integrity Codes for State Officers

#### 2.9.3.1 Approval of Specific Leadership and Integrity Codes

Section 37 of the Leadership and Integrity Act, 2012 provides that each public entity with State Officers shall develop a Specific Leadership and Integrity Code for the State Officers serving in that public entity. The specific Codes so developed are, in accordance with Section 39, to be submitted to the Commission for approval.

Table 18 presents Specific Leadership and Integrity Codes submitted to the Commission and their respective status.

**Table 18: Reviewed Specific Leadership and Integrity Codes for State Officers**

State Officers	County	Status
Members of County Assemblies	Narok	Approved
	Embu	
County Executive Committee Members	Murang'a	Approved
	Tana River	
	Bomet	
	Kajiado	
	Taita Taveta	
	Garissa	Rejected
Bungoma		

Cumulatively, the Commission has approved codes for 126 out of 136 public entities with State Officers. This represents 92.8 percent of entities with State Officers. Ten public entities have not complied as shown in Table 19.

**Table 19: List of Non-compliant Public Entities in Development of Specific Leadership and Integrity Codes for State Officers**

Public Entities in the National Government	
1.	Ministry of Information and Communication Technology
County Assemblies	
2.	Isiolo County Assembly
County Executive Committees	
3.	Bungoma County Executive Committee
4.	Garissa County Executive Committee
5.	Kisumu County Executive Committee
6.	Lamu County Executive Committee
7.	Meru County Executive Committee





County Executive Committees	
8.	Turkana County Executive Committee
9.	Vihiga County Executive Committee
10.	Wajir County Executive Committee

### 2.9.3.2 Publication of Approved Specific Leadership and Integrity Codes in the Kenya Gazette

Upon approval of the Specific Leadership and Integrity Codes by the Commission, public entities are required to publish the Codes in the Kenya Gazette within 90 days of approval. During this period, three public entities published their Codes in the Kenya Gazette making a cumulative total of 54 entities out of 136 public entities, resulting in a compliance level of 39.7 percent. Table 20 gives a summary of the status of compliance on development and publication of Specific Leadership and Integrity Codes.

**Table 20: Summary of Status of Compliance on Development and Publication of Specific Leadership and Integrity Codes**

Category of Public Entities	Total no. of Entities	No. of Entities that have Developed Codes	No. of Entities that have not Developed Codes	No. of Entities that have Published Codes	No. of Entities that have not Published their Codes
National Government	42	41	1	13	28
County Executives	47	39	8	15	24
County Assemblies	47	46	1	26	20
<b>Total</b>	<b>136</b>	<b>126</b>	<b>10</b>	<b>54</b>	<b>72</b>

### 2.9.4 Provision of Technical Support in the Implementation of Chapter Six of the Constitution and Related Integrity Laws

#### a) Provision of Technical Support in the Development of the Codes of Conduct and Ethics for Public Officers

The Commission provided technical support to 22 public entities in developing and implementing Codes of Conduct and Ethics for their respective Public Officers. This was aimed at aligning Codes that were developed prior to the enactment of LIA to part II of LIA in compliance with Section 52 of the Act.

#### b) Provision of Technical Support to Public Entities

The Commission provided technical support to seven public institutions reaching out to 267 Public Officers. This support is provided to public entities to facilitate them to comply with the Leadership and Integrity Act, 2012 and to set in place the necessary frameworks.





**c) Provision of Technical Support through Induction of State Officers in County Governments**

The Commission provided technical support through induction workshops for the newly elected Governors and Deputy Governors, 340 members of the National Assembly and 40 members of the Senate. The Commission was further involved in the induction of 100 members of six County Executive Committees so as to equip them with the requisite skills and knowledge for the implementation of Chapter Six of the Constitution.

**d) Provision of Technical Support through Induction of State Officers in County Assemblies**

The Commission inducted 1,262 State Officers from 27 County Assemblies on leadership and integrity. The Commission further inducted County Assembly Committees including 14 members of the Siaya County Assembly Powers and Privileges Committee and 69 members of the Nairobi City County Assembly Committee on Water and County Executive Officers in the water sector.

**e) Provision of Technical Support to County Governments on Management of Declaration of Income, Assets and Liabilities**

Pursuant to Part II of POEA and through a consultative process, the Commission developed two generic administrative procedures for the County Public Service Boards (CPSB) and County Assembly Service Boards (CASB), as the Responsible Commissions at the County level, for management of Declaration of Income, Assets and Liabilities for State and Public Officers. The Boards were expected to customize the procedures and adopt them for ease of administering the Declaration of Income, Assets and Liabilities.

Out of the 118 Responsible Commissions (24 National and 94 County Government), the Commission received returns on the Declaration of Income, Assets and Liabilities from six Responsible Commissions.

**f) Provision of Technical Advisories and Notices**

The Commission, under section 44 of LIA, is required to provide advisory opinions to public entities, State and Public Officers on the implementation of Chapter Six of the Constitution. During the period under review, the Commission provided four notices including one notice issued as a press statement on implementation of the LIA on the Specific Leadership and Integrity Code; one notice to 11 public entities with State Officers in the County Government that had failed to develop Specific Leadership and Integrity Codes; one to Responsible Commissions to coordinate the declaration of income, assets and liabilities, as 2017 was a declaration year; and one notice to the Chief of Staff requiring all newly appointed State Officers to make Declarations of Income, Assets and Liabilities.

An advisory was issued to the Teachers Service Commission (TSC) on the digitization of the Declaration of Income, Assets and Liabilities owing to its automation of the wealth declaration process.





### 2.9.5 Operation of Bank Accounts Held outside Kenya

Under Section 19 of LIA, the Commission is mandated to approve the bank accounts held outside the country by a State or Public Officer. In this reporting period, the Commission:

- Received and processed 15 applications by State and Public Officers to open or continue to operate bank accounts outside Kenya;
- Received and processed four notifications for closure of bank accounts; and
- Received and processed 61 bank statements for the year 2017.

Cumulatively, the Commission has;

- Processed and approved 453 applications by State and Public Officers to open or continue to operate bank accounts outside Kenya; and
- Received and processed eight notifications for bank account closures.





## CHAPTER 3: PREVENTION OF CORRUPTION AND UNETHICAL CONDUCT

### 3.1 Introduction

This chapter presents measures undertaken by the Commission to prevent corruption and unethical conduct. The measures include systems reviews, advisory services, promotion of standards and best practices, establishing and maintaining strategic partnerships and coalitions, public education and awareness creation. To achieve this, the Commission rolled out a number of programs targeting different sectors including MDAs, County Governments, institutions of learning and the general public.

### 3.2 Systems Reviews

The Commission finalized and released a report on the examination of systems, policies, procedures and practices of work at the Ministry of Lands and Physical Planning. The examination covered the technical and support areas of the Ministry, select County Government departments in charge of land and physical planning and other stakeholders. Some Highlights of the findings and recommendations of the examination are presented in Table 21.

**Table 21: Highlights of the Findings and Recommendations of the Examination at Ministry of Lands and Physical Planning**

S/No.	Focus Area	Finding	Recommendation
1.	<b>Governance Tools</b>	Legislations on land management not reviewed in line with the Constitution.  Lack of regulations to operationalize the new Land Laws.  Lack of guidelines and procedure manuals to guide the technical processes of land management.	Review of the existing policy and legal framework  Develop standard operating procedures to guide operations
2.	<b>Physical planning</b>	Lack of physical plans for rural and urban areas.  Non-implementation of existing physical plans  Irregular approvals of developments	Enforce control mechanism in the Physical Planning Act  Develop enforceable strategies for review of rural and peri-urban physical plans





S/No.	Focus Area	Finding	Recommendation
3.	<b>Land Survey</b>	<p>Irregular issuance of new plan and deed plan numbers</p> <p>Inaccurate surveys</p> <p>Irregular map amendments</p> <p>Existence of parallel survey records</p> <p>Denial of access to survey records</p>	<p>Establish standard mechanism for issuance of parcel numbers</p> <p>Enhance due diligence before issuance of mutation</p> <p>Timely amendments on Registration Index Maps</p> <p>Implement a standardized survey records management system</p>
4.	<b>Land adjudication and settlement</b>	<p>Non-publication of the adjudication register</p> <p>Delays in completion of adjudication sections.</p> <p>Adjudication and settlement done on gazetted areas.</p>	<p>Enhance adherence to the law on publication of adjudication register</p>
5.	<b>Land administration</b>	<p>Irregular issuance of consents and processing of leases</p> <p>Disparities in processing of leases by County Governments</p> <p>Failure to continuously review land rates</p>	<p>Consents should only be issued when all requirements are met</p> <p>Periodic audits to assess irregular issuance of leases</p> <p>Periodic review of land rates</p>
6.	<b>Land valuation and stamp duty</b>	<p>Failure to conduct land inspection visits thus issuing desk valuation reports</p> <p>Outdated valuation rolls used by County Governments</p> <p>Registration of land transactions without rate clearance</p> <p>Registration of documents without undertaking valuation</p>	<p>Base land valuation for stamp duty on current valuation rolls and site inspection</p> <p>Develop a land valuation system</p> <p>Ensure that land rates clearance certificates are issued before completion of the registration process</p> <p>Ensure that stamp duty is paid before completion of the registration process</p>
7.	<b>Land registration</b>	<p>Improper management of surrendered titles</p> <p>Double registration of parcels</p> <p>Forgeries in land transactions</p>	<p>Automate title issuance processes</p> <p>Improve security features in registration documents</p> <p>Develop and operationalize standard operating procedures for management of land registration processes</p>





S/No.	Focus Area	Finding	Recommendation
8.	<b>Land Control Boards</b>	<p>Failure to verify identity of interested parties when issuing consents for land transactions</p> <p>Failure to pay allowances to Land Control Board members</p> <p>Undefined boundaries for Land Control Boards</p>	<p>Adhere to the Land Control Act, Cap 302 on appearance of interested parties when granting consents</p> <p>Provide budgetary allocation for Land Control Board members' allowances</p> <p>Define land control jurisdictions</p>
9.	<b>Land records</b>	<p>Delays in retrieval of the correspondence file relating to a specific parcel of land leading to opening of a parallel file to support transactions such as change of user and subleasing</p> <p>Mixed up records in various land registries. Parcels files contained records relating to different parcels of land</p> <p>Missing files</p> <p>Lack of movement registers for retrieval and movement of parcel files</p>	<p>Automate correspondence files for each parcel of land to facilitate ease of retrieval and detection of duplicated parcel files</p>

### 3.3 Corruption Risk Assessments (CRAs)

The Commission undertook and presented reports of Corruption Risk Assessment (CRAs) into the systems, policies, procedures and practices of Nakuru and Kajiado County Executives and Assemblies. Common findings and recommendations made in the County Executives and Assemblies are highlighted in Tables 22 and 23.

**Table 22: Highlights of Findings and Recommendations of the County Executives' Corruption Risk Assessments**

S/No.	Focus Area	Finding	Recommendation
1.	<b>Single Business Register</b>	Lack of a comprehensive register of all the businesses that require Single Business Permits (SBPs)	Compile and maintain a comprehensive database (register) for all businesses and traders in the County
2.	<b>Register of Public Service Vehicles</b>	Lack of a comprehensive register of PSVs using matatu terminus in the County	Compile and maintain a comprehensive register of matatus and motor bikes operating in various towns in the County





S/No.	Focus Area	Finding	Recommendation
3.	<b>Valuation Roll</b>	Lack of a comprehensive and updated valuation roll consisting of property information of all ratable properties within the County	Compile and maintain a comprehensive valuation roll of all ratable properties situated within the County
4.	<b>Development Approval</b>	Granting of development approvals without payment of requisite fees Granting of development approvals without mandatory supporting documents	Ensure that: All requisite fees are paid as stipulated in County Finance Act, 2016 All necessary documents are submitted before approval to build is granted
5.	<b>Livestock disease surveillance in the County</b>	Failure to maintain reports on disease surveillance undertaken by County	Maintain disease surveillance records
6.	<b>Assessment of Early Childhood Development Education (ECDE) centers</b>	Limited oversight on Early Childhood Development Education (ECDE) centers in the County	Prepare assessment guidelines and facilitate ECDE assessors to undertake their responsibilities
7.	<b>Imprest Management</b>	Failure to surrender imprest within the stipulated timeline	Ensure timely surrender of imprest in compliance with PFM (CG) Regulations, 2015 Rule 93 (5)
8.	<b>Creditors Management</b>	Lack of a Creditors' Management Policy, high amount of pending bills and failure to maintain individual creditor's ledgers	Develop and operationalize a Creditor's Management Policy
9.	<b>Acquisition of goods, works and services</b>	Failure by bidders to adhere to bid instructions	Build capacity of bidders through bidder sensitization and pre-bid conferences
10.	<b>Career Progression guidelines</b>	Lack of career progression guidelines for staff	Develop and implement Career Progression Guidelines for staff
11.	<b>Audit Charter</b>	Lack of an Internal Audit Charter	Develop and implement an Internal Audit Charter
12.	<b>Records Management</b>	Lack of a records management policy	Develop and implement a records management policy



**Table 23: Highlights of Findings and Recommendations of the County Assemblies' Corruption Risk Assessments**

S/No.	Focus Area	Finding	Recommendation
1.	<b>Governance Instruments</b>	Lack of policy and procedure manuals to guide operations of the County Assemblies	Develop and operationalize relevant policies, manuals and guidelines in all operational areas.
2.	<b>Bank reconciliation</b>	Failure to prepare bank reconciliation statements for County Assembly bank accounts	Undertake reconciliation for each bank account in adherence to Regulation 90(1) of the PFM (CG) Regulations, 2015
3.	<b>Fixed Assets Management</b>	Absence of a Fixed Assets Register Failure to tag the fixed Assets for ease of identification Absence of ownership documents for some assets	Tag assets and maintain a comprehensive register
4.	<b>Mortgage and car loans</b>	Failure to value the assets before payment is released to the vendor Loans advanced to officers without security	Value assets offered as security Joint registration and placing of encumbrances
5.	<b>Ward Office Operating Expenses</b>	Failure to maintain proper ward offices financial records	Maintain proper financial records
6.	<b>County Assembly Proceedings</b>	Delay in releasing the proceedings and votes	Build capacity to process the proceedings as per Standing Orders
7.	<b>Audit Committee</b>	Lack of a County Assembly Audit Committee	Constitute an Audit Committee as required under Regulation 167 of the PFM (CG) Regulations, 2015
8.	<b>Standard Bid Documents</b>	Failure to adopt Standard Bid Documents provided by PPRA in procurement	Ensure that standard bidding documents provided by PPRA are adopted in line with section 58 of the Public Procurement and Asset Disposal Act (PPADA), 2015

### 3.4 Advisories and Performance Contracting Monitoring

The Commission reviewed and provided feedback on quarterly reports submitted by Ministries, Departments and Agencies under the Corruption Eradication Indicator for Performance Contracting Period, FY 2017/2018. A total of 478 reports from 224 institutions were analyzed and feedback provided.





### 3.5 Public Outreach Programmes

The Commission conducts public outreach clinics in various forums in order to create awareness among members of the public on anti-corruption, ethics and integrity so as to enhance citizen participation in governance. These include market visits, village barazas and cultural festivals, among others. Through this outreach, approximately 7,300 people were reached with the anti-corruption message on a face-to-face encounter.

### 3.6 Participation in Exhibitions, International Trade Fair and Conferences

The Commission participated in the Agricultural Society of Kenya (ASK) International Trade Fairs in Nairobi, Nyeri and Eldoret. The Commission reached approximately 87,700 participants. The Commission also participated and exhibited in the Inter-University Students Conference at Kabarak University where 4,500 participants were sensitized.

### 3.7 Civil Society Engagements

The training of Community Based Anti-Corruption Monitors (CBAMs) targets key community leaders who support anti-corruption work at the grassroots level. Six hundred and nineteen members of CBAMs, Civilian Anti-Corruption Oversight Committee and YMCA were sensitized whereas eight Civil Society organizations were engaged. The Commission also held two workshops to enlist the support of the Road Transport Sub-Sector stakeholders in the fight against corruption: 'Road Transport Sub-Sector Consultative Workshop' in Kisumu and National Governing Council of the Matatu Owners Association (MOA) in Nairobi where 100 participants were sensitized.

### 3.8 Mainstreaming Integrity in Institutions of Learning

The Commission implemented School Outreach programmes aimed at re-engineering social values among learners. These programmes involve visits to schools, integrity talks and establishment of Integrity Clubs and Movements. A summary of the programmes undertaken is shown in Table 24.

**Table 24: Summary of Activities Implemented under the Integrity Programme in Institutions of Learning**

No.	Activity	No. of Institutions	No. of Pupils and Students Sensitized	No. of Teachers and Managers Trained
1.	Schools/university outreach and sensitizations	227	103,741	-
2.	Integrity Clubs establishment	106	956	-
3.	Integrity Clubs monitoring	34	1,015	-
4.	Integrity Clubs Patrons training	10	-	68
5.	Student leaders sensitization	-	589	-
6.	Educational institutional managers training	4	-	265
7.	Study tours by Integrity Clubs to the Commission	2	65	-





### 3.9 Media Education Programmes

The Commission used various media platforms to educate the public on leadership, ethics, integrity, good governance and anti-corruption measures. Platforms used were television, national and vernacular radio stations. One of the major programmes was sensitization of the public during the run-up to the general election on electing leaders of integrity. In this respect, The Commission engaged the services of 19 Regional FM and five Television stations, reaching millions of listeners and viewers. The Commission also made eight guest appearances on various radio stations reaching millions of people with leadership and integrity information. Anti-corruption information was aired on radio during the 5<sup>th</sup> Devolution Conference, reaching millions of people.

Further, the Commission advertised on 13 billboards at various locations around the country carrying the Kiswahili message Chagua Uadilifu and English message Choose Integrity. Approximately 27,000,000 Kenyans were reached.

### 3.10 Development and Dissemination of Information, Education and Communication (IEC) Materials

The Commission developed and disseminated Information Education and Communication (IEC) materials as a strategy to intensify anti-corruption public education and awareness. These materials include:

- i). 10,000 copies of the Citizens' Guide translated into Kiswahili;
- ii). Two songs on leadership and integrity;
- iii). Eleven types of joint EACC and Faith Based Organisations (FBOs) IEC materials and media messages; and
- iv). Six brochures were transcribed into two Braille booklets in partnership with the Kenya Institute for the Blind.

The Commission further disseminated approximately 18,500 IEC materials, including copies of Guidelines on Conflict of Interest, Guidelines on Gifts and Guidelines on Public Collections as provided by Chapter Six of the Constitution.

### 3.11 Training of Integrity Assurance Officers (IAOs) and Corruption Prevention Committees (CPCs)

The Commission's strategy of intensifying anti-corruption, ethics and integrity in the public service was implemented through trainings for Integrity Assurance Officers (IAOs) and Corruption Prevention Committees (CPCs). The training of IAOs and CPCs is anchored under Performance Contracting aimed at corruption eradication in the public service. A summary of the training of Integrity Assurance Officers and Corruption Prevention Committees is provided in Table 25.



**Table 25: Summary of the Training of Integrity Assurance Officers and Corruption Prevention Committees**

S/No.	Activity	No. of Institutions	No. of Participants
1.	Integrity Assurance Officers training	137	1,124
2.	Corruption Prevention Committees training	81	1,318
3.	Specialized groups like board members, Independent Commissions and Offices	9	322



*Participants at a break-away session during EACC Integrity Assurance Officers Training in March 2018 at ARC Hotel, Egerton*

### 3.12 General Sensitization in Various Institutions

The Commission conducted general sensitization on issues of leadership, ethics and integrity in Ministries, Departments and Agencies. This sensitization included capacity building of Members of County Assembly, County Executives and staff of the County Assembly through training to enable them carry out their legislative, oversight and administrative roles effectively. The Commission undertook 131 sessions where a total of 10,117 state and public officers were sensitized.

The Commission made twenty presentations on Chapter Six of the Constitution, the tenets of public service and various integrity laws, reaching approximately 1,500 people.



*Participants during the sensitization on DIALS administrative procedures in May 2018 at the Kenya School of Monetary Studies*

### 3.13 Research Programmes

The EACC undertakes both diagnostic and thematic studies on an annual basis to establish the nature, magnitude, loopholes and processes prone to corruption and unethical conduct. This guides policy and anti-corruption programme development. In this regard, the Commission conducted the following studies during the year in review:

- i) An Assessment of Project Implementation in Kenya: A Case Study of County Revenue Fund and Constituency Development Fund Projects, 2017
- ii) National Ethics and Corruption Survey, 2017

#### 3.13.1 An Assessment of Project Implementation in Kenya: A Case Study of County Revenue Fund and Constituency Development Fund Projects, 2017

The overall objective of the study was to identify the existing loopholes and processes prone to corruption in the implementation of CDF and County projects and propose measures to seal those loopholes.

Highlights of the Assessment are as follows:

- i). Companies doing business with CDF offices have a higher chance of winning public tenders compared to those doing business with Counties (increased odds of winning by 2.02 times).
- ii). Those companies that were not involved in the development of project specifications had their chances of winning public tenders reduced to 22 percent compared to those that were involved in the development.
- iii). Companies that benchmark their price with other suppliers bidding for the same tender had a higher chance of winning tenders compared to those who use the prevailing market prices. The same was deduced for those companies



that quoted market prices but factored in big profit margins as their odds of winning a tender was increased by 1.14 times compared to those who quoted market prices.

- iv). Companies getting information on bidding opportunities from friends, procurement officers, County and CDF officers and other suppliers had higher chances of winning public tenders compared to those relying on newspapers.

### 3.13.2 The National Survey on Corruption and Ethics, 2017

The overall objective of the Survey, conducted between 18<sup>th</sup> September and 24<sup>th</sup> October 2017, was to provide data that would inform the anti-corruption strategy in the country. A mixed design methodology was adopted and involved utilization of questionnaires for face-to-face interviews; key informant discussion guides and a systematic review of literature. The Survey covered all the 47 counties with a sample of 5,977 household respondents and 15 key informants. Below are highlights of the Survey.

#### i) Seeking of Government Services

The Survey sought to find out if the respondents had interacted with government agencies and their experiences therefrom. The findings revealed that there was no significant change in the proportion of those seeking services in public offices between 2016 (63.6%) and 2017 (63.5%).

#### ii) Level of Corruption and Unethical Conduct

The Survey sought to know how respondents perceived the level of corruption and unethical conduct in Kenya and the basis of their rating. The findings revealed that the level of corruption and unethical conduct dropped to 70.4 percent from 79.4 percent recorded in the 2016 Survey. This is a significant reversal since 2012 as shown in Figure 7.

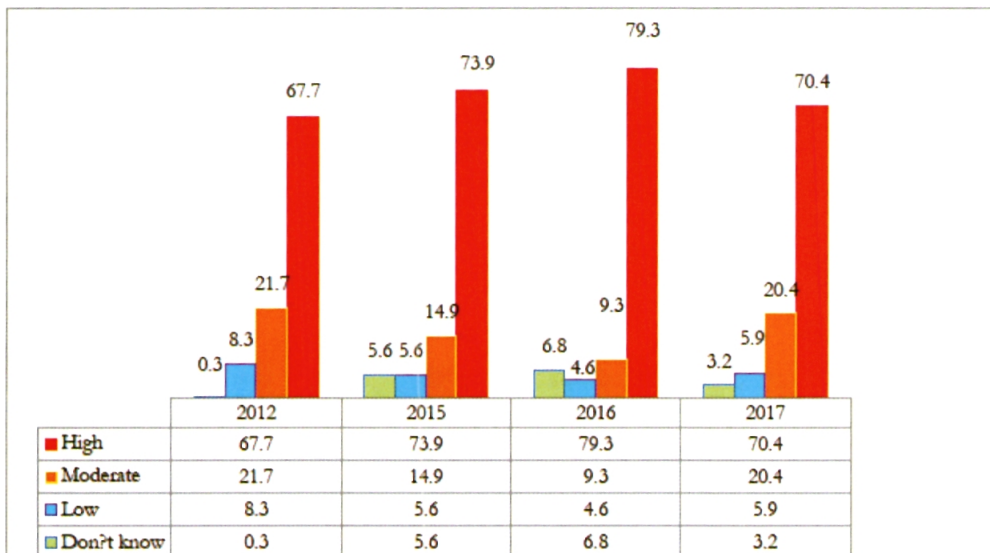


Figure 7: Level of Corruption and Unethical Conduct





### iii) Bribery Payments

There was a sharp decline in the proportion of people who paid bribes in 2015 (38%), compared to 2012 (68.5%). However, in 2015 there was a reversal in trend which has culminated in a sharp increment between 2016 (46%) and 2017 (62.2%).



Figure 8: Proportion (in Percentage) of Those who Paid Bribes

### iv) Average Bribe

The average bribe was KES 5,058.75 in 2017, which indicates a sharp decline from the average of KES 7,081.05 recorded in 2016. Obtaining tenders (KES 102,921.75) and seeking employment (KES 28,606.99) were ranked the first two in terms of bribe amounts paid for services.

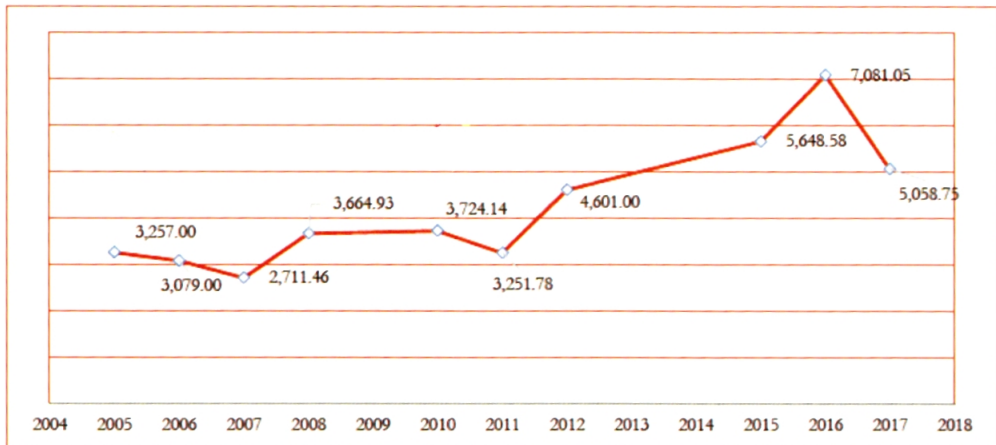


Figure 9: Average Bribe Paid by Service Seekers in Kenya Shillings





## CHAPTER 4: PARTNERSHIPS, NETWORKS AND COALITIONS

### 4.1 Introduction

The Commission cooperates and collaborates with other State organs and agencies in the prevention, investigation and prosecution of corruption and unethical conduct. Further, the EACC establishes and maintains strategic linkages and partnerships with other stakeholders including the private sector, civil society organizations, faith-based organizations, media, amongst others.

The Key platforms used by the Commission to undertake this are:

### 4.2 Kenya Leadership Integrity Forum

The Commission established the Kenya Leadership Integrity Forum as a multi-sector platform to bring together all stakeholders of the Kenyan society with the aim of developing and implementing strategies of fighting corruption and promoting ethical conduct. The Forum incorporates 15 sectors namely: The Legislature, Judiciary, Executive, EACC, Education, Watchdog Agencies, County Governments, Private Sector, Media, Enforcement Agencies, Professional Associations, Labour, Civil Society, Religious Sector and Constitutional Commissions.

The Forum implemented the following programmes:

#### i) Implementation of the Kenya Integrity Plan (KIP 2015-2019)

The Kenya Integrity Plan provides a strategy for promoting integrity and ethical conduct through partnerships and collaborative networks for the period 2015-2019. The Plan takes into account the Constitution, Kenya Vision 2030 and other legal and policy instruments in the fight against corruption.

Achievements in the implementation of KIP include:

- Implementation of the Sector Action Plans for the FY 2017-2018
- Publication of the Implementation Progress Report 2015-2017
- Capacity building of the Sector Coordinating Committee (SCC) on anti-corruption, ethics, integrity and good governance

#### ii) Commemoration of the International Anti-Corruption Day

Kenya commemorates the International Anti-Corruption Day (IACD) pursuant to the UN General Assembly Resolution 58/4 of 2003 to raise awareness on how corruption undermines democracy and the rule of law; leads to human rights violations; distorts markets; erodes quality of life; and allows organized crime, terrorism and other threats to human security to flourish.

On 9<sup>th</sup> December 2017, the Forum spearheaded the commemoration of the International Anti-Corruption Day through a media campaign with the theme: “United Against Corruption”.



### iii) KLIF National Coordinating Committee Meetings

The Forum hosted three high level National Coordinating Committee Meetings to provide policy direction, mobilize resources and leverage on synergies in the fight against corruption. The meetings, chaired by the Hon. Attorney General, hosted Accounting Officers from all the Sectors.

## 4.3 Multi-Agency Team

The Multi-Agency Team (MAT) on enhancing the investigation and prosecution of corruption and economic crimes, is an initiative by the Government of Kenya to enable a cost-effective system in cooperation, collaboration and coordination of law enforcement agencies. EACC is a member of this initiative.

Key achievements include:

- i) Joint investigations undertaken;
- ii) Evaded tax recovered;
- iii) Sharing of information and intelligence among the agencies on real-time basis;
- iv) Simultaneous actions e.g., prosecution, civil action, administrative action and asset recovery;
- v) Freezing and confiscation of suspect assets/property; and
- vi) Replication of the MAT collaboration in the devolved units of Government.

## 4.4 Partnership between EACC and the Faith Sector

The leaders of the Faith Based Organizations came together to partner with the Commission with a view to changing the negative narrative and perception surrounding the fight against corruption to ensure that each and every Kenyan plays their role in the fight. This led to the signing of a Memorandum of Understanding on 17<sup>th</sup> May 2017, following which these activities were undertaken:

- A capacity building workshop for the FBOs from 18<sup>th</sup> to 22<sup>nd</sup> December, 2017; and
- Development and validation of assorted IEC materials and media messages for Christians, Muslims and Hindus.



*Participants of the Faith Based Organisations (FBOs) and EACC Joint Partnership Training Workshop Held at the Agriculture Resource Centre (ARC) Hotel, Nakuru, 18<sup>th</sup> – 22<sup>nd</sup> December, 2017*

## 4.5 National and International Engagements

The Commission collaborates and networks with local and international partners to boost the fight against graft. Key partners include the East African Association of Anti-Corruption Authorities (EAAACA), the African Association of Anti-Corruption Authorities (AAACA), Commonwealth Africa Anti-Corruption Centre (CAACC) and Basel Institute, among others.

The EACC was ranked the best in handling of evidence and management of exhibits among 17 Commonwealth Africa Anti-Corruption Agencies. Consequently, in collaboration with CAACC, the Commission hosted a delegation from four African Countries to share experiences on management and handling of exhibits by the respective anti-corruption agencies. The Countries represented during the twinning exercise were Rwanda, South Africa, Botswana, Nigeria and Kenya.



*Participants at the twinning exercise organized by the Commonwealth Africa Anti-Corruption Centre*

Twelve Heads of Missions visited the Commission in June 2018. The diplomats, who met with the Commission's Management, were informed on the strides Kenya has made so far in the fight against corruption. The Heads of Missions reiterated their support for EACC and commitment to strengthening avenues for the repatriation of ill-gotten wealth and offered support in strengthening efforts in asset recovery and training.

Other meetings were held with representatives from the Office of the Director of Public Prosecutions, Judiciary, Kenya Red Cross Society, Kenya Private Sector Alliance (KEPSA), National Anti-Corruption Campaign Steering Committee (NACCSC), Ministry of ICT, National Police Service Commission, Transparency International (TI) Kenya, Transparency International (TI) Nigeria, International Monetary Fund (IMF) – Kenya and International Monetary Fund (IMF) – Washington, DC, Executive Office of the President and Cabinet Affairs, World Bank Group, Washington, DC and other stakeholders.

In addition, Kenya cooperates with foreign countries through: mutual legal assistance, informal requests, tracing and recovery of assets that have been stashed abroad. In the year under review, the Commission participated in various international forums whose highlights are shown in Table 26.

**Table 26: International Forums Attended**

S/No.	Forum	Theme	Venue and Date	Key Learning Points
1.	11 <sup>th</sup> Annual General Meeting of the East African Association of Anti-Corruption Authorities (EAAACA)  Hosted by the Federal Ethics and Anti-Corruption Commission (FEACC) of Ethiopia	Strengthening Asset Recovery Initiatives to Enhance Regional Economic Growth	Addis Ababa, Ethiopia  21 <sup>st</sup> – 22 <sup>nd</sup> February 2018	The Commission incorporated asset recovery initiatives in the 2018-2023 Strategic Plan formulation
2.	8 <sup>th</sup> Commonwealth Review Meeting of Heads of Anti-Corruption Agencies in Africa	Partnering towards Asset Recovery and its Return	Abuja, Nigeria  14 <sup>th</sup> – 18 <sup>th</sup> May 2018	Non-conviction-based asset recovery strategy recommended for implementation
3.	Regional Conference on Effectiveness of Anti-Corruption Bodies and Financial Intelligence Units in Fighting Corruption and Money Laundering in Africa	Financial Intelligence Units Collaboration within Africa	Mauritius  5 <sup>th</sup> – 10 <sup>th</sup> May 2018	Significance of setting up Intelligence Financial Units in the fight against corruption
4.	Executive Policy and Development Symposium	Countering Violent Extremism and Crisis Leadership	Roswell, New Mexico, USA  25 <sup>th</sup> March – 19 <sup>th</sup> April 2018	Strengthening the fight against corruption along the borders and other entry points as well as transnational organized crime
5.	Regional Workshop on Fast Tracking Implementation of the United Nations Convention against Corruption	Fast tracking implementation of UNCAC: The Public and Whistleblowing	Arusha, Tanzania  19 <sup>th</sup> – 24 <sup>th</sup> March 2018	Under the East African Association of Anti-Corruption Authorities, establish a Public Procurement Network with PPRA appointed as a focal point in the initiative
6.	East and Southern African Association of Accounts General (ESAAAG) 25 <sup>th</sup> Annual Conference	Public Financial Management reforms, an engine for sustainable Development goals and Economic growth	Entebbe, Uganda  26 <sup>th</sup> February – 2 <sup>nd</sup> March 2018	Insights into efficient use of Government resources for sustainable development





S/No.	Forum	Theme	Venue and Date	Key Learning Points
7.	7 <sup>th</sup> Asset Recovery Inter-Agency Network for Southern Africa (ARINSA) Annual General Meeting	Relentless efforts continue to make sure criminals have nowhere to hide	Gaborone, Botswana 7 <sup>th</sup> – 8 <sup>th</sup> March 2018	Kenya attended the meeting as observers to gain insight into the asset recovery process
8.	Anti-Corruption and Model Law: Executive Policy and Development Symposium	Anti-Corruption and Model Law: Executive Policy and Development	Roswell, New Mexico, USA 9 <sup>th</sup> – 31 <sup>st</sup> January 2018	Insights into effective detection, investigation and prosecution of corruption crimes
9.	Executive Policy and Development Symposium	Counter Violent Extremism and Crisis Leadership	Roswell, New Mexico, USA 1 <sup>st</sup> – 26 <sup>th</sup> October 2017	Recommendation to approach the National Security Advisory Council to establish the Integrated Criminal Justice Monitoring and Evaluation System (ICJMES)
10.	4 <sup>th</sup> Meeting of the Regional Asset Recovery Inter-Agency Networks		The Hague, Netherlands 31 <sup>st</sup> August – 1 <sup>st</sup> September 2017	Raising awareness on existence of Asset Recovery Inter-Agency Networks among local law enforcement agencies to promote asset recovery





## CHAPTER 5: REVIEW OF THE STRATEGIC PLAN 2013-2018

### 5.1 Introduction

This Chapter reviews the performance of the Commission in the last five years and sets out to identify achievements, gaps in implementation, challenges experienced and the lessons learnt during the implementation of the Strategic Plan 2013-2018 which came to an end on 30<sup>th</sup> June, 2018.

### 5.2 Strategic Plan 2013-2018

The Strategic Plan 2013-2018 was anchored on five Strategic Objectives which were to: Reduce prevalence of corruption and unethical conduct; establish, maintain and strengthen partnerships and networks against corruption and unethical practices; promote ethics and good governance; mobilize resources for effective and efficient service delivery; and strengthen the policy and legal framework.

#### 5.2.1 Achievements

The following are highlights of achievements of the Strategic Plan 2013-2018.

##### 5.2.1.1 Law Enforcement

The Commission investigated acts of corruption, economic crimes and unethical conduct. The Commission also traced, preserved and recovered corruptly acquired assets and disrupted corruption.

#### a) Investigations

- A total of 675 investigation files were forwarded to the Office of Director of Public Prosecutions (ODPP);
- Four hundred and fourteen cases were pending before Court;
- A total of 130 cases were completed in criminal courts resulting in 67 convictions, 36 acquittals and 27 withdrawals; and
- Three major investigations into Anglo-Leasing Type Security Contracts were completed. These cases, which had stalled for 12 years after Courts barred the Commission from using evidence obtained from other jurisdictions, are now ongoing in Court.

Some of the cases completed during the period included:

- Procurement irregularities in the purchase of a building to be used as a referral hospital by Trans Nzoia County Government at a cost of KES 500,000,000. Senior County officials were charged in Court;
- Abuse of office and procurement irregularities in the construction of Kamukuiywa-Kaptama-Kapsokwony-Kimilili Road where a former Cabinet Secretary and several Ministry officials were charged in court;





- Abuse of office and procurement irregularities in the purchase of Electronic Voter Identification Devices (EVID) at KES 1,300,000,000 by the Independent Electoral and Boundaries Commission (IEBC) where the former Chief Executive Officer, Deputy Chief Executive Officer and other officials were charged in Court;
- Bribery allegations against IEBC officials in the printing of Ballot Papers by Smith and Ouzman. The Chief Executive Officer and other officials were charged in Court;
- Embezzlement of KES 69,900,000 belonging to Nursing Council of Kenya through operation of a secret bank account where after investigations, former Chief Registrar Nursing Council of Kenya and other officials were charged in Court;
- Two cases of abuse of office and procurement irregularities by National Hospital Insurance Fund (NHIF) officials in respect of the Civil Servants Medical Scheme of KES 116,000,000 and KES 202,000,000. The Chief Executive Officer and other senior NHIF officials were charged in Court; and
- A former Member of Parliament was arrested and charged for receiving a bribe of KES 100,000 from a contractor to facilitate payment from the Constituency Development Fund (CDF) kitty.

### Highlights of Convictions

- The County Secretary and six Tender Committee members of County Government of Bungoma convicted for the irregular procurement of nine wheelbarrows at an inflated cost of KES109,320 each. The County Secretary was fined KES 800,000 in default serve four years' imprisonment and each of the six Tender Committee Members fined KES 600,000 in default serve three and a half years' imprisonment;
- The former Permanent Secretary Local Government and several officials from Nairobi City Council were charged jointly and severally over the fraudulent acquisition of cemetery land in Mavoko at a cost of KES 283,200,000. They were convicted and cumulatively fined KES 86,000,000.
- Former Director of Finance, Sports Kenya was convicted for failure to disclose a private interest to one's principal. The accused was cumulatively fined KES 3,000,000 in default to serve sixty months' imprisonment;
- Former Eldoret South MP was convicted for irregular award of CDF contracts and fined KES 9,000,000; and
- Former KPA Managing Director was convicted for being in possession of unexplained assets and fined KES 74,600,000.

### b) Recovery of Corruptly Acquired and Unexplained Assets

The Commission traced, preserved, averted loss and recovered assets over the last five years as provided in Table 27.



**Table 27: Assets Traced, Preserved, Recovered and Value of Cases Disrupted (KES Millions)**

Financial Year	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018	Total
Assets Traced	7,214	3,860	3,614	4,913	1,916	<b>21,517</b>
Assets preserved	-	136	988	220	141	<b>1,485</b>
Recovery Suits filed	-	136	1,080	1,780	929	<b>3,925</b>
Assets Recovered	2,068	140	701	256	488	<b>3,653</b>
Disruptions/Loss Averted	5,600	1,600	2,600	6,180	3,800	<b>19,780</b>

### 5.2.1.2 Prevention of Corruption and Unethical Practices

#### a) Corruption Prevention

Table 28 provides a summary of corruption prevention achievements over the Strategic Plan period.

**Table 28: Summary of Corruption Prevention Achievements**

S/No.	Activities	Total
1.	Systems reviews for MDAs	<b>9</b>
2.	Systems reviews in County Executives and Assemblies	<b>32</b>
3.	Number of advisories to MDAs under the Performance Contracting Framework	<b>5,907</b>
4.	Counties advised on the formation of CPCs	<b>47</b>
5.	Institutions assessed on implementation of Corruption Eradication Indicator in the PC	<b>106</b>
6.	Monitoring of the implementation of the systems review recommendations	<b>10</b>

#### b) Public Education and Awareness

The Commission carried out public education and awareness programmes targeting Public Officers, institutions of learning and the general public through various platforms. These included Media programmes in over 30 local FM radio stations, eight Television Video Commercials (TVCs), Social Media activations and 13 billboards across the Country, reaching millions of Kenyans. In addition, the Commission disseminated 408,934 IEC materials to the public. Table 29 provides a summary of education and public awareness activities.

**Table 29: Summary of Education and Public Awareness Activities**

S/No.	Activity	No. of People Reached
1.	General Sensitization of Public Officers on Ethics, Integrity and Anti-Corruption	209,496
2.	Public Anti-Corruption Clinics (Outreach)	900,580
3.	Community Based Anti-Corruption Monitors trained	1,325
4.	County Public Forums (Kajiado, Meru and Garissa)	347
5.	Trade Fairs/Exhibitions	97,213
6.	Training of Integrity Assurance Officers (IAO)	4,929
7.	Training of State and Public Officers from National and County Governments	5,398



S/No.	Activity	No. of People Reached
8.	Training of Corruption Prevention Committees (CPCs)	4,698
9.	School Outreach	262,449
10.	Training of Integrity Club Patrons	689

### 5.2.1.3 Ethics and Leadership

The Commission facilitated 243 public entities to develop Specific Leadership and Integrity Codes for State Officers and further developed and disseminated three Guidelines on Conflict of Interest, Gifts and Public Collections. In addition, the Commission developed and gazetted the Leadership and Integrity Regulations, 2015 in partnership with others stakeholders. Table 30 provides a summary of ethics and leadership interventions.

**Table 30: Ethics and Leadership Interventions**

S/No.	Activity	Number
1.	Integrity verification (vetting) of candidates seeking:	
	a). Appointment to public office	5,739
	b). Employment in private sector	119
2.	Support for development of Specific Leadership and Integrity for State Officers - County Executive and Assemblies	94
3.	Specific Leadership and Integrity Codes approved	243
4.	Signing of commitment to Leadership and Integrity Codes	2223
5.	Reviewed and approved general Codes of Conduct for Public Officers	190
6.	Investigations on ethical breaches	240
7.	Files on ethical breaches forwarded to ODPP	29
8.	Petitions instituted for removal of State Officers for breaches of Chapter Six and LIA	3
9.	Notices issued to public entities for non-compliance with Chapter Six and LIA	151
10.	Administration action recommendations on ethical breaches	38
11.	Cautions issued for non-compliance with Chapter Six and LIA	199
12.	Advisories on ethical issues	177

### 5.2.1.4 Governance Instruments

EACC supported:

- The process of enactment of 36 pieces of legislation to bolster the war against corruption; and
- Development of a draft National Ethics and Anti-Corruption Policy.

### 5.2.1.5 Institutional Capacity

- Staff compliment rose from 233 to 717;
- The Commission's regional presence was enhanced from five to ten regions in the country. The five additional regional offices are Isiolo, Kisii, Machakos, Malindi and Nakuru. The Commission also opened satellite offices in JKIA and Malaba; and
- The Commission has presence in 49 Huduma Centres throughout the country.





## 5.2.2 Constraints and Challenges

In implementing the Plan, the Commission experienced a number of constraints and challenges which were largely in the area of human resources and policy, legal and institutional framework.

- Inadequate technical staff;
- High staff turnover;
- Inadequate support on anti-corruption efforts from accounting officers;
- Inadequate legal and regulatory framework for enforcement of: Chapter Six of the Constitution; Leadership and Integrity Act; Declarations of Income, Assets and Liabilities (DIALs); Integrity vetting by the Commission; Amnesty (Section 25 (A) of ACECA); Plea bargaining (Section 137A-137N of CPC); and implementation of systems review recommendations;
- Adverse judicial decisions;
- Lenient penalties as prescribed by the law;
- Delay in obtaining evidence from other jurisdictions, destruction of the evidence and slow process of preservation of assets held in other jurisdictions;
- Constitutional References and Judicial Review Applications that impede execution of the Commission's mandate;
- Lack of enforcement mechanisms for regulatory breaches and implementation of prevention advisories;
- Public apathy on governance issues; and
- Politicization and ethnicization of the fight against corruption.

## 5.2.3 Strategic Plan 2018-2023

The Commission developed the Strategic Plan 2018-2023 through a consultative process, taking into account the challenges, constraints and lessons learnt during the implementation of the previous Strategic Plan.

To achieve its goal, the Commission will pursue five Strategic Objectives as follows:

- a) To strengthen policy, legal and regulatory framework;
- b) To enhance law enforcement against corruption and unethical conduct;
- c) To enhance public education, communication and awareness;
- d) To enhance the prevention of corruption and unethical practices; and
- e) To enhance institutional capacity of the Commission.





## CHAPTER 6: INSTITUTIONAL SUPPORT SERVICES

### 6.1 Introduction

This chapter presents the various programmes and activities that support the Commission's operations towards the realization of its mandate.

### 6.2 Communications and Media Relations

The Commission engaged the media to ensure publicity of its programmes, enhance public participation and gain public support in the fight against corruption. This was done through mass media coverage of Commission events, programmes and activities including court proceedings. Tools used included press briefings, interviews with various media houses, press releases, infomercials, advertisements, billboards and updates on the Commission's digital platforms. According to the EACC National Ethics and Corruption Survey 2017, the level of awareness on the Commission was at 58 percent, up from 56 percent the previous year.



*The EACC Vice-Chairperson, Commissioner Sophia Lepuchirit and the Chairperson of the County Assemblies Forum, Hon. Johnson Osoi elaborating on the Declaration of Income, Assets and Liabilities by Public Officers on live television*

### 6.3 Digital Platforms

The Commission uses digital platforms to disseminate information and engage with the public. These include its website, Twitter handle and Facebook account. The EACC website received a total of 1,582,274 hits, up from 870,541 hits the previous year (an increase of 82%). The average number of hits per day also increased to 4,335 from last year's count of 2,385.





The Commission posted news and updates, publications, information on tenders, vacant positions, statutes, forms related to the Commission's mandate and other IEC material on its website. Google coordinates of the EACC offices were also uploaded on the website to make it easier to locate the offices. The Commission is in the process of redesigning and upgrading its website.

The Commission spearheaded a live tweet chat that brought together various stakeholders to answer questions related to the fight against corruption. Through our social media platforms, the Commission had 80,000 followers on Twitter and 11,340 followers on Facebook.

## 6.4 Information and Communications Technology (ICT)

During the financial year, the Commission enhanced the ICT infrastructure through implementation of an Offsite Disaster Recovery Setup, improvement of network security, integration of Finance and Human Resources systems and installation of end-user devices.

The Commission also drafted an Automation Implementation Roadmap to guide in comprehensive automation of all institutional processes over a period of three years.

The Commission is in the process of conducting a pilot programme for automation of the Self-Declaration Form and the Declaration of Income, Assets and Liabilities (DIALs), Bank Accounts Held outside Kenya, Codes of Conduct, Declaration of Gifts and Declaration of Conflict of Interest. This is being conducted to enhance efficiency in implementation of the requirements of the Leadership and Integrity Act, 2012.

## 6.5 Supply Chain Management

The Commission achieved the following:

- Over 95 percent in implementation of its Procurement Plan for FY 2017/2018 through acquisition of goods, works and services;
- Four quarterly reports submitted to Public Procurement Regulatory Authority (PPRA) on contract awards;
- Bi-annual reports to the National Treasury on 30 percent public procurement preference and reservations in compliance with Section 157(12) & (13) of the Public Procurement and Asset Disposal Act, 2015. The reserved group was awarded contracts worth KES 62,497,263. 40; and
- One report on termination of procurement process submitted to the National Treasury.

## 6.6 Human Resource Management

The Human Resource Management function supported the Commission's operations through recruitment, training, promotions and management of staff welfare.

### 1. Staff Complement

The Commission recruited 71 members of staff while 21 members of staff left the service through resignation, six retired, three were referred back to the National Police Service, two were terminated through a disciplinary process and two are deceased. The staff complement at the end of the Financial Year stood at 717. Responses from exit interviews suggest that those who left the Commission sought better terms of service.





The distribution of employees by gender is 277 females and 440 males which reflects compliance with the one third gender rule, with the ratio of female to male standing at 39:61. The staff complement reflected regional representation comprising 30 ethnic groups.

## 2. Skills and Competency Development

The Commission continuously develops the technical capability of staff to keep abreast with emerging challenges in fighting corruption. A summary of the capacity building programmes is provided in Table 31.

**Table 31: Summary of Capacity Building Programmes Undertaken**

S/No.	Training	No. of Officers
<b>1</b>	<b>Local Training and Development Programmes Attended</b>	
	1. Basic Investigations Course	60
	2. Financial Investigations Training Course	60
	3. Senior Management Course	51
	4. Supervisory Skills Development Course	53
	5. Report Writing Course	38
	6. HR for Non-HR Managers	35
	7. Public Relations and Customer Care Course	15
	8. Strategic Leadership Development Programme	11
	9. Pre-Retirement Planning Course	5
	10. Records Management Course	4
	11. Office Management	2
	12. Secretarial Course	2
	13. Ethics & Integrity Course	2
	14. ICT System Security	1
	<b>Sub Total</b>	<b>339</b>
<b>2</b>	<b>Foreign Training and Development Programmes Attended</b>	
	1. Advanced Use of Force Training	3
	2. Anti-Money Laundering and Countering the Financing of Terrorism Training	4
	3. ARINSA-Countering the Financing of Terrorism and Recruitment of Foreign Fighters Workshop for Practitioners,	5
	4. Counter Violent Extremism and Crisis Leadership Symposium	1
	5. Regional Training in Financial Investigations and Asset Recovery	1
	6. A Course on Combating Corruption in Public Procurement	2
	7. East and Southern African Association of Accountants General (ESAAAG) 25 <sup>th</sup> Annual International Conference Meeting	3
	8. Regional Conference on Effectiveness of Anti-Corruption Bodies and Financial Intelligence Units in Fighting Corruption and Money Laundering in Africa	2
	9. Seminar for Public Procurement Anti-Corruption and Integrity Management for Kenya 2018	5
	10. International Taskforce Agent Training	7
	<b>Sub Total</b>	<b>32</b>





S/No.	Training	No. of Officers
<b>3</b>	<b>Local Conferences / Workshops/ CPDs Attended</b>	
1.	Annual Public-Sector Accountants Conference	3
2.	6th East Africa Community Conference on Good Governance,	3
3.	ARINSA – Countering the Financing of Terrorism and Recruitment of Foreign Terrorist Fighters Workshop for Practitioners - Phase II	2
4.	ARINSA – Countering the Financing of Terrorism and Recruitment of Foreign Fighters Workshop for Practitioners I	4
5.	2nd Phase ARINSA Senior Managers Countering the Financing of Terrorism Workshop	2
6.	Advanced Counter Financing of Terrorism Investigative Techniques Workshop	2
7.	Continuous Professional Development (CPD)	166
	<b>Sub Total</b>	<b>182</b>

### 3. Staff Welfare

The Commission administered the Staff Car Loan and Mortgage Scheme as part of staff welfare. As a result, 59 applications for car loans and mortgage were submitted to the service provider, out of which 20 members of staff benefited from the Scheme.

## 6.7 Financial Resources

Commission's budgetary allocation for FY 2017/2018 in the Printed Estimate was a total of KES 4,036,540,000 to finance its operations. The allocation comprised KES 2,768,540,000 and KES 1,268,000,000 as Recurrent and Development Budgets, respectively. Recurrent allocations were later increased during Supplementary I Budget Estimates to KES 3,068,540,000.

**Recurrent Budget:** The Commission received a total of KES 3,068,540,000 in its budget allocation from the Government in the Printed Estimates to finance its Recurrent Expenditure over 2017/2018 financial year under the Ethics and Anti-Corruption Programme.

The Commission spent KES 2,991,512,990 on compensation to employees, purchase of fixed assets, operations and maintenance. KES 130,000,000 was transferred to staff mortgage. The expenditure level represents an absorption level of 97.5 percent.

**Development Expenditure:** The Commission received KES 1,268,000,000 in the Printed Estimates to finance the purchase of office premises for EACC headquarters. The expenditure was incurred as a transfer to the National Land Commission to facilitate the purchase of the headquarters. This represents an absorption level of 100 percent on this item.





# CHAPTER 7: ANNUAL REPORT AND FINANCIAL STATEMENTS FOR THE FINANCIAL YEAR ENDED JUNE 30, 2018

REPUBLIC OF KENYA



OFFICE OF THE AUDITOR-GENERAL



**REPORT**

**OF**

**THE AUDITOR-GENERAL**

**ON**

**THE FINANCIAL STATEMENTS OF  
ETHICS AND ANTI-CORRUPTION  
COMMISSION**

**FOR THE YEAR ENDED  
30 JUNE 2018**





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**ETHICS AND ANTI CORRUPTION COMMISSION**

**ANNUAL REPORT AND FINANCIAL STATEMENTS**

**FOR THE FINANCIAL YEAR ENDED**  
**JUNE 30, 2018**

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Prepared in accordance with the Accrual Basis of Accounting Method under the International Public Sector Accounting Standards (IPSAS)





## I. KEY ENTITY INFORMATION AND MANAGEMENT

### (a) Background information

The Ethics and Anti-Corruption Commission (EACC) is a statutory body established under the Ethics and Anti-Corruption Act, 2011. Its mandate is to combat corruption and economic crime through education, prevention, and law enforcement. Although, the Commission is empowered to conduct mediation, conciliation and negotiation, a distinction ought to be made between a power and a function. The Commission is headed by a chairman, and four members who are responsible for the general policy and strategic direction.

### (b) Principal Activities

The principal activities of the Commission are to investigate corruption and economic crimes, recover lost public property and obtain compensation for damaged public property, prevent corruption, conduct public education on the dangers of corruption and promote ethics and integrity.

### (c) Key Management

The Commission's day-to-day management is under the following key organs

1. The Office of the Chief Executive Officer
2. The Office of Deputy Chief Executive officer
3. Directorate of Investigations and Asset Tracing
4. Directorate of Preventive Services
5. Directorate of Legal Services
6. Directorate of Ethics and Leadership
7. Directorate of Finance and Planning
8. Directorate of Human Resources and Administration
9. The Department of Supply Chain Management

### (d) Fiduciary Management

This is vested on the Chief Executive Officer who is the accounting officer and is managing the day to day operations of the Commission.

<b>Designation</b>	<b>Name</b>
1. Secretary / Chief Executive Officer (CEO)	Halakhe D. Waqo
2. Deputy Chief Executive Officer – Technical Services	Michael K. Mubea

### (e) Fiduciary Oversight Arrangements

1. Enforcement Committee
2. Corruption Prevention, Education and Public Engagement
3. Finance, Planning and Supply chain
4. Human resource and Support Services
5. Audit Committee





**(f) Entity Headquarters**

Integrity Centre  
Valley Road/ Milimani Junction  
P.O. Box 61130-00200  
Nairobi, Kenya

**(g) Entity Contacts**

Headquarters, Nairobi  
Integrity Centre  
Jakaya Kikwete /Valley Road Junction  
Po Box 61130-00200, Nairobi  
E-maileacc@Integrity.go.ke

**(h) Entity Bankers**

Central Bank of Kenya  
Haile Selassie Avenue  
P.O. Box 60000 - 00200  
Nairobi, Kenya

Kenya Commercial Bank  
Milimani Branch  
P.O. Box 69695-00400  
Nairobi, Kenya

**(i) Independent Auditors**

Office of Auditor General  
Anniversary Towers, University Way  
P.O. Box 30084  
GPO 00100  
Nairobi, Kenya

**(j) Principal Legal Adviser**

The Attorney General  
State Law Office  
Harambee Avenue  
P.O. Box 40112  
City Square 00200  
Nairobi, Kenya





## COMMISSION MEMBERS



Arch Bishop (Rtd) Eliud,  
Wabukala, EBS- Chairman



Sophia Lepuchirit  
Vice Chairperson



Dr. Dabar Abdi Maalim  
Commissioner



Paul Mwaniki Gachoka, FCIArb  
Commissioner



Rose Mghoi M. Macharia  
Commissioner



Mr. Halakhe D. Waqo, CBS, MCIArb  
Commission Secretary

## MANAGEMENT TEAM



Mr. Halakhe D. Waqo, CBS, MCIArb  
Chief Executive Officer



Mr Michael K. Mubea, EBS  
Deputy Chief Executive Officer



Mr. Abdi A. Mohamud, MBS  
Director-Investigations



Mr. David K. Too  
Director-Legal Services



Ms. Lucy W. Kinuthia  
Director-Ethics &  
Leadership



Ms. Jennifer Kimani  
Director-Finance &  
Planning



Mr. Vincent O. Okong'o  
Director-Field Services





## II. CHAIRMAN'S STATEMENT

Once again, I am pleased to present the Commission's financial statements for the year ended 30th June, 2018 during which good performance was recorded in a challenging environment. The Commission operates in a fluid governance environment influenced by macroeconomic, socio-political, and regulatory factors.

The global economy expanded by 3.6 per cent in 2017. Similarly, Kenya's economy is estimated to have expanded by 4.9 per cent in 2017 and at 5.8 percent in 2016. The slowdown in the performance of the economy was partly attributable to uncertainty associated with a prolonged electioneering period coupled with adverse effects of weather conditions. Generally, key macroeconomic indicators largely remained stable and therefore supportive in 2017.

Corruption is multifaceted and the citizenry seems to be accepting it as a norm. In response, the Commission, continually reorients its strategies to mitigate the occurrence, through measures such as focused investigations, asset recovery and prevention activities.

In addition, the Commission has taken a collaborative approach in the fight against corruption by involving key stakeholders. The new strategic orientation being implemented will raise public consciousness on the state of corruption and cultivate acceptance that corruption is undesirable.

On behalf of the entire Commission, I would like to appreciate my fellow Commissioners for their commitment to the work of the Commission. I further thank the Management and all members of staff for the successful year. I appreciate the resilience, dependability, responsibility, loyalty and the courage with which staff perform tasks. The Commission vision is an 'Integrity driven Kenyan society.' Therefore, I call upon all Kenyans and stakeholders to individually and collectively make a conscious decision to engage in the fight against corruption. Let us partner with the Commission to make Kenya a corruption free environment.

**ARCHBISHOP (RTD) ELIUD WABUKALA, EBS**  
**CHAIRMAN**





### III. REPORT OF THE CHIEF EXECUTIVE OFFICER

I am glad for the opportunity to share with you the financial statements for financial year 2017/2018, being the last Report following the retirement of the 2013-2018 Strategic Plan. In the period under review, the financial support has increased considerably resulting to improved programme implementation. The financial statements comprise the Statement of Comprehensive Income, Statement of Financial Position, Statement of Changes in Net Assets and Statement of Cash Flows. The Commission continued to employ prudent financial management in line with Public Finance Management Act and Regulations and International Public Sector Accounting Standards (IPSAS) resulting in prudent financial management and reporting.

The Commission draws its mandate from the Constitution and various statutes that include the Ethics and Anti-Corruption Commission Act, 2011 and the Leadership and Integrity Act, 2012 amongst others. The Commission also enforces the Anti-Corruption and Economic Crimes Act, 2003 which is the principal law that provides for the investigations, prosecution and adjudication of corruption and economic crimes offences in Kenya.

The Commission's mission is to promote integrity and combat corruption through law enforcement, prevention and education that is reflected in increased programmatic outcomes.

During the reporting period, the Commission registered improved output in terms of: concluded cases in court, loss averted through disruption of corruption network, asset recovery and finalized a blueprint for automation of all Commission processes for improved productivity. In addition, all State and Public officers at national and county levels committed to Specific Leadership and Integrity codes reinforce enforcement of Chapter six and Leadership and Integrity Act. The Commission also strengthened staff compliment by recruiting 71 officers, scaling up staff compliment to 717. This was enabled by increased budgetary allocation.

I wish to thank the Commissioners and all members of staff for their spirited dedication and commitment towards achievements of the Commission goals and objectives. Despite the occasional challenges that the Commission has had to grapple with over time, our staff members remained tenacious and focused in the performance of their duties. As the Commission embarks on implementing programmes for the next reporting year, I encourage all of us to maintain that spirit - together we shall achieve more.

**HALAKHE D. WAQO, CBS, MCI Arb**  
**SECRETARY/CHIEF EXECUTIVE OFFICER**





#### IV. CORPORATE GOVERNANCE STATEMENT

The Commission operations and financial responsibilities are overseen by the Chief Executive Officer who is the Accounting Officer. The operations are guided by the strategic plan and an approved annual budget based on programs whose performance is monitored through outputs and outcomes. The budget is informed by detailed work plans that translate in to annual procurement plans.

The Commission has put in place the following standing committees for oversight purposes; Enforcement, Preventive Services, Corporate Services and Risk and Audit. These committees are comprised of the commissioners and officers co-opted from various directorates. In addition an internal audit department charged with continuous review of systems of internal controls and overall risk management is in place.

Programmes are monitored against the set targets and appropriate feedback provided. Operational performance is monitored on a monthly basis through periodic financial reporting of actual expenditure versus budget performance which provides feedback to user departments on appropriate action plans. Quarterly financial statements are also produced to facilitate continuous evaluation of the overall financial performance of the commission. The Commission prepares annual statutory financial statements which are audited by the Office of Auditor General who certifies them before inclusion in the annual report.



## **V. CORPORATE SOCIAL RESPONSIBILITY STATEMENT**

The EACC's corporate social responsibility is based on the fact that, as part of the Kenyan society, we have responsibilities that go beyond our legal obligations for the benefit of the society at large. Our corporate social responsibility entails community engagement, supporting community activities, responding to emerging challenges, donating to charities, helping the needy and application of ethical conduct and participating in matters of topical national interest in Kenya. Our CSR strategy involves building relationships and partnerships and working together with organizations that we believe advance the wellbeing of Kenyans. The EACC's CSR decisions are made not only in the best interest of the Commission but also that of our society.





## REPORT OF THE COMMISSION

The Commission submits its report together with the audited financial statements for the year ended June 30, 2018 which show the state of the Commission's affairs.

### Principal activities

The principal activities of the Commission are to investigate corruption and economic crimes, recover lost public property and obtain compensation for damaged public property, prevent corruption, conduct public education on the dangers of corruption and promote ethics and integrity.

### Results

The results of the entity for the year ended June 30, 2018 are set out on page 89 to 110

### Directors

The members of the Commission who served during the year are shown on page 77 in accordance with Ethics and Anti-Corruption Act, 2011.

### Auditors

The Auditor General is responsible for the statutory audit of Ethics and Anti-Corruption Commission in accordance with Article 229 of the Constitution of Kenya and the Public Audit Act, No 34 of 2015 and the Ethics and Anti-Corruption Commission Act, 2011.





## VI. STATEMENT OF COMMISSIONERS RESPONSIBILITIES

Section 81 of the Public Finance Management Act, 2012 and section 26 of the Ethics and Anti-Corruption Act, require the Management to prepare Financial Statements in respect of EACC, which give a true and fair view of the state of affairs of the Commission at the end of the financial year and the operating results of the Commission for the period 2017/2018. The Management is also required to ensure that the Commission keeps proper accounting records which disclose with reasonable accuracy the financial position of the Commission. The Management is also responsible for safeguarding the assets of the Commission.

The management is responsible for the preparation and presentation of the Commission's Financial Statements, which give a true and fair view of the state of affairs of the Commission for and as at the end of the financial year ended on June 30, 2018. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the entity; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the Commission; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Management accepts responsibility for the Commission's Financial Statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Reporting Standards (IPSAS), and in the manner required by the Public Finance Management Act and the Ethics and Anti-Corruption Act. The management is of the opinion that the Commission's financial statements give a true and fair view of the state of Commission's transactions during the financial year ended June 30, 2018, and of the Commission's financial position as at that date. The Management further confirms the completeness of the accounting records maintained for the Commission, which have been relied upon in the preparation of the Commission financial statements as well as the adequacy of the systems of internal financial control.

Nothing has come to the attention of the Management to indicate that the Commission will not remain a going concern for at least the next twelve months from the date of this statement.

### Approval of the financial statements

The Commission's Financial Statements were approved by the Commission on 19<sup>th</sup> September 2018 and signed on its behalf by:

**Arch Bishop (Rtd) Eliud Wabukala, EBS  
Chairperson**

**Halakhe D. Waqo, CBS, MCI Arb  
Secretary/Chief Executive Officer**





## REPUBLIC OF KENYA

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NAIROBI

## OFFICE OF THE AUDITOR-GENERAL

**REPORT OF THE AUDITOR-GENERAL ON ETHICS AND ANTI-CORRUPTION  
COMMISSION FOR THE YEAR ENDED 30 JUNE 2018**

## REPORT ON THE FINANCIAL STATEMENTS

**Opinion**

I have audited the accompanying financial statements of Ethics and Anti-Corruption Commission set out on pages 1 to 22, which comprise the statement of financial position as at 30 June 2018, and the statement of financial performance, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of Ethics and Anti-Corruption Commission as at 30 June 2018, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with Ethics and Anti-Corruption Commission Act, 2011.

Further, as required by Article 229(6) of the Constitution, except for the matter described in the Emphasis of Matter section of my report, based on the procedures performed, I confirm that nothing has come to my attention to cause me to believe that public money has not been applied lawfully and in an effective way.

**Basis for Opinion**

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Ethics and Anti-Corruption Commission in accordance with ISSAI 30 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

**Emphasis of Matter****Receivable from Exchange Transactions – Compulsory Acquisition of the Integrity Centre Building.**

As disclosed in Note 13 to the financial statements, included in the statement of financial position as at 30 June 2018 is an amount of Kshs. 1,518,000,000 receivable from

*Report of the Auditor-General on the Financial Statements of Ethics and Anti-Corruption Commission for the year ended 30 June 2018*



exchange transactions - National Land Commission (NLC). This amount represents funds remitted by the Ethics and Anti-Corruption Commission to the National Land Commission for compulsory acquisition of the Integrity Centre Building which houses the Commission's offices. As disclosed at note 24 to the financial statements, the idea of acquiring a headquarters for the Ethics and Anti-Corruption Commission started way back in 1999 by the management of the then Kenya Anti-Corruption Authority. The aim was to have a permanent home for the anti-corruption body and to save on the large budget of paying office rent.

Following consultations with the Departmental Committee of National Assembly on Legal Affairs, the Ethics and Anti-Corruption Commission was advised to consider compulsory acquisition of Integrity Centre vide the National Assembly letter ref. KNA/JLA/OC/2017/VOL.II dated 3 April 2017. In light of this advice, the Ethics and Anti-Corruption Commission vide letter ref.EACC.1/1 VOL.VII (107) dated 10 April 2017 sought advice from the National Treasury upon which the National Treasury vide letter ref.DV/ES1271/16/01/A/19 dated 13 April 2017 advised the Ethics and Anti-Corruption Commission to liaise with the Attorney General to request the National Land Commission to acquire the property on their behalf in accordance with Section 107 (1) of the Land Act, 2012. Consequently, vide letter ref. EACC. 1/1/VOL III (111) dated 2 May 2017, the Ethics and Anti-Corruption Commission requested the Office of the Attorney General and Department of Justice to instruct the National Land Commission to commence the compulsory acquisition of the Integrity Centre. The Office of the Attorney General and Department of Justice in a letter dated 12 July 2017 instructed the National Land Commission to compulsorily acquire the Integrity Centre described as LR No. 209/1069 on behalf of the Ethics and Anti-Corruption Commission in accordance with the provisions of Part VIII of the Land Act, 2012. The National Land Commission consequently commenced the process of acquisition of the property in December 2017.

According to the valuation report based on inspection conducted on 14 February 2018, the National Land Commission valued the property at Kshs.1,543,382,916 as detailed below.

Component	Acreege	Value	15% Statutory Allowance	Total Value (Kshs.)
Land	1.203	691,725,000	103,758,750	795,483,750
Improvements		650,347,101	97,552,065	747,899,166
<b>Total Compensation</b>		<b>1,342,072,101</b>	<b>201,310,815</b>	<b>1,543,382,916</b>

As at 30 April 2018, the Ethics and Anti-Corruption Commission had remitted a total of Kshs.1,518,000,000 to the National Land Commission towards the settlement of the property, leaving a balance of Kshs.25,382,916. Additional information indicates that vide Gazette Notice Vol. CXX – No.113 dated 14 September 2018, the National Land Commission transferred and vested the property in the Principal Secretary –National

*Report of the Auditor-General on the Financial Statements of Ethics and Anti-Corruption Commission for the year ended 30 June 2018*



Treasury, to hold in trust for the Ethics and Anti-Corruption Commission in accordance with Section 121 of the Land Act, 2012.

However, although the National Land Commission in their letter ref.NLC/V&T/AG/001(13) dated 27 June 2017 claim to have requested for valuation services from the Ministry of Lands and Physical Planning, valuation of the property was done by the National Land Commission. No evidence was availed for audit review to clarify whether the Ministry of Lands and Physical Planning played any role in the valuation of the property despite the fact that the Department of Land Valuation in the Ministry is mandated to provide valuation services which forms a basis for revenue collection or the determination of appropriate market rents and market values for leasing or sale and purchase for and by all National and County Government Departments, Commissions, Agencies, Parastatals, Institutions of Higher Learning, Public Schools and all public bodies, in order to protect the monetary interest of the Government.

My opinion is not qualified in respect of this matter.

### **Key Audit Matters**

Key audit matters are those matters that, in my professional judgement, were of most significance in the audit of the financial statements of the current year. Except for the matter described in the Emphasis of Matter section of my report, there were no Key Audit Matters to report in the year under review.

### **Responsibilities of Management and Those Charged with Governance for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Accrual Basis) and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Commission's ability to continue sustaining services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the management intends to have the Commission cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

Those charged with governance are responsible for overseeing the Commission's financial reporting process.

### **Auditor-General's Responsibilities for the Audit of the Financial Statements**

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error,

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*Report of the Auditor-General on the Financial Statements of Ethics and Anti-Corruption Commission for the year ended 30 June 2018*





and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution of Kenya. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of the management's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the consolidated/financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Commission to cease to continue to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Commission to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

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*Report of the Auditor-General on the Financial Statements of Ethics and Anti-Corruption Commission for the year ended 30 June 2018*





I communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.

**FCPA Edward R.O. Ouko, CBS**  
**AUDITOR-GENERAL**

**Nairobi**

**18 October 2018**

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*Report of the Auditor-General on the Financial Statements of Ethics and Anti-Corruption Commission for the year ended 30 June 2018*





**STATEMENT OF FINANCIAL PERFORMANCE  
FOR THE YEAR ENDED 30 JUNE 2018**

	Notes	2017-2018 Kshs.	2016-2017 Kshs.
<b>Revenue from non-exchange transactions</b>			
Exchequer Receipts-Recurrent	3	3,053,249,724	3,035,621,390
<b>Total Revenue</b>		<b>3,053,249,724</b>	<b>3,035,621,390</b>
<b>Expenses</b>			
Employee costs	4	2,115,094,832	2,002,305,954
Commissioners Expenses	5	25,466,439	-
Depreciation and amortization expense	6	113,941,782	125,842,431
Repairs and maintenance	7	37,680,631	34,919,851
General expenses	8	589,063,679	623,653,958
Transfer to KCB Loan Scheme	22	130,000,000	-
<b>Total Expenses</b>		<b>3,011,247,364</b>	<b>2,786,722,195</b>
<b>Other gains/(losses)</b>			
Gain/Loss on sale of assets	9	2,039,057	973,030
<b>Surplus before tax</b>		<b>44,041,417</b>	<b>249,872,225</b>
Taxation		-	-
<b>Surplus for the period</b>		<b>44,041,417</b>	<b>249,872,225</b>



**STATEMENT OF FINANCIAL POSITION  
AS AT JUNE 30, 2018**

	Notes	2017-2018 Kshs.	2016-2017 Kshs.
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	10	138,394,574	65,503,392
Receivables from non-exchange transactions	11	42,770,789	37,421,954
Inventories	12	15,522,423	17,230,457
Receivables from exchange (NLC)	13	1,518,000,000	250,000,000
		<b>1,714,687,786</b>	<b>370,155,803</b>
<b>NON CURRENT ASSETS</b>			
Property, Plant and equipment	14	504,495,172	523,052,429
Asset recovery Bank Account	-	-	28,513,501
Intangible Assets	15	28,955,728	31,691,910
Long term receivables from exchange (Gratuity bank investment)	16	4,405,281	46,163,351
		<b>537,856,182</b>	<b>629,421,191</b>
<b>Total Assets</b>		<b>2,252,543,967</b>	<b>999,576,995</b>
<b>Liabilities</b>			
<b>Current Liabilities</b>			
Trade and other payables from exchange transactions	17	15,296,959	31,821,000
Current portion of borrowings(Accrued liabilities and charges)	18	696,000	8,044,480
		<b>15,992,959</b>	<b>39,865,480</b>
<b>Non-Current Liabilities</b>			
Non-Current provisions(Asset recovery account)	19	43,887,197	28,513,501
Non-current employee benefit obligation(Gratuity fund)	-	-	50,575,619
		<b>43,887,197</b>	<b>79,089,120</b>
<b>Total liabilities</b>		<b>59,880,156</b>	<b>118,954,600</b>
<b>Net Assets</b>			
Acquisition Development fund	13	1,268,000,000	-
Reserves( Accumulated fund)	-	732,333,439	688,292,023
Accumulated surplus	20	192,330,372	192,330,372
		<b>2,192,663,811</b>	<b>880,622,395</b>
<b>Total Net assets and liabilities</b>		<b>2,252,543,967</b>	<b>999,576,995</b>

**Arch Bishop (Rtd) Eliud Wabukala, EBS  
Chairperson****Halakhe D. Waqo, CBS, MCI Arb  
Secretary/Chief Executive Officer**



**STATEMENT OF CHANGES IN NET ASSETS  
FOR THE YEAR ENDED JUNE 30, 2018**

	<b>Accumulated fund</b>	<b>Acquisition Development Fund</b>	<b>Revenue reserve</b>	<b>Total</b>
	<b>Kshs</b>		<b>Kshs</b>	<b>Kshs</b>
<b>Balance as at 30 June 2016</b>	<b>192,330,372</b>	-	<b>438,419,797</b>	<b>630,750,169</b>
Surplus/(deficit) for the period	-	-	249,872,225	249,872,225
<b>Balance as at 30 June 2017</b>	<b>192,330,372</b>		<b>688,292,022</b>	<b>880,622,394</b>
Acquisition Development fund	-	1,268,000,000	-	1,268,000,000
Surplus for the period	-		44,041,417	44,041,417
<b>Balance as at 30 June 2018</b>	<b>192,330,372</b>	<b>1,268,000,000</b>	<b>732,333,439</b>	<b>2,192,663,811</b>



**STATEMENT OF CASH FLOW  
FOR THE YEAR ENDED JUNE 30, 2018**

	<b>2017-2018</b>	<b>2016-2017</b>
	Kshs.	Kshs.
<b>Cash flows From Operating Activities</b>		
Surplus/ (Loss) from operations	44,041,417	249,872,225
Add back non-cash payment (Depreciation)	99,466,090	109,998,853
Add back non-cash payment (Amortization)	14,475,693	15,843,578
Profit on disposal of Assets	(2,039,057)	(973,030)
	<b>155,944,143</b>	<b>374,741,627</b>
<b>Income from Operations</b>		
(Increase)/Decrease in inventories	1,708,034	(2,505,741)
(Increase)/Decrease in receivables & Prepayments	(5,348,835)	(5,052,687)
(Increase)/Decrease in receivables -NLC	(1,268,000,000)	(250,000,000)
Increase/(Decrease) in payables	(23,872,521)	12,062,793
<b>Net cash flows from operating activities</b>	<b>(1,139,569,179)</b>	<b>129,245,991</b>
<b>Cash flows From Investing Activities</b>		
Purchase of property, plant and equipment	(81,299,273)	(218,732,582)
Purchase of Intangible Assets	(11,739,510)	(32,354,336)
Asset recovery	28,513,501	-
Acquisition development fund	1,268,000,000	-
Proceeds from disposal of plant, property and equipment	2,429,497	3,238,118
Gratuity Fund	(50,575,619)	(10,986,218)
<b>Net cash utilized in investing activities</b>	<b>1,155,328,596</b>	<b>(258,835,017)</b>
<b>Cash flows From Financing Activities</b>		
Refund of Surplus to the Treasury	-	-
Asset recovery	15,373,696	-
Gratuity Fund	41,758,070	42,069,183
<b>Net cash used in Financing activities</b>	<b>57,131,767</b>	<b>42,069,183</b>
<b>Net increase in cash and cash equivalents</b>	<b>72,891,184</b>	<b>(87,519,843)</b>
Bank and Cash equivalents at beginning of year	65,503,390	153,023,235
<b>Bank and cash equivalent at end of year</b>	<b>138,394,574</b>	<b>65,503,392</b>



**STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS**

	<b>Original budget</b>	<b>Adjustments</b>	<b>Final budget</b>	<b>Actual on comparable basis</b>	<b>Performance difference</b>
	<b>2017-2018</b>	<b>2017-2018</b>	<b>2017-2018</b>	<b>2017-2018</b>	<b>2017-2018</b>
	<b>Kshs</b>	<b>Kshs</b>	<b>Kshs</b>	<b>Kshs</b>	<b>Kshs</b>
<b>Revenue</b>					
Government grants and subsidies	2,768,540,000	300,000,000	3,068,540,000	3,053,249,024	15,290,976
Development Expenditure	1,268,000,000	-	1,268,000,000	1,268,000,000	-
Gain on Disposal	-	-	-	2,039,057	-
<b>Total income</b>	<b>4,036,540,000</b>	<b>300,000,000</b>	<b>4,336,540,000</b>	<b>4,323,288,081</b>	<b>13,251,919</b>
<b>Expenses</b>					
Compensation of employees	1,665,155,099	300,000,000	2,127,716,600	2,115,094,832	12,621,768
Goods and services	765,669,802	-	644,976,962	486,796,244	158,180,718
Commissioners expenses	24,806,439	-	25,466,439	25,466,439	-
Finance cost	600,000	-	600,000	281,375	318,625
Rent paid	102,308,660	-	139,780,000	139,666,691	113,309
Staff Loan	210,000,000	-	130,000,000	130,000,000	-
Development Expenditure	1,268,000,000	-	1,268,000,000	1,268,000,000	-
<b>Total expenditure</b>	<b>4,036,540,000</b>	<b>300,000,000</b>	<b>4,336,540,000</b>	<b>4,165,305,581</b>	<b>171,234,419</b>
<b>Surplus for the period</b>				157,982,500	(157,982,500)





## XIV. NOTES TO THE FINANCIAL STATEMENTS

### 1. Statement of compliance and basis of preparation – IPSAS 1

The Commission's Financial Statements have been prepared in accordance with and comply with International Public Sector Accounting Standards (IPSAS). The financial statements are presented in Kenya Shillings, which is the functional and reporting currency of the Commission. The accounting policies have been consistently applied to all the years presented.

The Financial Statements have been prepared on the basis of historical cost, unless stated otherwise. The Cash Flow statement is prepared using the indirect method. The Financial Statements are prepared on accrual basis.

### 2. Summary of significant accounting policies

#### a) Revenue recognition

#### Revenue from non-exchange transactions – IPSAS 23

Income is recognized in the period in which it is received. Government and donor funding is only recognized on receipt. Income is not accrued if its recoverability is considered doubtful. Interest income is recognized on a time proportion basis using the effective interest rate method.

#### Transfers from other government entities

Revenues from non-exchange transactions with other government entities are measured at fair value and recognized on obtaining control of the asset (cash, goods, services and property) if the transfer is free from conditions and it is probable that the economic benefits or service potential related to the asset will flow to the entity and can be measured reliably.

#### *Sale of goods*

Revenue from the sale of goods is recognized when the significant risks and rewards of ownership have been transferred to the buyer, usually on delivery of the goods and when the amount of revenue can be measured reliably and it is probable that the economic benefits or service potential associated with the transaction will flow to the Commission.

#### *Interest income*

Interest income is accrued using the effective yield method. The effective yield discounts estimated future cash receipts through the expected life of the financial asset to that asset's net carrying amount. The method applies this yield to the principal outstanding to determine interest income each period.





*Notes to financial statements continued...*

**b) Budget information – IPSAS 24**

The annual budget is prepared on the accrual basis, that is, all planned costs and income are presented in a single statement to determine the needs of the entity. As a result of the adoption of the accrual basis for budgeting purposes, there are no basis, timing or entity differences that would require reconciliation between the actual comparable amounts and the amounts presented as a separate additional financial statement in the statement of comparison of budget and actual amounts.

**c) Investment property – IPSAS 16**

Investment properties are measured initially at cost, including transaction costs. The carrying amount includes the replacement cost of components of an existing investment property at the time that cost is incurred if there cognition criteria are met and excludes the costs of day-to-day maintenance of an investment property.

Investment properties are derecognized either when they have been disposed of or when the investment property is permanently withdrawn from use and no future economic benefit or service potential is expected from its disposal. The difference between the net disposal proceeds and the carrying amount of the asset is recognized in the surplus or deficit in the period of de-recognition. Transfers are made to or from investment property only when there is a change in use.

**d) Property, plant and equipment – IPSAS 17**

All property, plant and equipment are stated at cost less accumulated depreciation and impairment losses. Cost includes expenditure that is directly attributable to the acquisition of the items. When significant parts of property, plant and equipment are required to be replaced at intervals, the Commission recognizes such parts as individual assets with specific useful lives and depreciates them accordingly. Likewise, when a major inspection is performed, its cost is recognized in the carrying amount of the plant and equipment as a replacement if the recognition criteria are satisfied. All other repair and maintenance costs are recognized in surplus or deficit as incurred. Where an asset is acquired in a non-exchange transaction for nil or nominal consideration the asset is initially measured at its fair value.

**e) Intangible assets–IPSAS 31**

Intangible assets acquired separately are initially recognized at cost. The cost of intangible assets acquired in a non-exchange transaction is their fair value at the date of the exchange. Following initial recognition, intangible assets are carried at cost less any accumulated amortization and accumulated impairment losses. The useful life of the intangible assets is assessed as either finite or indefinite.



### ***Notes to financial statements continued...***

#### **f) Research and development costs**

The Commission expenses research costs as incurred. Development costs on an individual project are recognized as intangible assets when the Commission can demonstrate:

- The technical feasibility of completing the asset so that the asset will be available for use or sale
- Its intention to complete and its ability to use or sell the asset
- How the asset will generate future economic benefits or service potential
- The availability of resources to complete the asset
- The ability to measure reliably the expenditure during development

Following initial recognition of an asset, the asset is carried at cost less any accumulated amortization and accumulated impairment losses. Amortization of the asset begins when development is complete and the asset is available for use. It is amortized over the period of expected future benefit. During the period of development, the asset is tested for impairment annually with any impairment losses recognized immediately in surplus or deficit.

#### **g) Inventories – IPSAS 12**

Inventory is measured at cost upon initial recognition. To the extent that inventory was received through non-exchange transactions (for no cost or for a nominal cost), the cost of the inventory is its fair value at the date of acquisition.

After initial recognition, inventory is measured at the lower of cost and net realizable value. However, to the extent that a class of inventory is distributed or deployed at no charge or for a nominal charge, that class of inventory is measured at the lower of cost and current replacement cost.

Net realizable value is the estimated selling price in the ordinary course of operations, less the estimated costs of completion and the estimated costs necessary to make the sale, exchange, or distribution.

Inventories are recognized as an expense when deployed for utilization or consumption in the ordinary course of operations of the Entity.

#### **h) Provisions – IPSAS 19**

Provisions are recognized when the Commission has a present obligation (legal or constructive) as a result of a past event, it is probable that an outflow of resources embodying economic benefits or service



### *Notes to financial statements continued...*

Potential will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

Where the Commission expects some or all of a provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognized as a separate asset only when the reimbursement is Virtually certain. The expense relating to any provision is presented in the statement of financial performance net of any reimbursement.

#### ***Contingent liabilities***

The Commission does not recognize a contingent liability, but discloses details of any contingencies in the notes to the financial statements, unless the possibility of an outflow of resources embodying economic benefits or service potential is remote.

#### **i) Changes in accounting policies and estimates – IPSAS 3**

The Entity recognizes the effects of changes in accounting policy retrospectively. The effects of changes in accounting policy are applied prospectively if retrospective application is impractical.

#### **j) Cash and cash equivalents**

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at the Central Bank of Kenya and at various commercial banks at the end of the financial year.

#### **k) Comparative figures**

Where necessary comparative figures for the previous financial year have been amended or reconfigured to conform to the required changes in presentation.

#### **l) Significant judgments and sources of estimation uncertainty – IPSAS 1**

The preparation of the Commission's financial statements in conformity with IPSAS requires management to make judgments, estimates and assumptions that affect the reported amounts of revenues, expenses, assets and liabilities, and the disclosure of contingent liabilities, at the end of the reporting period. However, uncertainty about these assumptions and estimates could result in outcomes that require a material adjustment to the carrying amount of the asset or liability affected in future periods.



**Notes to financial statements continued...****Estimates and assumptions**

The key assumptions concerning the future and other key sources of estimation uncertainty at the reporting date, that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year, are described below. The Entity based its assumptions and estimates on parameters available when the consolidated financial statements were prepared.

**Useful lives and residual values**

The useful lives and residual values of assets are assessed using the following indicators to inform potential future use and value from disposal:

- The condition of the asset based on the assessment of experts employed by the Entity
- The nature of the asset, its susceptibility and adaptability to changes in technology and processes
- The nature of the processes in which the asset is deployed
- Availability of funding to replace the asset

**3. Transfers from other governments - gifts and services-in-kind**

	<b>2017-2018</b>	<b>2016-2017</b>
<b>Unconditional grants</b>	<b>Shs</b>	<b>Shs</b>
Operational Grant		
Quarter 1	617,955,354	635,000,000
Quarter 2	860,049,970	977,979,000
Quarter 3	559,200,000	833,200,000
Quarter 4	1,016,043,700	589,442,390
Donor Fund -GIZ	700	
<b>Total</b>	<b>3,053,249,724</b>	<b>3,035,621,390</b>
Development Grant	<u>1,268,000,000</u>	-
<b>Total Exchequer</b>	<u><b>4,321,249,724</b></u>	-





*Notes to financial statements continued...*

**4.Employee costs**

	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
Salaries and wages	1,020,710,459	981,896,105
Employee related costs - contributions to pension	385,484,772	347,236,807
Travel, Motor car, Accommodation and Subsistence	265,950,517	271,225,813
Housing Benefits and allowances	442,949,084	401,947,229
<b>Total Employee Costs</b>	<b>2,115,094,832</b>	<b>2,002,305,954</b>

**5.Commissioners Expenses**

	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
Commissioners travelling Allowances	5,521,439	-
Commissioners sitting Allowances	19,285,000	-
Commissioners Airtime Allowances	660,000	-
<b>Total Commissioners Expenses</b>	<b>25,466,439</b>	<b>-</b>

**6.Depreciation and Amortization costs**

	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
Property, Plant and equipment	99,466,090	109,998,853
Intangible Assets	14,475,692	15,843,578
<b>Total depreciation Costs</b>	<b>113,941,782</b>	<b>125,842,431</b>

**7.Repairs and maintenance**

	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
Property	1,056,936	2,341,040
Equipment	3,387,253	1,403,019
Vehicles	26,138,533	25,632,687
Other	7,097,909	5,543,105
<b>Total Repairs &amp; Maintenance</b>	<b>37,680,631</b>	<b>34,919,851</b>



*Notes to financial statements continued...*

<b>8.General expenses</b>	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
Advertising, Publishing and Printing	46,611,772	74,348,659
Audit fees	696,000	696,000
Conferences and delegations	46,687,255	66,661,734
Consulting fees	34,558	7,133,771
Consumables	18,786,616	20,724,789
Electricity	12,579,442	9,972,526
Fuel and Oil	24,998,930	24,527,725
Insurance	16,931,393	15,084,684
Legal Expenses	5,154,358	2,128,909
Licenses and permits	41,132,384	13,882,596
Specialized materials	5,815,224	4,717,087
Postage	2,086,815	2,307,188
Rental	139,666,691	135,725,302
Confidential Expenses	89,195,446	78,145,730
Sewerage and water costs	1,174,156	1,225,541
Research and Development	19,411,190	19,282,504
Telecommunication	12,279,155	13,204,804
Training	71,382,902	106,948,101
Refurbishment of Non-Residential buildings	6,321,354	5,690,360
Bank charges	281,375	245,892
Other Expenses	27,836,664	21,000,056
<b>Total general expenses</b>	<b>589,063,679</b>	<b>623,653,958</b>





*Notes to financial statements continued...*

**9. Gain on sale of assets**

	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
Property, Plant and equipment	2,039,057	973,029
<b>Total gain/Loss on sale of assets</b>	<b>2,039,057</b>	<b>973,029</b>

**10. Cash and cash equivalents**

	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
Banks	106,204,605	63,713,732
Cash on hand and in transit	3,398,888	1,789,660
short term deposits	28,000,000	-
Short term deposits-interest received	791,081	-
<b>Total cash and cash equivalents</b>	<b>138,394,574</b>	<b>65,503,392</b>

**11. Receivables from non-exchange contracts**

<b>Current receivables</b>	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
Staff Imprest	8,029,239	3,965,281
Gratuity fund receivable	287,227	56,337
Other Receivables	34,454,323	33,400,336
<b>Total current receivables</b>	<b>42,770,789</b>	<b>37,421,954</b>

**12. Inventories**

	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
Consumable stores	6,836,186	8,544,221
Provision for loss of inventory	(2,923,920)	(2,923,920)
Library books	11,610,157	11,610,157
<b>Total inventories at the lower of cost and net realizable value</b>	<b>15,522,423</b>	<b>17,230,457</b>



*Notes to financial statements continued...*

<b>13.Receivable from exchange transaction</b>	<b>2017-2018 Shs</b>	<b>2016-2017 Shs</b>
Opening balance	250,000,000	-
Payment land and building	1,268,000,000	250,000,000
<b>Total Land and Building</b>	<b>1,518,000,000</b>	<b>250,000,000</b>

**14. Property Plant and Equipment - Refer to the PPE schedule on page 17.****15.Intangible assets-software**

<b>Cost</b>	<b>Shs</b>
<b>As At July 2016</b>	139,501,806
Additions during the year	32,354,336
<b>As At June 2017</b>	<b>171,856,142</b>
Additions during the year	11,739,510
<b>As at June 2018</b>	<b>183,595,652</b>
<b>Amortization and Impairment</b>	
<b>As at July 2017</b>	140,164,231
Charge for the year	14,475,693
<b>As at June 2018</b>	<b>154,639,924</b>
<b>Net Book Value 2018</b>	28,955,728
<b>Net Book Value 2017</b>	<b>31,691,911</b>





*Notes to financial statements continued...*

**16. Gratuity Fund Bank Account**

	2017-2018 Shs	2016-2017 Shs
Balance brought forward	46,163,351	88,232,535
Additions	48,706,049	157,469,729
Payments	(90,464,119)	(199,538,912)
<b>Total</b>	<b>4,405,281</b>	<b>46,163,352</b>

**17. Trade and other payables from exchange transactions**

	2017-2018 Shs	2016-2017 Shs
Other payables	15,296,959	31,821,000
<b>Total trade and other payables</b>	<b>15,296,959</b>	<b>31,821,000</b>

**18. Accrued liabilities and charges**

	2017-2018 Shs	2016-2017 Shs
Accrued audit fees	696,000	696,000
Accrued expenses-utilities	-	7,348,480
<b>Total trade and other payables</b>	<b>696,000</b>	<b>8,044,480</b>

**19. Asset Recovery Fund Account**

	2017-2018 Shs	2016-2017 Shs
Balance brought forward	28,513,501	100,793,629
Funds recovered in the year	16,525,885	-
Short term deposit	28,000,000	-
Payments	(29,152,189)	(72,280,128)
<b>Total</b>	<b>43,887,197</b>	<b>28,513,501</b>



**Notes to financial statements continued...****20. Accumulated Fund**

	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
Balance brought forward	192,330,372	192,330,372
<b>Total</b>	<b>192,330,372</b>	<b>192,330,372</b>

**21. Revenue Reserve**

	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
Balance brought forward	688,292,022	438,419,797
Surplus for the year	44,041,417	249,872,225
<b>Total</b>	<b>732,333,439</b>	<b>688,292,022</b>

**22. Exchequer transfer to loan scheme**

The Commission received ksh130, 000,000 with respect to sharia compliant loan scheme towards the end of the Financial year 2017/2018.

The amounts was deposited to KCB bank as the administrator pending implementation of the scheme





*Notes to financial statements continued...*

**Property, Plant and Equipment**

Rates	0		0.125		0.125		0.125		0.25		0.33		Total
	Land	Shs	Office Equipment	Shs	Security Equipment	Shs	Furniture, Fixtures & Fittings	Shs	Motor Vehicles	Shs	Computer Equipment	Shs	
<b>Cost or Valuation:</b>													
As at 1st July, 2016		120,416,497	68,559,914	57,378,878	66,401,484	408,123,039	161,521,215	882,401,027					
Additions during the year		-	21,299,878	72,915,142	5,392,506	71,817,708	47,307,348	218,732,582					
Disposal		-	(537,886)	-	(878,300)	(12,530,000)	(27,804,395)	(41,750,581)					
As at 30th June 2017		120,416,497	89,321,906	130,294,020	70,915,690	467,410,747	181,024,168	1,059,383,028					
Additions during the year			13,206,322	34,244,244	4,318,145	(5,200,000)		81,299,273					
Disposal								(5,200,000)					
As at 30th June 2018		120,416,497	102,528,228	164,538,264	75,233,835	462,210,747	210,554,729	1,135,482,300					
<b>Depreciation and impairment</b>													
At 1 July 2016		-	32,555,839	33,050,505	22,340,516	257,471,072	120,399,307	465,817,239					
Depreciation		-	7,144,190	12,155,439	6,152,802	55,367,314	29,179,108	109,998,853					
Disposals		-	(387,452)	-	(647,241)	(11,529,580)	(26,921,219)	(39,485,492)					
At 30 June 2017		-	39,312,577	45,205,944	27,846,077	301,308,806	122,657,196	536,330,600					
Disposals		-	-	-	-	(4,809,560)	-	(4,809,560)					
Charge for the year		-	7,901,956	14,916,540	5,923,470	41,427,875	29,296,248	99,466,090					
At 30 June 2018		-	47,214,533	60,122,484	33,769,547	337,927,122	151,953,444	630,987,130					
<b>Net book values</b>													
At 30 June 2018		120,416,497	55,313,695	104,415,780	41,464,288	124,283,625	58,601,285	504,495,172					
At 30 June 2017		120,416,497	50,009,329	85,088,076	43,069,613	166,101,941	58,366,971	523,052,429					





### *Notes to financial statements continued...*

#### **23. Contingency Liabilities**

The Commission has given no guarantees to third parties. In the ordinary course of business, the Commission has been sued in various cases with potential exposure estimated at Kshs **205,871,981**. The Commission is a defendant or co-defendant in various litigations and claims. The outcomes of these litigations and claims are yet to be determined; hence the Commission has not made any provisions in these accounts towards contingent liabilities.

#### **24. BRIEF HISTORY ON THE ACQUISITION OF LAND/PREMISES FOR EACC HEADQUARTERS**

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The idea of a headquarters for the institution charged with fighting corruption dates back to 1999 under the then Kenya Anti-Corruption Authority (KACA). The aim of the then management was twofold; first, to have a permanent home for the anti-corruption body so as to pass a clear message that corruption will not be tolerated and secondly, to save on the large budget of paying office rent. KACA advanced the idea by way of efforts to purchase Integrity Centre which was compared with other available options then. Such efforts was, however, shelved after KACA was declared unconstitutional in 2000 and later disbanded in 2001. However, come 2005 when then then Kenya Anti-Corruption Commission (KACC) was constituted, the effort was revived. In 2007, the Commission purchased plot L.R. No.26965 in Karen from M/s John Keen Investments Ltd at a total purchase cost including incidental costs of KES. 120,416,496. It was later decided that the location of the land would not be ideal for the Commission's Headquarters due to its limited accessibility to the members of the public and partner institutions.

Various alternatives were explored that would enable the Commission to acquire premises for its Headquarter. The first alternative involved disposing the Karen plot and requesting Treasury to provide additional funds in the Commission's development budget for 2013/14 – 2015/16 MTEF period to allow for purchase of an already built office premise. The second alternative involved requesting Government for an office space. The third alternative involved progressing with the implementation of the Karen project. As such, the Commission wrote to various Government agencies requesting them to help in identifying land or an already built office premise which the Commission could purchase. Among the institutions that responded include the Ministry of Housing, Kenya Railways and National Social Security Fund (NSSF). EACC was given an offer by NSSF to buy six floors which sits on top of the parking silo. In the Commission's 2014/15 Financial Year Budget Estimates, National Treasury provided KES 270 Million to cater for the





purchase of the office premise. Of this amount, KES 70 Million was to be a direct disbursement by the Government while KES. 200 Million was to be realized from the sale of the Karen plot.

On the 27th June 2014, NSSF gave an offer to the Commission setting the price of the premise at KES. 1.36 Billion. However, on 25th February 2015, the Commission held a Special Meeting to deliberate on this matter and resolved to terminate the process of acquiring the office premise from NSSF.

On 3rd October, 2016 the National Treasury allowed the Commission to initiate the acquisition process for the headquarters together with the Office of the Director of Public Prosecution. Subsequently, the Commission processed an open tender for the subject procurement. Only one bid was received from Citiscap Valuers & Estate Agents Limited for Flamingo Tower Limited which was subjected to pre-set evaluation criteria and found to be responsive. The initial offer was KES 2,950,000,000.00 which was subjected to a series of negotiation and the final negotiated price was agreed at KES 2,688,000,000 payable within two financial years namely; 2016/ 2017 and 2017/2018. However the Ministry of Lands and Physical Planning had valued the office block at KES 2,400,000,000. Pursuant to Section 63(1) of the Public Procurement and Asset Disposal act, 2015, the procurement was terminated on the basis of not offering good value for money since the negotiated price was above the Government Valuation.

Consultations were then held between the Commission and the Departmental Committee of Parliament on Justice and Legal Affairs (JLAC) on 30th March, 2017, upon which the Commission was directed to sever joint acquisition of premises with the Office of the Director of Public Prosecutions and consider compulsory acquisition of Integrity Centre or any other suitable premises (National Assembly's letter dated 3rd April, 2017). The Commission then sought further direction from the National Treasury in light of National Assembly's directive and vide a letter dated 13th April, 2017, the National Treasury advised the Commission to liaise with the Office of the Attorney General (OAG) to request the National Land Commission (NLC) to acquire the property on behalf of EACC.

Pursuant to the advice by The National Treasury as cited above, the Commission set up the Headquarter Premises Acquisition Committee to conduct a survey of potential buildings to be considered for compulsory purchase. The Committee surveyed several properties and prepared a Report that recommended the following buildings to be considered for compulsory acquisition in the order of preference:

- a) Integrity Centre on LR No 209/1069;
- b) Britam Centre on LR No 209/10520;
- c) Viena Court on LR No 209/20777; and
- d) AEA Centre on LR No 209/2500

Based on the Report by the Headquarter Acquisition Committee, the Commission wrote to the Office of the Attorney General vide a letter ref EACC.1/1/VOL III (111) dated 2nd May, 2017 requesting that the OAG writes a letter to the NLC to commence the compulsory acquisition



process. In return, the Office of the Attorney General and Department of Justice vide letter ref AG/CONF/6/C/53 VOL VI and dated 12th July, 2017 wrote to NLC giving instructions for compulsory acquisition of Integrity Centre described as LR No 209/1069. Consequently, through the Office of the Attorney General, EACC initiated the process of acquisition of permanent premises for its headquarters by compulsory acquisition in accordance with Section 107(1) of the Land Act, 2012 which outlines that, whenever the National or County Government is satisfied that it may be necessary to acquire some particular land through compulsory acquisition, the respective Cabinet Secretary or the County Executive Committee Member shall submit a request for acquisition of land to the National Land Commission to acquire the land on its behalf.

In line with procedures and the Land Act (2012) Section 153, the National Land Commission vide a letter ref NLC/V&T/AG/001(13) dated 27th June 2017 requested the Commission to make a deposit towards compulsory acquisition. Consequently, EACC deposited KES 250 million with NLC on 30th June 2017 in line with the Commission approval dated 28th June 2017.

During the 33rd Special Commission meeting which was held on 5th September, 2017, the Commission directed that a Committee be constituted to review the status of the progress towards acquisition of premises for the EACC Headquarters. Consequently, and in accordance with the Commission's resolution, the Secretary/Chief Executive Officer constituted a Committee vide an Internal Memo dated 5th September, 2017.

Upon conclusion of its task, the Advisory Committee on Acquisition of EACC Headquarter Building submitted a report dated November, 2017 to the Commission in which it observed that the Commission basically had only two options in its quest to acquire headquarter premises, namely:-

1. That the Commission to consider Integrity Centre (despite its current space limitations) for compulsory acquisition with a view to carrying out further development in order to improve its current status and meet the long term space needs. This was subject to:
  - a) The NLC providing a detailed valuation report of the Integrity Centre building;
  - b) The landlord availing copies of all the approved design drawings for the building (architectural, structural, electrical and mechanical drawings) to facilitate possible redevelopment; and
  - c) The National Treasury being notified of the need for:
    - i. Redevelopment funds to upgrade the space to meet the current and medium term needs; and
    - ii. Provision of funds to lease alternative space to allow for redevelopment of the property without disrupting the Commission's operation.
2. The Commission to consider Britam Centre for compulsory acquisition going by the listed advantages and notify The National Treasury about the need for enhanced funding.



In its valuation report presented to EACC, National Land Commission indicated that the valuation of Integrity Centre Building on L.R 209/1069 for purposes of compulsory acquisition and compensation (based on inspection conducted on 14<sup>th</sup> February, 2018) is **KES 1,543,382,916.15**. The said Valuation Report was signed by one Joash Oindo who is a Registered and Practicing Valuer.

In addition to the **KES 250,000,000** that EACC remitted to the NLC towards compulsory acquisition of Integrity Centre on 30<sup>th</sup> June, 2016 vide NLC's compensation fund Account No 0132980000 domiciled at the National Bank of Kenya on 30<sup>th</sup> June 2017, the NLC; vide letter ref NLC/V &T/AG/001 dated 24<sup>th</sup> April 2018, requested for a balance of **KES 1,293,382,916** to finalize the acquisition. Consequently, EACC remitted **KES 1,268,000,000** to the NLC on 30<sup>th</sup> April 2018, leaving a balance of **KES 25,382,916** which is yet to be settled, together with 1% Administrative cost to the NLC.

EACC vide letter ref. EACC.1/1/1 (94) dated 16<sup>th</sup> July, 2018 wrote the Chairman of NLC seeking a detailed update on the compulsory acquisition process with specific timelines on any outstanding processes considering the fact that the current tenancy lease agreement (non-renewable) with M/s Tegus Limited is due to lapse on 30<sup>th</sup> August, 2018. Similarly, vide letter ref. EACC.1/1/1 (95) dated 30<sup>th</sup> July, 2018 addressed to the Landlord; M/s Tegus Limited, EACC sought for an extension of term in the unlikely event that the acquisition process is not concluded by 31<sup>st</sup> August, 2018.

In response, the NLC gave a Seven Days' Notice to M/S Tegus Limited dated 14<sup>th</sup> August, 2018 with a copy to EACC in which it was directed that M/S Tegus Limited gives possession of Integrity Centre Building to the Commission by 21<sup>st</sup> August, 2018. On 30<sup>th</sup> August, 2018, M/s Tegus Limited and EACC representatives had a handing/taking over meeting which was witnessed by officials from the State Department of Public Works. Vide Gazette Notice Vol CXX – No. 113 dated 14<sup>th</sup> September, 2018, the NLC transferred and vested to the Principal Secretary – The National Treasury LR No. 209/1069 located along Valley Road/Jakaya Kikwete Road Nairobi measuring 0.4867 Ha



**PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATIONS**

The following is the summary of issues raised by the external auditor, and management comments that were provided to the auditor. We have nominated focal persons to resolve the various issues as shown below with the associated time frame within which we expect the issues to be resolved.

<b>Ref. No. on the external audit Report</b>	<b>Issue / Observations from Auditor</b>	<b>Management comments</b>	<b>Focal Point person to resolve the issue (Name and Designation)</b>	<b>Status: (Resolved / Not Resolved)</b>	<b>Timeframe: (Put a date when you expect the issue to be resolved)</b>
1	Excess acting allowance of Kshs 5,862,895/90 paid to immediate former Chief Executive Officer against provisions of circular No OP/CAB/55/1	Details of evidence of overpayment have been provided to her lawyers	Mr David Kaboro and Mr. Vincent Mutilangi.	Court case ongoing	The Commission is pursuing the individual. The timeframe is open as it may involve a court process.
2	Loss of 410 toners worth Kshs 2,923,920/-	Services of staff involved were terminated, file forwarded to Director of public prosecutions to institute prosecution.	Mr David Kaboro and Mr. Vincent Mutilangi.	Not Resolved	Open as it may involve court process.
3	Development of United Nations Development Programme (UNDP) funded wealth Declaration Management System. Kshs 20,457,206/- incurred without fully attaining the desired deliverables and goals spelt out in the project's financing agreement signed on 5 April 2011.	Fully fledged Directorate set up to look in to issues of leadership integrity including wealth declaration and conflict of interest. Development of the wealth declaration system based on the systems designs that were developed by the UNDP project has commenced	Mr David Kaboro	Resolved	The system implementation is ongoing. The System is expected to be fully operational by the end of this financial year

**Arch Bishop (Rtd) Eliud Wabukala, EBS  
Chairperson**

**Halakhe D. Waqo, CBS, MCI Arb  
Secretary/Chief Executive Officer**





**CHAPTER 8: STAFF MORTGAGE AND CAR LOAN SCHEME  
ANNUAL REPORT AND FINANCIAL STATEMENTS FOR THE  
FINANCIAL YEAR ENDED JUNE 30, 2018**

REPUBLIC OF KENYA



OFFICE OF THE AUDITOR-GENERAL

**REPORT**

**OF**

**THE AUDITOR-GENERAL**

**ON**

**THE FINANCIAL STATEMENTS OF  
ETHICS AND ANTI-CORRUPTION  
COMMISSION-STAFF HOUSE MORTGAGE  
AND CAR LOAN SCHEME**

**FOR THE YEAR ENDED  
30 JUNE 2018**





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**ETHICS AND ANTI CORRUPTION COMMISSION**

**STAFF HOUSE MORTGAGE AND CAR LOAN SCHEME**

**ANNUAL REPORT AND FINANCIAL STATEMENTS**

**FOR THE FINANCIAL YEAR ENDED  
JUNE 30, 2018**

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Prepared in accordance with the Accrual Basis of Accounting Method under the International Public Sector Accounting Standards (IPSAS)





## I. KEY ENTITY INFORMATION AND MANAGEMENT

### (a) Background information

The Ethics and Anti-Corruption Commission (EACC) is a statutory body established under the Ethics and Anti-Corruption Act, 2011. Its mandate is to combat corruption and economic crime through education, prevention, and law enforcement. Although, the Commission is empowered to conduct mediation, conciliation and negotiation, a distinction ought to be made between a power and a function. The Commission is headed by a chairman and four members who are responsible for the general policy and strategic direction.

### (b) Principal Activities

The principal activities of the Commission are to investigate corruption and economic crimes, recover lost public property and obtain compensation for damaged public property, prevent corruption, conduct public education on the dangers of corruption and promote ethics and integrity. EACC staff mortgage and Car loan is a scheme that supports the Commission's staff to acquire homes and purchase cars.

### (c) Key Management

The Commission's day-to-day management is under the following key organs:

1. The Office of the Chief Executive Officer
2. Directorate of Investigations and Asset Tracing
3. Directorate of Preventive Services
4. Directorate of Legal Services
5. Directorate of Ethics and Leadership
6. Directorate of Finance and Planning
7. Directorate of Human Resources and Administration
8. The Department of Supply Chain Management

### (d) Fiduciary Management

This is vested on the Chief Executive Officer who is the accounting officer and is managing the day to day operations of the commission.

<b>Designation</b>	<b>Name</b>
1. Secretary / Chief Executive Officer (CEO)	Halakhe D. Waqo
2. Deputy Chief Executive Officer – Technical Services	Michael K. Mubea

### (e) Fiduciary Oversight Arrangements

1. Enforcement Committee
2. Corruption Prevention, Education and Public Engagement Committee
3. Finance, Planning and Supply chain Committee
4. Human resource and Support Services Committee
5. Audit Committee





**(f) Entity Headquarters**

Integrity Centre  
Valley Road/ Milimani Junction  
P.O. Box 61130-00200  
Nairobi, Kenya

**(g) Entity Contacts**

Headquarters, Nairobi  
Integrity Centre  
Jakaya Kikwete /Valley Road Junction  
Po Box 61130-00200, Nairobi  
E-mail [eacc@Integrity.go.ke](mailto:eacc@Integrity.go.ke)

**(h) Entity Bankers**

Kenya Commercial Bank  
P.O. Box 69695-00400  
Agip House  
Nairobi, Kenya

Housing Finance Company  
Kenyatta Avenue  
P.O. Box 30088 - 00100  
Nairobi, Kenya

**(i) Independent Auditors**

Office of Auditor General  
Anniversary Towers, University Way  
P.O. Box 30084  
GPO 00100  
Nairobi, Kenya

**(j) Principal Legal Adviser**

The Attorney General  
State Law Office  
Harambee Avenue  
P.O. Box 40112  
City Square 00200  
Nairobi, Kenya





## II. CHAIRMAN'S STATEMENT

Significant social, economic and demographic changes have led entities to review staff management and support. These are geared towards improved staff motivation and productivity. The Commission is committed towards the attainment of this goal thus introduced Staff Mortgage and Car Loan Scheme's in the Financial Year 2017/18.

The Scheme, running into its second year is implemented in line with Salaries and Remuneration Commission recommendation. At the Commission, the Scheme is contributing towards attraction and retention of requisite skills as noted with reduced exits of staff in the last two years.

The National Treasury has consecutively funded the basket totalling 730 million at the time of reporting. This has resulted to positive response by staff increased accessibility by staff. The Scheme, is managed by service provider in a revolving fund portfolio. The surplus arising from the Scheme is ploughed back for sustainability. The governance and management of the fund is as set out in the loan entitlement and conditions stipulated in detailed Staff Mortgage and Car Loan Scheme policies and regulations. The Commission supports the operations through Staff Mortgage and Car Loan Scheme Advisory Committee for ease of administration and implementation.

The Commission is blessed with varied religious faith and considered inclusivity of all staff. To this effect, a second service provider was procured during the financial year with capability of handling sharia compliant services. It is further noted, the staff complement is growing towards the optimal therefore the Commission will seek additional basket fund to cater for increased demand.

I urge the staff to take this opportunity to utilize this facility at the earliest opportunity available, which contributes to the overall government goal for increased decent housing for Kenyans in line with the Big 4 Agenda.

**ARCHBISHOP (RTD) ELIUD WABUKALA, EBS**

**CHAIRMAN**





## REPORT OF THE CHIEF EXECUTIVE OFFICER

Staff welfare is a major concern for robust Commission culture. In this respect, the Commission initiated Staff Mortgage and Car Loan, in line with Government regulation to which I have the pleasure of presenting for the Financial Year ending 30<sup>th</sup> June, 2018.

The Scheme has directly or indirectly created job satisfaction for remarkable improvements in high staff efficiency, improved industrial relations and social benefits. The financial statements comprise of the Statement of Comprehensive Income, Statement of the Financial Position, Statement of Changes in Net Assets and Statement of Cash Flow. The Commission ensured prudent financial management and reporting in line with Public Finance Management Act (PFMA) 2012, Government Financial Regulations, 2015 and International Public Sector Accounting Standards (IPSAS) resulting in efficient and effective administration of the Scheme.

The Commission established Staff Mortgage and Car Loan Scheme Advisory Committee for ease of administration. Specifically, the Committee reviews, recommends and forward applications to service providers for processing and disbursement. The Scheme recorded 24 successful applications for mortgage and 19 for Car loan as at the end of the period under review compared with 24 and 28 successful application respectively in the comparative year. The Scheme is a revolving fund whose surplus is ploughed back for sustainability. I further wish to reiterate my commitment for diversity consideration in scheme administration for benefit of all staff. To achieve this objective, the Commission procured the services of the second service provider with sharia compliant facility.

The Scheme financial allocation has grown to Kshs. 730 million from initial Kshs. 300 million from the National Treasury. The Commission commends the Government effort in this respect, however, additional funding is necessary to ensure more staff benefit. It has been noted that the Scheme need to endeavour to attract all categories of staff including the lower cadre that has a tendency of keeping away from the facility. This is matter of concern and every policy direction will be sought to ensure all cadre of staff enjoy the facility.

I encourage all staff members to utilise the facility for improvement of their welfare and to remain resilient and focused in the performance of the Commission mandate

**HALAKHE D. WAQO, CBS, MCI Arb**  
**SECRETARY/CHIEF EXECUTIVE OFFICER**





### III. CORPORATE GOVERNANCE STATEMENT

The Commission and the Scheme operations and financial responsibilities are overseen by the Chief Executive Officer who is the accounting officer. The operations are guided by an approved annual budget based on programs whose performance is monitored through outputs and outcomes. The budget is informed by detailed work plans that translate in to annual procurement plans.

The Commission has put in place the following standing committees for oversight purposes; Enforcement, Preventive Services, Corporate Services and Risk and Audit. These committees are comprised of the commissioners and officers co-opted from various directorates. In addition an internal audit department charged with continuous review of systems of internal controls and overall risk management is in place.

Programmes are monitored against the set targets and appropriate feedback provided. Operational performance is monitored on a monthly basis through periodic financial reporting of actual expenditure versus budget performance which provides feedback to user departments on appropriate action plans. Quarterly financial statements are also produced to facilitate continuous evaluation of the overall financial performance of the Commission. The Commission prepares annual statutory financial statements which are audited by the Office of Auditor General who certifies them before inclusion in the annual report.





#### **IV. CORPORATE SOCIAL RESPONSIBILITY STATEMENT**

The EACC's corporate social responsibility is based on the fact that, as part of the Kenyan society, we have responsibilities that go beyond our legal obligations for the benefit of the society at large. Our corporate social responsibility entails community engagement, supporting community activities, responding to emerging challenges, donating to charities, helping the needy and application of ethical conduct and participating in matters of topical national interest in Kenya. Our CSR strategy involves building relationships and partnerships and working together with organizations that we believe advance the wellbeing of Kenyans. The EACC's CSR decisions are made not only in the best interest of the Commission but also that of our society.





## **REPORT OF THE COMMISSION AND THE SCHEME**

The Commission and the Scheme submit report together with the audited financial statements for the year ended June 30, 2018 which show the state of the Commission's and the Scheme's affairs.

### **Principal activities**

The principal activities of the Commission are to investigate corruption and economic crimes, recover lost public property and obtain compensation for damaged public property, prevent corruption, conduct public education on the dangers of corruption and promote ethics and integrity. EACC staff mortgage and Car loan is a scheme that supports the Commission's staff to acquire homes and purchase cars.

### **Results**

The results of the entity for the year ended June 30, 2018 are set out on page 123 to 137

### **Directors**

The members of the Commission who served during the year are shown on page 77 in accordance with Ethics and Anti-Corruption Act, 2011.

### **Auditors**

The Auditor General is responsible for the statutory audit of Ethics and Anti-corruption Commission in accordance Public Audit Act, No 34 of 2015 and the Ethics and Anti-Corruption Commission Act, 2011.





## V. STATEMENT OF MANAGEMENT RESPONSIBILITIES

Section 81 of the Public Finance Management Act, 2012 and Section 26 of the Ethics and Anti-corruption Act, require the Management to prepare Financial Statements in respect of EACC, which give a true and fair view of the state of affairs of the Commission at the end of the financial year. The Management is also required to ensure that the Commission and the Scheme keep proper accounting records which disclose with reasonable accuracy the financial position of the Commission and the Scheme. The Management is also responsible for safeguarding the assets of the Commission and the Scheme.

The management is responsible for the preparation and presentation of the Scheme's Financial Statements, which give a true and fair view of the state of the affairs of the Scheme for and as at the end of the financial year ended on June 30, 2018. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the entity; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Management accepts responsibility for the Scheme's Financial Statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Reporting Standards (IPSAS), and in the manner required by the Public Finance Management Act and the Ethics and Anti-corruption Act. The management is of the opinion that the Scheme's financial statements give a true and fair view of the state of the Scheme's transactions during the financial year ended June 30, 2018, and of the Scheme's financial position as at that date. The Management further confirms the completeness of the accounting records maintained for the Scheme, which have been relied upon in the preparation of the Scheme financial statements as well as the adequacy of the systems of internal financial controls.

Nothing has come to the attention of the Management to indicate that the Commission and the Scheme will not remain a going concern for at least the next twelve months from the date of this statement.

### Approval of the financial statements

The Scheme's Financial Statements were approved by the Commission on 19<sup>th</sup> September 2018 and signed on its behalf by:

**Arch Bishop (Rtd) Eliud Wabukala, EBS  
Chairperson**

**Halakhe D. Waqo, CBS, MCI Arb  
Secretary/Chief Executive Officer**





## REPUBLIC OF KENYA

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 NAIROBI

### OFFICE OF THE AUDITOR-GENERAL

#### REPORT OF THE AUDITOR-GENERAL ON ETHICS AND ANTI-CORRUPTION COMMISSION-STAFF HOUSE MORTGAGE AND CAR LOAN SCHEME FOR THE YEAR ENDED 30 JUNE 2018

##### REPORT ON THE FINANCIAL STATEMENTS

##### Opinion

I have audited the accompanying financial statements of Ethics and Anti-Corruption Commission-Staff House Mortgage and Car Loan Scheme set out on pages 1 to 15, which comprise the statement of financial position as at 30 June 2018, and the statement of financial performance, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, the financial statements present fairly, in all material respects, the financial position of Ethics and Anti-Corruption Commission-Staff House Mortgage and Car Loan Scheme as at 30 June 2018, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with Ethics and Anti-Corruption Commission (EACC Staff Motor Car Loan Scheme) Regulations, 2017 and Ethics and Anti-Corruption (EACC Staff Mortgage Scheme) Regulations, 2017.

Further, as required by Article 229(6) of the Constitution, I confirm that nothing has come to my attention to cause me to believe that public money has not been applied lawfully and in an effective way.

##### Basis for Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Ethics and Anti-Corruption Commission-Staff House Mortgage and Car Loan Scheme in accordance with ISSAI 30 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

*Report of the Auditor-General on the Financial Statements of Ethics and Anti-Corruption Commission-Staff House Mortgage and Car Loan Scheme for the year ended 30 June 2018*

*Promoting Accountability in the Public Sector*



- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Fund's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of the management's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the consolidated/ financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Fund to cease to continue to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information of the entities or business activities to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.

**FCPA Edward R. O. Ouko, CBS**  
**AUDITOR-GENERAL**

**Nairobi**

**06 November 2018**





**STATEMENT OF FINANCIAL PERFORMANCE  
FOR THE YEAR ENDED 30 JUNE 2018**

	Notes	2017-2018 Kshs.	2016-2017 Kshs.
<b>Revenue from exchange transactions</b>			
Interest on Bank Balance	5	20,711,003	17,148,466
Interest on Individuals Staff House Mortgage and Car Loans	6	14,596,483	4,702,090
<b>Total Revenue</b>		<b>35,307,487</b>	<b>21,850,556</b>
<b>Expenses</b>			
3% Commission to Service Provider	7	10,947,362	3,526,568
<b>Total Expenses</b>		<b>10,947,362</b>	<b>3,526,568</b>
<b>Surplus</b>		<b>24,360,125</b>	<b>18,323,988</b>



**STATEMENT OF FINANCIAL POSITION  
AS AT JUNE 30, 2018**

	Notes	2017-2018 Kshs.	2016-2017 Kshs.
<b>Assets</b>			
<b>Current Assets</b>			
Cash and cash equivalents	8	339,252,802	342,800,542
Short term receivables from staff House Mortgage	9	23,819,847	13,858,383
Short term receivables from staff Car Mortgage	9	10,625,337	6,900,835
		<b>373,697,986</b>	<b>363,559,760</b>
<b>Non-Current Assets</b>			
Long term receivables from staff House Mortgage	10	369,203,666	227,647,490
Long term receivables from staff Car Mortgage	10	31,618,858	27,116,738
		<b>400,822,524</b>	<b>254,764,228</b>
<b>Total Assets</b>		<b>774,520,510</b>	<b>618,323,988</b>
<b>Liabilities</b>			
Unrecovered Interest overpayment	11	1,836,397	-
<b>Non-Current Liabilities</b>		-	-
<b>Total liabilities</b>		<b>1,836,397</b>	<b>-</b>
<b>Net Assets</b>			
Reserves(Accumulated fund)	12	42,684,113	18,323,988
Mortgage and Car Loan Revolving fund	13	730,000,000	600,000,000
		<b>772,684,113</b>	<b>618,323,988</b>
<b>Total Net assets and liabilities</b>		<b>774,520,510</b>	<b>618,323,988</b>





**STATEMENT OF CHANGES IN NET ASSETS  
FOR THE YEAR ENDED 30 JUNE 2018**

	Notes	Staff car loan and mortgage fund Kshs	Revenue reserve Kshs	Total Kshs
Balance as at 30 June 2016		300,000,000	-	300,000,000
Staff car loan and mortgage fund		300,000,000		300,000,000
<b>Surplus/(deficit) for the period</b>		-	<b>18,323,988</b>	<b>18,323,988</b>
<b>Balance as at 30 June 2017</b>		<b>600,000,000</b>	<b>18,323,988</b>	<b>618,323,988</b>
Staff car loan and mortgage fund	14	130,000,000		130,000,000
Surplus/(deficit) for the period		-	24,360,125	24,360,125
Balance as at 30 June 2018		<b>730,000,000</b>	<b>42,684,113</b>	<b>772,684,113</b>



**STATEMENT OF CASH FLOW  
FOR THE YEAR ENDED 30 JUNE 2018**

Notes

	<b>2017-2018</b>	<b>2016-2017</b>
	Kshs.	Kshs.
<b>Cash flows From Operating Activities</b>		
Surplus/ (Loss) from operations	24,360,125	18,323,988
	<b>24,360,125</b>	<b>18,323,988</b>
<b>Income from Operations</b>		
(Increase)/Decrease in receivables & Prepayments	(13,685,966)	(20,759,218)
Increase/(Decrease) in receivables & Prepayments	1,836,397	-
	<b>12,510,556</b>	
<b>Net cash flows from operating activities</b>		<b>(2,435,230)</b>
<b>Cash flows From Investing Activities</b>		
		-
Staff Mortgage and Car Loan long term receivables	(146,058,296)	(254,764,228)
	<b>(146,058,296)</b>	<b>(254,764,228)</b>
<b>Cash flows From Financing Activities</b>		
Staff Mortgage and Car Loan Fund	14 130,000,000	300,000,000
<b>Net cash used in Financing activities</b>	<b>130,000,000</b>	<b>300,000,000</b>
<b>Net increase in cash and cash equivalents</b>	<b>(3,547,740)</b>	<b>42,800,542</b>
Bank and Cash equivalents at beginning of year	342,800,542	300,000,000
<b>Bank and cash equivalent at end of year</b>	<b>339,252,802</b>	<b>342,800,542</b>



STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS FY 2017/2018					
	Original budget	Adjustments	Final budget	Actual on comparable basis	Performance difference
	2017-2018	2017-2018	2017-2018	2017-2018	2017-20178
Revenue	Kshs	Kshs	Kshs	Kshs	Kshs
Government grants and subsidies	-	-	-	-	-
Development Expenditure	-	-	-	-	-
Staff mortgage Car loan	130,000,000	-	130,000,000	130,000,000	-
Other Income				35,307,487	35,307,487
<b>Total income</b>	<b>130,000,000</b>	<b>-</b>	<b>130,000,000</b>	<b>165,307,487</b>	<b>35,307,487</b>
Expenses					
Compensation of employees	-	-	-	-	-
Use Goods and services	-	-	-	10,947,362	(10,947,362)
Staff Loan	-	-	-	130,000,000	-
Development Exp	-	-	-	-	-
<b>Total expenditure</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>140,947,362</b>	<b>(10,947,362)</b>
<b>Surplus for the period</b>				<b>24,360,125</b>	<b>24,360,125</b>

**Note:**

Other income: The other income is as a result of interest of 1% on loans issued and interest received from bank balances

Use of goods and service: This represents cost of scheme administration paid to the scheme administrator





## VII. NOTES TO THE FINANCIAL STATEMENTS

### 1. Statement of compliance and basis of preparation – IPSAS 1

The Commission's Financial Statements have been prepared in accordance with and comply with International Public Sector Accounting Standards (IPSAS). The financial statements are presented in Kenya shillings, which is the functional and reporting currency of the entity. The accounting policies have been consistently applied to all the years presented.

The Financial Statements have been prepared on the basis of historical cost, unless stated otherwise. The Cash Flow statement is prepared using the indirect method. The Financial Statements are prepared on accrual basis.

### 2. Summary of significant accounting policies

#### a) Revenue recognition

#### Revenue from non-exchange transactions – IPSAS 23

Income is recognized in the period in which it is received. Government and donor funding is only recognized on receipt. Income is not accrued if its recoverability is considered doubtful. Interest income is recognized on a time proportion basis using the effective interest rate method.

#### Transfers from other government entities

Revenues from non-exchange transactions with other government entities are measured at fair value and recognized on obtaining control of the asset (cash, goods, services and property) if the transfer is free from conditions and it is probable that the economic benefits or service potential related to the asset will flow to the entity and can be measured reliably.

#### Sale of goods

Revenue from the sale of goods is recognized when the significant risks and rewards of ownership have been transferred to the buyer, usually on delivery of the goods and when the amount of revenue can be measured reliably and it is probable that the economic benefits or service potential associated with the transaction will flow to the entity.

#### Interest income

Interest income is accrued using the effective yield method. The effective yield discounts estimated future cash receipts through the expected life of the financial asset to that asset's net carrying amount. The method applies this yield to the principal outstanding to determine interest income each period.





### *Notes to financial statements continued...*

#### **b) Budget information – IPSAS 24**

The annual budget is prepared on the accrual basis, that is, all planned costs and income are presented in a single statement to determine the needs of the entity. As a result of the adoption of the accrual basis for budgeting purposes, there are no basis, timing or entity differences that would require reconciliation between the actual comparable amounts and the amounts presented as a separate additional financial statement in the statement of comparison of budget and actual amounts.

#### **c) Investment property – IPSAS 16**

Investment properties are measured initially at cost, including transaction costs. The carrying amount includes the replacement cost of components of an existing investment property at the time that cost is incurred if there cognition criteria are met and excludes the costs of day-to-day maintenance of an investment property.

Investment properties are derecognized either when they have been disposed of or when the investment property is permanently withdrawn from use and no future economic benefit or service potential is expected from its disposal. The difference between the net disposal proceeds and the carrying amount of the asset is recognized in the surplus or deficit in the period of de-recognition. Transfers are made to or from investment property only when there is a change in use.

#### **d) Property, plant and equipment – IPSAS 17**

All property, plant and equipment are stated at cost less accumulated depreciation and impairment losses. Cost includes expenditure that is directly attributable to the acquisition of the items. When significant parts of property, plant and equipment are required to be replaced at intervals, the Commission recognizes such parts as individual assets with specific useful lives and depreciates them accordingly. Likewise, when a major inspection is performed, its cost is recognized in the carrying amount of the plant and equipment as a replacement if the recognition criteria are satisfied. All other repair and maintenance costs are recognized in surplus or deficit as incurred. Where an asset is acquired in a non-exchange transaction for nil or nominal consideration the asset is initially measured at its fair value.

#### **e) Intangible assets–IPSAS 31**

Intangible assets acquired separately are initially recognized at cost. The cost of intangible assets acquired in a non-exchange transaction is their fair value at the date of the exchange. Following initial recognition, intangible assets are carried at cost less any accumulated amortization and accumulated impairment losses. The useful life of the intangible assets is assessed as either finite or indefinite.





*Notes to financial statements continued...*

**f) Research and development costs**

The Commission expenses research costs as incurred. Development costs on an individual project are recognized as intangible assets when the Commission can demonstrate:

- The technical feasibility of completing the asset so that the asset will be available for use or sale
- Its intention to complete and its ability to use or sell the asset
- How the asset will generate future economic benefits or service potential
- The availability of resources to complete the asset
- The ability to measure reliably the expenditure during development

Following initial recognition of an asset, the asset is carried at cost less any accumulated amortization and accumulated impairment losses. Amortization of the asset begins when development is complete and the asset is available for use. It is amortized over the period of expected future benefit. During the period of development, the asset is tested for impairment annually with any impairment losses recognized immediately in surplus or deficit.

**g) Inventories – IPSAS 12**

Inventory is measured at cost upon initial recognition. To the extent that inventory was received through non-exchange transactions (for no cost or for a nominal cost), the cost of the inventory is its fair value at the date of acquisition.

After initial recognition, inventory is measured at the lower of cost and net realizable value. However, to the extent that a class of inventory is distributed or deployed at no charge or for a nominal charge, that class of inventory is measured at the lower of cost and current replacement cost.

Net realizable value is the estimated selling price in the ordinary course of operations, less the estimated costs of completion and the estimated costs necessary to make the sale, exchange, or distribution.

Inventories are recognized as an expense when deployed for utilization or consumption in the ordinary course of operations of the Entity.

**h) Provisions – IPSAS 19**

Provisions are recognized when the Commission has a present obligation (legal or constructive) as a result of a past event, it is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

Where the Commission expects some or all of a provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognized as a separate asset only when the reimbursement is virtually certain. The expense relating to any provision is presented in the statement of financial performance net of any reimbursement.





## *Notes to financial statements continued...*

### ***Contingent liabilities***

The Commission does not recognize a contingent liability, but discloses details of any contingencies in the notes to the financial statements, unless the possibility of an outflow of resources embodying economic benefits or service potential is remote.

### **i) Changes in accounting policies and estimates – IPSAS 3**

The Entity recognizes the effects of changes in accounting policy retrospectively. The effects of changes in accounting policy are applied prospectively if retrospective application is impractical.

### **j) Cash and cash equivalents**

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at the Central Bank of Kenya and at various commercial banks at the end of the financial year.

### **k) Comparative figures**

Where necessary comparative figures for the previous financial year have been amended or reconfigured to conform to the required changes in presentation.

### **i) Significant judgments and sources of estimation uncertainty – IPSAS 1**

The preparation of the Commission's financial statements in conformity with IPSAS requires management to make judgments, estimates and assumptions that affect the reported amounts of revenues, expenses, assets and liabilities, and the disclosure of contingent liabilities, at the end of the reporting period. However, uncertainty about these assumptions and estimates could result in outcomes that require a material adjustment to the carrying amount of the asset or liability affected in future periods.

#### ***Estimates and assumptions***

The key assumptions concerning the future and other key sources of estimation uncertainty at the reporting date, that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year, are described below. The Entity based its assumptions and estimates on parameters available when the consolidated financial statements were prepared.

#### ***Useful lives and residual values***

The useful lives and residual values of assets are assessed using the following indicators to inform potential future use and value from disposal:

- The condition of the asset based on the assessment of experts employed by the Entity
- The nature of the asset, its susceptibility and adaptability to changes in technology and processes
- The nature of the processes in which the asset is deployed
- Availability of funding to replace the asset
- Changes in the market in relation to the asset



**Notes to financial statements continued...****m) Subsequent events**

There have been no events subsequent to the financial year with significant impact in the financial statements for the year ended 30 June 2018.

**n) Key management Remuneration**

There were no remunerations paid to key management under the scheme

**3. ADOPTION OF NEW AND REVISED STANDARDS**

- i. Relevant new standards and amendments to published standards effective for the year ended 30 June 2018

Standard	Impact
IPSAS 39: Employee Benefits	<p>Applicable: 1st January 2018</p> <p>The objective to issue IPSAS 39 was to create convergence to changes in IAS 19 Employee benefits. The IPSASB needed to create convergence of IPSAS 25 to the amendments done to IAS 19. The main objective is to ensure accurate information relating to pension liabilities arising from the defined benefit scheme by doing away with the corridor approach.</p> <p>(This is not applicable for EACC since there are no employees paid to work for the scheme)</p>

- ii. New and amended standards and interpretations in issue but not yet effective in the year ended 30 June 2018

Standard	Effective date and impact:
IPSAS 40: Public Sector Combinations	<p>Applicable: 1st January 2019:</p> <p>The standard covers public sector combinations arising from exchange transactions in which case they are treated similarly with IFRS 3 (applicable to acquisitions only) Business combinations and combinations arising from non-exchange transactions which are covered purely under Public Sector combinations as amalgamations. (This is not applicable for EACC)</p>





*Notes to financial statements continued...*

**4 Transfers from other government entities**

Revenues from non-exchange transactions with other government entities are measured at fair value and recognized on obtaining control of the asset (cash, goods, services and property) if the transfer is free from conditions and it is probable that the economic benefits or service potential related to the asset will flow to the entity and can be measured reliably. Recurrent grants are recognized in the statement of comprehensive income. Development/capital grants are recognized in the statement of financial position and realised in the statement of comprehensive income over the useful life of the assets that has been acquired using such funds (The Commission did not receive transfers from any government Institution)

**5 Income from Bank Balance**

<b>Item</b>	<b>2017-2018 Shs</b>	<b>2016-2017 Shs</b>
Staff Mortgage Bank Account	9,006,230	9,608,134
Interest Car Loan Bank Account	11,704,774	7,540,332
<b>Total Income from Bank Balance</b>	<b>20,711,003</b>	<b>17,148,466</b>

**6 Finance income from Individual Staff Mortgage and Car Loans ;4%**

<b>Item</b>	<b>2017-2018 Shs</b>	<b>2016-2017 Shs</b>
Individual Staff Mortgage 4% Interest	13,027,792	4,187,737
Individual Car Loan 4% Interest	1,568,691	514,353
<b>Total Individual Staff Interest</b>	<b>14,596,483</b>	<b>4,702,090</b>

**7 Expenses;3% Commission for service Provider**

<b>Item</b>	<b>2017-2018 Shs</b>	<b>2016-2017 Shs</b>
Individual Staff Mortgage 3% Interest	9,770,844	3,140,803
Individual Car Mortgage 3% Interest	1,176,519	385,765
<b>Total Expenses</b>	<b>10,947,362</b>	<b>3,526,568</b>





<b>8 Bank Balances</b>	<b>2017-2018</b>	<b>2016-2017</b>
<b>Item</b>	<b>Shs</b>	<b>Shs</b>
Staff Mortgage Bank Account	29,894,733	169,149,196
KCB Mortgage loan	130,000,000	-
Car Loan Bank Account	179,358,069	173,651,346
<b>Total Income</b>	<b>339,252,802</b>	<b>342,800,542</b>

*Notes to financial statements continued...*

<b>9 Short -Term Receivables from non-exchange contracts</b>	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
EACC Mortgage Issuance	23,819,847	13,858,383
EACC Car Loan Issuance	10,625,337	6,900,835
<b>Total Short -Term Receivables</b>	<b>34,445,184</b>	<b>20,759,218</b>

<b>10 Long -Term Receivables from non-exchange contracts</b>	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
EACC Mortgage Issuance	369,203,666	227,647,490
EACC Car Loan Issuance	31,618,858	27,116,738
<b>Total Long -Term Receivables</b>	<b>400,822,524</b>	<b>254,764,228</b>

<b>11 Current Liabilities</b>	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
Interest Due to HFC	1,836,397	-
<b>Total Current Liabilities</b>	<b>1,836,397</b>	<b>-</b>

The interest due to HFC refers to amount credited to the Commissions car loan bank account during the period under review which was in excess of the expected amount hence refundable to HFC in the current financial year.



**12 Revenue Reserve**

	<b>2017-2018</b>	<b>2016-2017</b>
	<b>Shs</b>	<b>Shs</b>
Balance Brought Forward	18,323,988	-
surplus for the year	24,360,124	18,323,988
<b>Total</b>	<b>42,684,112</b>	<b>18,323,988</b>

**13 Fund Balances**

	<b>2017-2018</b>	<b>2016-2017</b>
<b>Item</b>	<b>Shs</b>	<b>Shs</b>
Balance Brought Forward	600,000,000	300,000,000
Staff House Mortgage	130,000,000	200,000,000
Car Loan	-	100,000,000
<b>Total Income</b>	<b>730,000,000</b>	<b>600,000,000</b>





Notes to financial statements continued...

#### 14. EACC Staff Car Loan and House Mortgage Scheme

The Commission received an exchequer amount; Kshs 130,000,000/- for Staff Car Loan and Mortgage Fund. The funding is for Sharia compliant Staff Car and Mortgage Scheme which is yet to be utilised.

**EACC Staff Car Loan and House Mortgage Scheme**  
**Fund accountability**  
**Statement As at 30th June**  
**2018**

	House Mortgage Scheme	House Mortgage Scheme	Car Loan Scheme	Car Loan Scheme	Total
	Interest		Interest		
<b><u>Scheme Funding:</u></b>					
Opening Balance 01.07.2017		410,655,068		207,668,920	618,323,988
Funding for the year		130,000,000			130,000,000
<b>Total Capital Funding</b>		<b>540,655,068</b>		<b>207,668,920</b>	<b>748,323,988</b>
<b><u>Interest</u></b>					
Interest earned ;7% on bank balance		9,006,230		11,704,774	20,711,004
Overpayment of Interest due to HFC				1,836,397	1,836,397
Interest earned ;4% on Loans Issued	13,027,792		1,568,691.00	-	
Less:3% Commission for HFC	(9,770,844)	3,256,948	(1,176,519.00)	392,172	3,649,120
<b>Total Interest</b>		<b>12,263,178</b>		<b>13,933,343</b>	<b>26,196,521</b>
<b>Total Fund</b>		552,918,246		221,602,263	774,520,509
Net Loans Issued		(393,023,513)		(42,244,195)	(435,267,708)
<b>Fund Balance 30.06.2018</b>		<b>159,894,733</b>		<b>179,358,068</b>	<b>339,252,802</b>





Ethics and Anti-Corruption Commission Mortgage and Car Loan Scheme Annual Report and Financial Statement for the year ended June 30, 2018

### **PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATIONS**

The Commission did not have any Audit follow up issues for the previous Audited Financial Year 2016/17 for the Staff Mortgage Car Loan Fund financial statement.

**Arch Bishop (Rtd) Eliud Wabukala, EBS  
Chairperson**

**Halakhe D. Waqo, CBS, MCI Arb  
Secretary/Chief Executive Officer**

# EACC CONTACTS



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