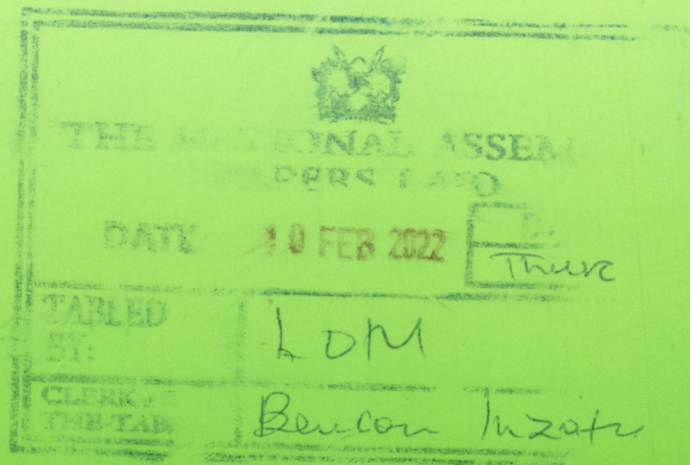


COMMISSION ON REVENUE ALLOCATION

Promoting an Equitable Society



RECOMMENDATION ON THE BASIS FOR EQUITABLE SHARING OF REVENUE BETWEEN NATIONAL AND COUNTY GOVERNMENTS FOR FINANCIAL YEAR 2022/23

TRANSMITTAL LETTER

Tel: 254 (20) 4298000
Email: info@crakenya.org
Website: www.crakenya.org

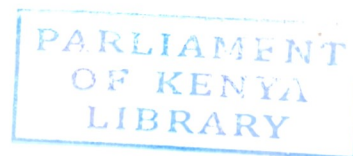


14 Riverside Drive
Grosvenor block
2nd Floor
P.O. Box 1310 – 00200
NAIROBI

COMMISSION ON REVENUE ALLOCATION

DATE: 2nd November 2021

Clerk of the Senate
Clerk of the National Assembly
Cabinet Secretary, The National Treasury and Planning
Chairman, Council of Governors
Chairman, County Assemblies Forum



RE: RECOMMENDATION ON SHARING OF REVENUE FOR FINANCIAL YEAR 2022/23

Pursuant to Article 216 (1) (a) of the Constitution, the Commission on Revenue Allocation has made recommendations concerning the basis for equitable sharing of nationally raised revenue between the national and county governments. The PFMA (2012) Section 190 (1) (a) requires that the recommendations be submitted at least six months before the beginning of the financial year or at a later date agreed between the Cabinet Secretary and the Commission. The Commission hereby submits the recommendations for financial year 2022/23 eight months earlier due to the revised budget preparation calendar to accommodate the 2022 general election.

The Commission recommends that based on a revenue projection of Ksh. 2,142 billion for financial year 2022/23, the national government be allocated Ksh. 1,765.2 billion, county government Ksh. 370 billion and Equalisation Fund Ksh. 6.8 billion. The Commission further recommends that the projected revenue increase of Ksh.366.4 billion above the financial year 2021/22 estimate of Ksh.1, 775.6 billion if realised, be used to reduce the national government's fiscal deficit as a matter of national interest.

Further, in accordance with the provision of Section 190 (1) (b) of the PFMA 2012, the Commission presents the determination of each county's equitable share based on the Third Basis for revenue sharing approved by Parliament in September 2020.

Yours Sincerely,

**DR. JANE KIRINGAI, EGH
CHAIRPERSON**

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 10 FEB 2022	DAY: THUR
TABLED BY:	LOM
CLERK OF THE NATIONAL ASSEMBLY:	B. Inotia

LIST OF TABLES

Table 1: Sectoral growth (2020)	6
Table 2: Natural Resources Revenues FY 2018/19 to 2022/23* (Ksh. Million).....	14
Table 3: Summary of Conditional Allocations to the Counties from the National Government, FY 2013/14 – 2021/22	22
Table 4: Summary of Conditional Grants and Loans from Development Partners (Ksh. Millions) for FYs 2013/14 to 2021/22	23
Table 5: Expenditure by Economic Classification, Ksh. Billion (2013/14-2020/21).....	26
Table 6: Financing of National Government Functions for FY 2019/20 to 2022/23 Ksh. Billion	33
Table 7: Financing of County Governments for FY 2018/19 to 2022/23, Ksh. Billion	34
Table 8: Third Revenue Sharing Basis	35
Table 9: Allocation to each of County government for FY 2022/23	35

LIST OF FIGURES

Figure 1: GDP growth rates in the global economy (2002 - 2020).....	3
Figure 2: East Africa's GDP growth rates (2000-2020).....	4
Figure 3: Kenya's GDP growth rate (2001-2020).....	5
Figure 4: Sector Contribution to GDP, Percentage (2009-2020).....	5
Figure 5: Inflation in Selected Countries in the EA Region (2000-2020)	7
Figure 6: Inflation in Kenya (2019-2021)	7
Figure 7: Central Bank rates (2018-2021).....	8
Figure 8: Growth in Credit to Government and Private Sector (2000-2020)	9
Figure 9: Commercial Banks Weighted Average Interest Rates (2015-2021)	9
Figure 10: Selected Exchange Rates (2004-2020)	10
Figure 11: Actual and Targeted Ordinary Revenue from the FY 2009/10 to 2022/23* in Ksh. Billion .	11
Figure 12: Total and Ordinary Revenue as a Percent of GDP (2009/10 -2021/22*).....	12
Figure 13: Percentage Contribution to Ordinary Revenue by Main Tax Heads (2009/10 -2021/22*) ..	13
Figure 14: Government Expenditures as a Proportion of the Total Expenditure (2009/10 -2022/23*)	15
Figure 15: Fiscal trends as a percentage GDP (2009/10 -2021/22*)	16
Figure 16: EAC Countries Fiscal Deficits (2010-17 to 2022*).....	16
Figure 17: Public Debt Stock for the FYs 2009/10 to 2021/22*	17
Figure 18: EAC Debt/GDP Ratio (2010-17 to 2022*).....	18
Figure 19: External Debt Sustainability Thresholds (2019-2021)	19
Figure 20: Domestic and External Debt Composition (2014-2020).....	20
Figure 21: Interest payment for FYs 2009/2010 to 2021/22*	20
Figure 22: County Transfers FY 2013/14 to 2021/22 (Ksh. Billion)	21
Figure 23: Performance of OSR against Target FY 2013/14 to 2020/21(Ksh. Billion)	24
Figure 24: Average Actual Revenue Collection and Potential (Excl. Nairobi)	24
Figure 25: County Ability to Finance Own Budget (Excl. Nairobi)-Percent	25
Figure 26: Contribution to County Governments' Total Revenue for FY 2013/14 – 2020/21*	25
Figure 27: Average Development Expenditures for FYs 2017/18 to 2020/21	27
Figure 28: Average Wage Bill Expenditures for FYs 2017/18 to 2020/21	27
Figure 29: Average actual County government expenditure by sector (in Percentage) (2014/15 – 2020/21)	28
Figure 30: Outstanding eligible County Pending Bills as at June 2021 (Ksh. Millions)	29
Figure 31: Outstanding eligible County Pending Bills as at June 2021 (Percent of total county revenues).....	29
Figure 32: Outstanding Ineligible County Pending Bills as at 25th June 2021	30

TABLE OF CONTENTS

LIST OF TABLES.....	ii
LIST OF FIGURES	ii
ACRONYMS	iii
EXECUTIVE SUMMARY	iv
1.0. INTRODUCTION.....	1
2.0. PERFORMACE OF THE ECONOMY	3
2.1. Introduction.....	3
2.2. Real Sector	3
2.3. Monetary sector	8
3.0. FISCAL PERFORMANCE.....	11
3.1. Performance of Ordinary Revenues	11
3.2. Revenues from Royalties	13
3.3. Structure of Government Expenditures	14
3.4. Public debt	17
3.5. County Governments Fiscal Framework.....	21
3.6. County Expenditure Performance.....	26
3.7. County Pending Bills	28
4.0. RECOMMENDATION ON EQUITABLE SHARES	31
5.0. FINANCING OF NATIONAL AND COUNTY GOVERNMENTS FUNCTIONS	33
6.0. SHARING OF REVENUE AMONG COUNTIES FOR FINANCIAL YEAR 2022/23.....	35
APPENDIX I: GOVERNMENT EXPENDITURES	37
APPENDIX II: PENDING BILLS OF THE NATIONAL GOVERNMENT AS AT JUNE 2021	38
APPENDIX III: PENDING BILLS OF THE COUNTY GOVERNMENTS' AS AT 25TH JUNE 2021	40
APPENDIX IV: AGGREGATE ALLOCATIONS TO COUNTY GOVERNMENTS (2012/13-2021/22, Ksh. Million	41

ACRONYMS

AG	Attorney General
BROP	Budget Review and Outlook Paper
CAJ	Commission on Administration of Justice
CARA	County Allocation of Revenue Act
COB	Controller of Budget
COVID	Coronavirus Disease
CRA	Commission on Revenue Allocation
CRF	County Revenue Fund
DPP	Director of Public Prosecutions
EA	East Africa
EAC	East Africa Community
EACC	Ethics and Anti-Corruption Commission
FY	Financial Year
GDP	Gross Domestic Product
HQS	Headquarters
ICT	Information and Communication Technology
IEBC	Independent Electoral and Boundaries Commission
IGTRC	The Intergovernmental Relations Technical Committee
IMF	International Monetary Fund
IPOA	Independent Police Oversight Authority
JSC	Judicial Service Commission
KNBS	Kenya National Bureau of Statistics
KNCHR	Kenya National Commission on Human Rights
MES	Medical Equipment Scheme
MOPM	Ministry of Petroleum and Mining
NGEC	The National Gender and Equality Commission
NLC	National Land Commission
NPSC	National Police Service Commission
OAG	Office of the Auditor General
OECD	Organisation for Economic Co-operation and Development
OSR	Own Source Revenue
PFM	Public Finance Management
PFMA	Public Finance Management Act
PPG	Public and Publicly Guaranteed
PSC	Public Service Commission
PV	Present Value
RMLF	Road Maintenance Levy Fund
SRC	Salaries and Remuneration Commission
TSC	Teachers Service Commission
USD	US Dollar
VAT	Value Added Tax

EXECUTIVE SUMMARY

The financial year 2022/23 recommendation on the basis for equitable sharing of revenue between the national and county governments is being prepared against a backdrop of slow economic growth. Gross Domestic Product (GDP) across the world declined in 2020 as a result of the COVID-19 pandemic. World GDP shrank by 3.6 percent while that of OECD members, Sub-Saharan Africa and Africa Eastern and Southern regions contracted by 4.7, 2.4 and 3.6 percent respectively. Projections show that despite the Covid-19 pandemic, global economy and Sub-Saharan Africa are expected to grow at 5.9 and 3.7 percent respectively in 2021. Given the expected slow recovery of the global and regional economies, Kenya's economic recovery is likely to slow down.

The expected slow economic recovery is likely to impact negatively on the revenues in the medium term. This has an effect on the quantum of revenues available for sharing between the two levels of government. The shareable revenue for the financial year 2022/23 is projected to increase by Ksh. 366.4 billion from an estimate of Ksh. 1,775.6 billion in the financial year 2021/22 to Ksh. 2,142 billion. Given that revenue collection has remained below target in the last 9 years of devolution, the national government has been bearing the shortfall given that the Division of Revenue Act locks in the counties' allocation. This in effect increases the national government's fiscal deficit and subsequently the stock of public debt.

Therefore, the Commission recommends that based on a revenue projection of Ksh. 2,142 billion for financial year 2022/23, the national government be allocated Ksh. 1,765.2 billion, county government Ksh. 370 billion and Equalisation Fund Ksh. 6.8 billion. The Commission further recommends that the projected revenue increase of Ksh.366.4 billion above the financial year 2021/22 estimate of Ksh.1, 775.6 billion if realised, be used to reduce the national government's fiscal deficit as a matter of national interest.

The county governments' allocation of Ksh. 370 billion is equivalent to 27.3 percent of the most recent audited and approved accounts for the financial year 2016/17 amounting to Ksh. 1,357.7 billion.

This recommendation is underpinned by the following:

- 1. Economic growth:** The Commission is cognizant of the need to stimulate the economy following the slump occasioned by the COVID-19 global pandemic. However, given the limited fiscal space the Commission recommends that each level of government restructures its expenditures to stimulate the economy.
- 2. Revenue performance:** The expected slow recovery of the economy and the 2022 general election are likely to affect revenue performance

negatively in the financial year 2022/23. To contain the fiscal deficits within the recommended target there is need for equitable shares to be retained at the financial year 2021/22 levels.

- 3. Debt Sustainability:** Persistent underperformance of revenues has led to increased fiscal deficits occasioning the accumulation of more debt to finance government functions. This call for fiscal consolidation to contain the public debt.
- 4. The 2022 General Election:** The general election will be held in August 2022. It is important that the national government restructures its expenditures to finance the election as a matter of national interest.

The Commission further recommends that the Ministry of Petroleum and Mining and Parliament expedite the enactment of the proposed framework for sharing natural resources revenues among beneficiary counties. The National Treasury needs to formulate procedures for receiving royalties into the Exchequer and disbursement of the same to the beneficiary counties.

1.0. INTRODUCTION

Article 216(1)(a) of the Constitution mandates the Commission on Revenue Allocation (The Commission) to make recommendations concerning the basis for the equitable sharing of revenue raised nationally between the national and county governments. The financial year 2022/23 recommendation is the eleventh that the Commission is making since the inception of devolution.

In determining the equitable shares, Article 203 (1) provides eleven key criteria to be taken into account. In making the recommendation for the financial year 2022/23, the Commission has considered seven of the eleven Article 203 criteria. These include: (i) the national interest; (ii) provisions in respect of the public debt and other national obligations; (iii) the needs of the national government, determined by objective criteria; (iv) the need to ensure that county governments are able to perform the functions allocated to them; (v) the fiscal capacity and efficiency of county governments; (vi) the desirability of stable and predictable allocations of revenue; and (vii) the need for flexibility in responding to emergencies and other temporary needs, based on similar objective criteria.

Further, Article 203 (2) and (3) provides that for every financial year, the equitable share of revenue raised nationally that is allocated to county governments shall not be less than fifteen percent of all revenues collected by the national government, calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly. The most recent audited and approved accounts are for the financial year 2016/17.

Section 190(1) of the Public Finance Management Act (PFMA) 2012 requires the Commission to make the recommendation six months before the beginning of the financial year or at a later date agreed between the National Treasury and the Commission. Guided by the revised budget calendar for the financial year 2022/23 due to the 2022 general election, the Commission submits this recommendation eight months before the beginning of the financial year. Accordingly, the National Treasury is expected to introduce the Division of Revenue Bill and County Allocation of Revenue Bill to Parliament by November 2021. Subsequently, Parliament will need to pass both the Finance and Appropriations Bills by March 2022 before its dissolution in June 2022.

This recommendation has been made against a backdrop of slow economic recovery, drought and an upcoming general election, all of which are expected to affect revenue performance negatively. The recommendation also takes into account the need for fiscal consolidation by each level of government amidst expected expenditure restructuring to stimulate aggregate demand in the medium term.

The rest of the recommendation is organised as follows; section two assesses the performance of the economy, section three provides an assessment of national and county government fiscal frameworks. Section four presents the Commission's recommendation on equitable shares of revenue between the national and county governments. Section five details the financing of national and county governments and section six details the sharing of revenue among county governments for financial year 2022/23.

2.0. PERFORMANCE OF THE ECONOMY

2.1. Introduction

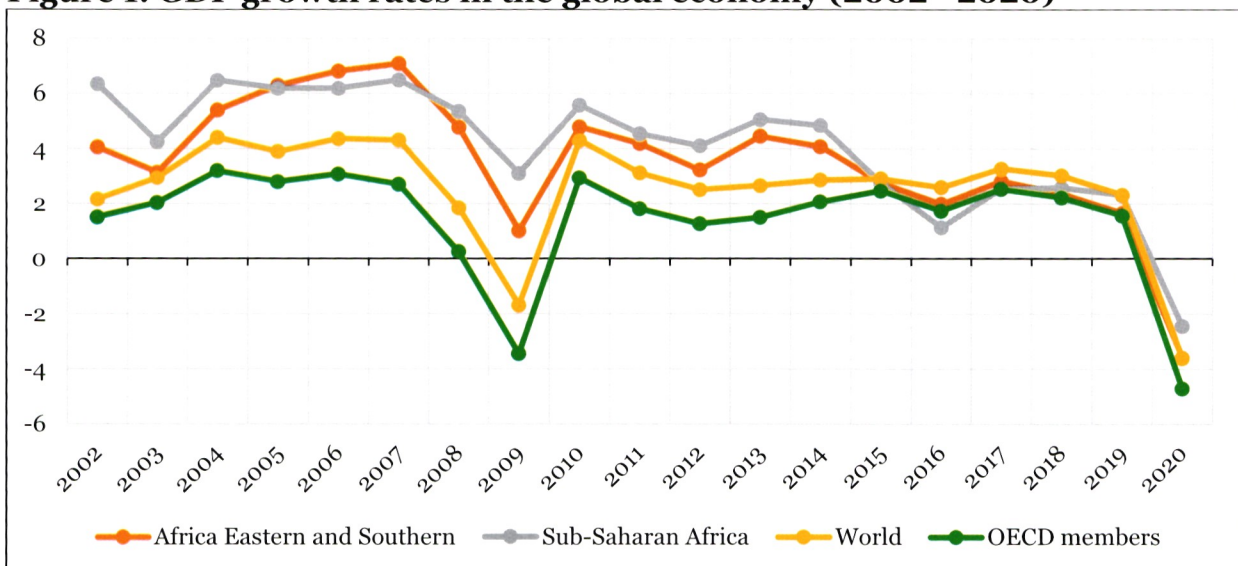
This section provides an assessment of the performance of the economy by analysing indicators that drive economic activity. The analysis of the size and structure of the economy aids the Commission in evaluating the country's fiscal position and potential revenue bases to inform revenue sharing between the national and county governments. In addition, the section analyses the economic performance of Kenya's major trading partners and their impact on Kenya's economy.

2.2. Real Sector

2.2.1. Gross Domestic Product

At the global level, Gross Domestic Product (GDP) slumped in 2020 as a result of the COVID-19 pandemic to magnitudes last witnessed in 2009 during the global financial crisis as shown in Figure 1.

Figure 1: GDP growth rates in the global economy (2002 - 2020)



Source of data: World Bank

While world GDP contracted by 3.6 percent in 2020, output among Organisation for Economic Co-operation and Development (OECD) members contracted by 4.7 percent. In Sub-Saharan Africa, and Africa Eastern and Southern regions output contracted by 2.4 and 3.6 percent, respectively. Global growth in 2021 is projected at 5.9 percent¹ as a result of the removal of lockdowns and restrictions on movements of labour and capital. However, economic recovery is expected to vary

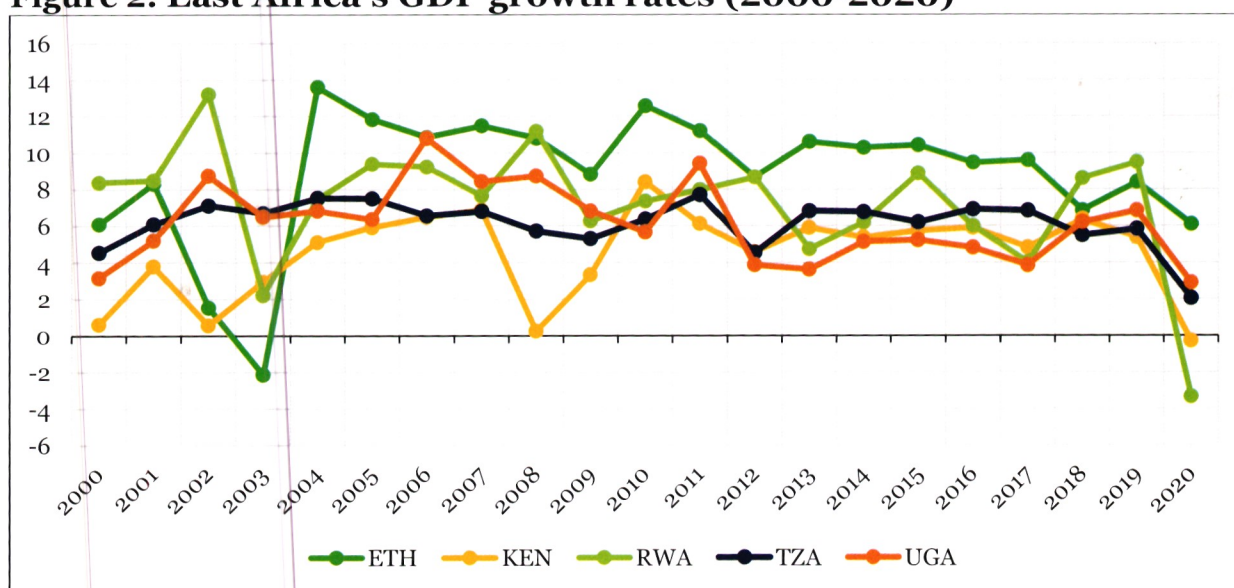
¹ World Economic Outlook July 2021, IMF

across countries with the emerging markets and developing economies expected to pick up slowly compared to advanced economies given different country policy responses to the pandemic.

In the Sub-Saharan Africa region the economy contracted by 1.8 percent in 2020. The region's economy is, however, projected to recover and grow by 3.7 percent in 2021². This growth will be supported by stimulus programmes put in place by various governments to support improved exports, commodity prices, and a recovery in both private consumption and investment.

In the East Africa region, Rwanda's economy experienced the highest contraction of 3.4 percent in 2020 followed by Kenya³ with a contraction of 0.3 percent. Although output in Uganda, Tanzania and Ethiopia declined, growth remained positive as shown in Figure 2.

Figure 2: East Africa's GDP growth rates (2000-2020)



Source of data: World Bank

Kenya's revised and rebased GDP estimates⁴ show that the economy grew by an average of 5 percent between 2010 and 2019 compared to 5.4 percent using the old GDP series (Figure 3). Growth is projected at 5.6 percent in 2021 and 6 percent in 2022⁵.

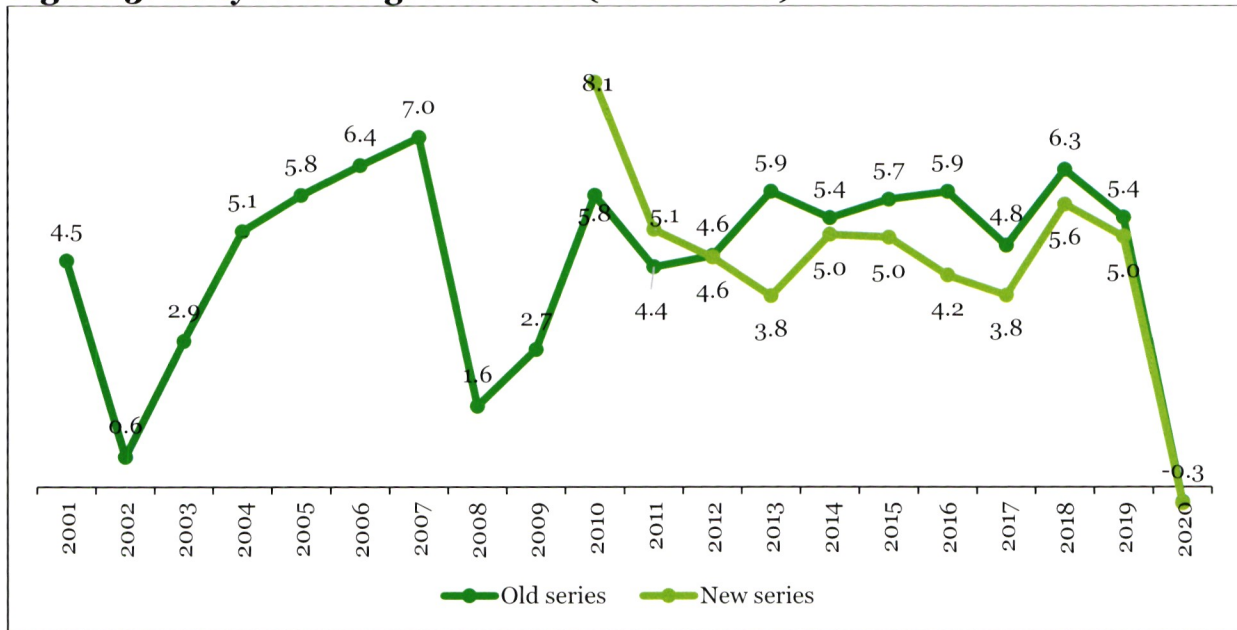
² ibid

³ Prior to the COVID-19 pandemic, Kenya's GDP growth rate was projected at 6 percent

⁴ Kenya revised and rebased its GDP in 2020 with 2016 as the base year

⁵ World Economic Outlook, October 2021, IMF

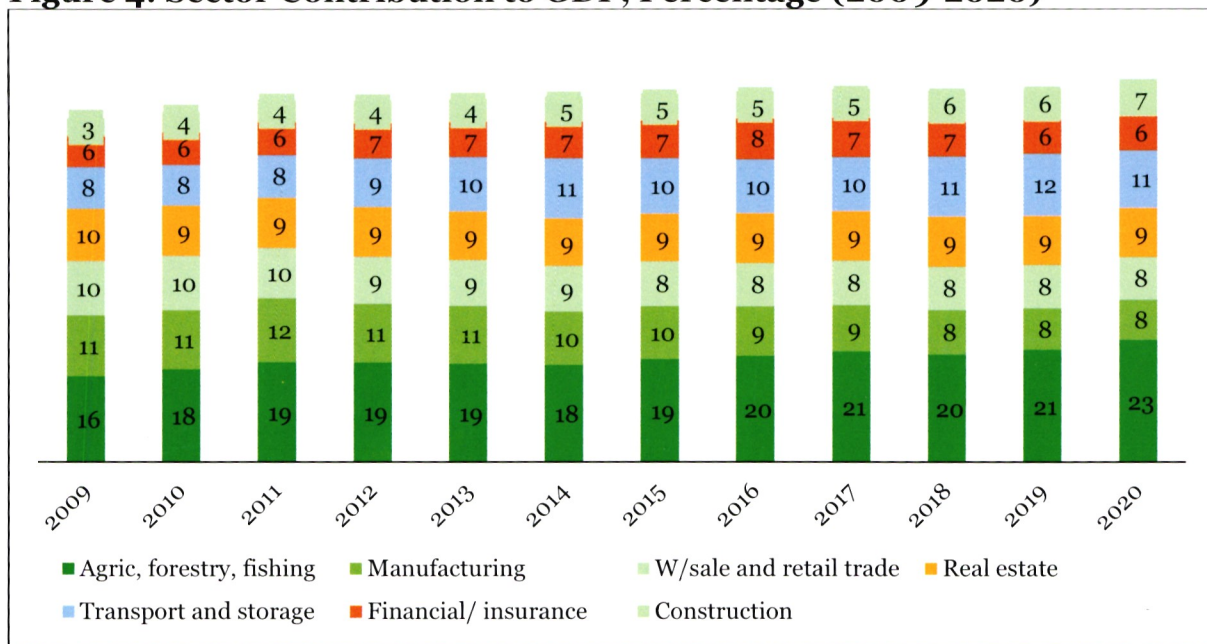
Figure 3: Kenya's GDP growth rate (2001-2020)



Source of data: Kenya National Bureau of Statistics

Kenya's GDP is decomposed into various sectors as shown in Figure 4. Agriculture contributes the largest share to GDP at an average of 19 percent while manufacturing contributes an average of 10 percent. Despite the high contribution of the agriculture sector to GDP, its contribution to revenue is low at an average of 2.4 percent, while the manufacturing sector contribution is 18.1 percent. Finance and insurance sector contributes an average of 7 percent to the GDP and it's the highest contributor to revenues at 18.4 percent.

Figure 4: Sector Contribution to GDP, Percentage (2009-2020)



Source of Data: Kenya National Bureau of Statistics

The sectoral growth for 2020 shows that COVID-19 pandemic affected the sectoral performance differently as shown in Table 1. Notably, some of the key sectors that contribute significantly to GDP and revenue performance remained resilient amidst the pandemic while others shrank. Agriculture, construction, information and communication, real estate, and financial and insurance services grew in 2020. While other sectors including manufacturing, wholesale and retail trade, transport and storage, accomodation and food services contracted.

Table 1: Sectoral growth (2020)

No.	Sector	Contribution to GDP	Growth	No.	Sector	Contribution to GDP	Growth
1	Agric, forestry, fishing	23%	4.80%	1	Manufacturing	8%	-0.10%
2	Mining & quarrying	1%	6.70%	2	Electricity supply	1%	-0.50%
3	Water supply; sewerage, waste mgt	1%	1.90%	3	Wholesale & retail trade; repairs	8%	-0.40%
4	Construction	7%	11.80%	4	Transport & storage	11%	-7.80%
5	Information & communication	3%	4.80%	5	Accommodation & food service activities	1%	-47.70%
6	Financial & insurance activities	6%	5.60%	6	Professional, scientific, technical activities	1%	-13.50%
7	Real estate	9%	4.10%	7	Administrative & support service activities	1%	-17.70%
8	Public administration & defence	6%	5.30%	8	Education	4%	-10.80%
9	Human health & social work activities	2%	6.70%	9	Arts, entertainment & recreation	0%	-24.30%
10	Activities of households as employers	1%	1.50%	10	Other service activities	1%	-19.50%
				11	FISIM	-2%	-2.00%

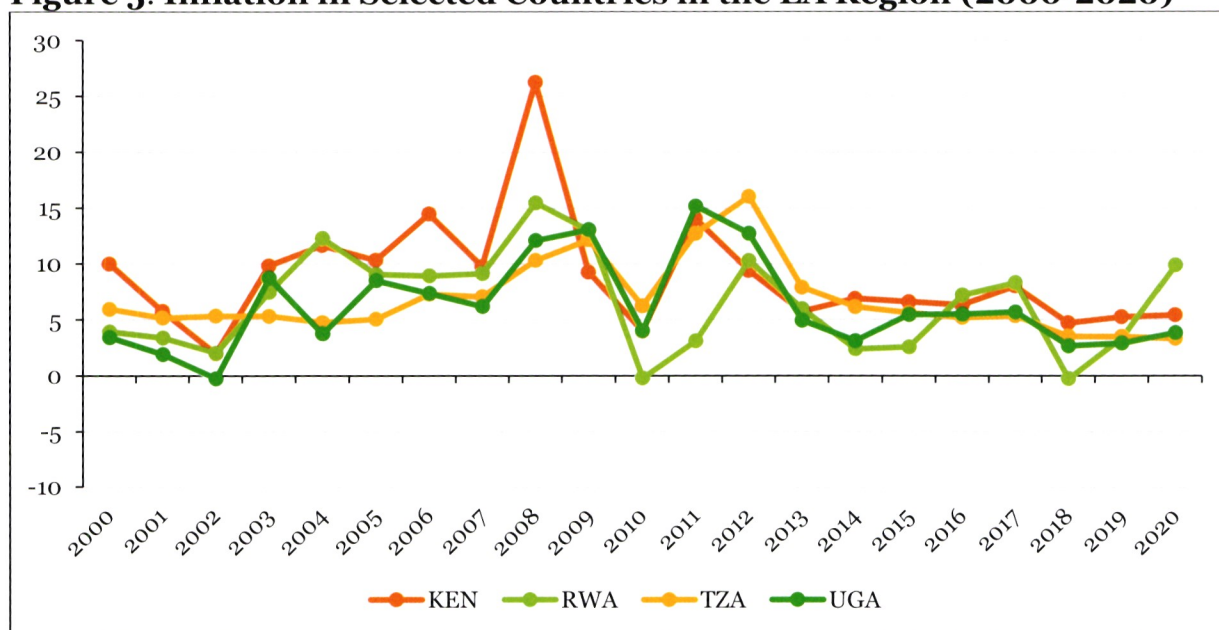
Source of data: Kenya National Bureau of Statistics

Though Kenya's economy is expected to recover and grow at 5.6 percent in 2021, this growth is likely to be dampened by the general election in 2022. Historical evidence (Figure 3), shows that periods of general election are characterised by reduced economic activity as investors hold back awaiting the outcome of the election. For instance, GDP growth contracted in 2002, 2013 and 2017. Consequently the slow recovery of the economy is likely to affect the performance of revenues.

2.2.2. Inflation

Inflation in East Africa region remained stable at 7 percent against the East Africa Community (EAC) convergence criterion of 8.0 percent as shown in Figure 5.

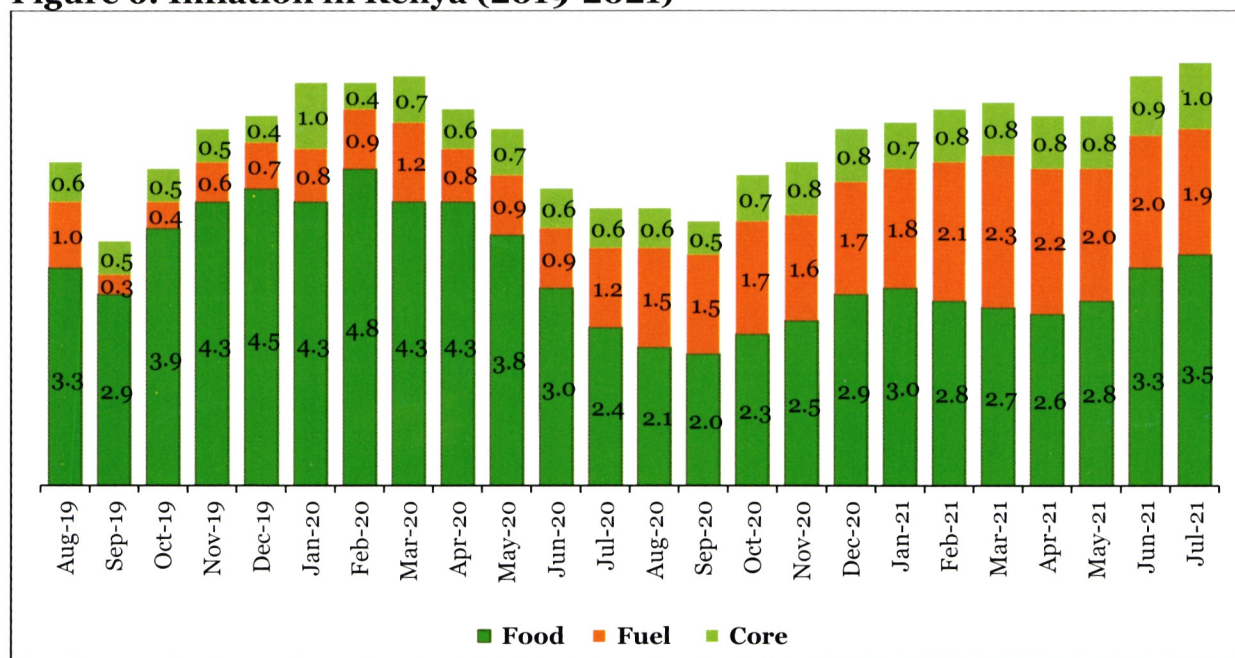
Figure 5: Inflation in Selected Countries in the EA Region (2000-2020)



Source of data: World Bank

On average, Kenya’s inflation is stable and within target of 5 ± 2.5 percent as shown in Figure 6. Decomposition of Kenya’s inflation reveals that food and fuel are the main drivers of inflation. Core inflation has been stable below one percent reflecting a stable monetary policy even during the electioneering years.

Figure 6: Inflation in Kenya (2019-2021)



Source: National Treasury

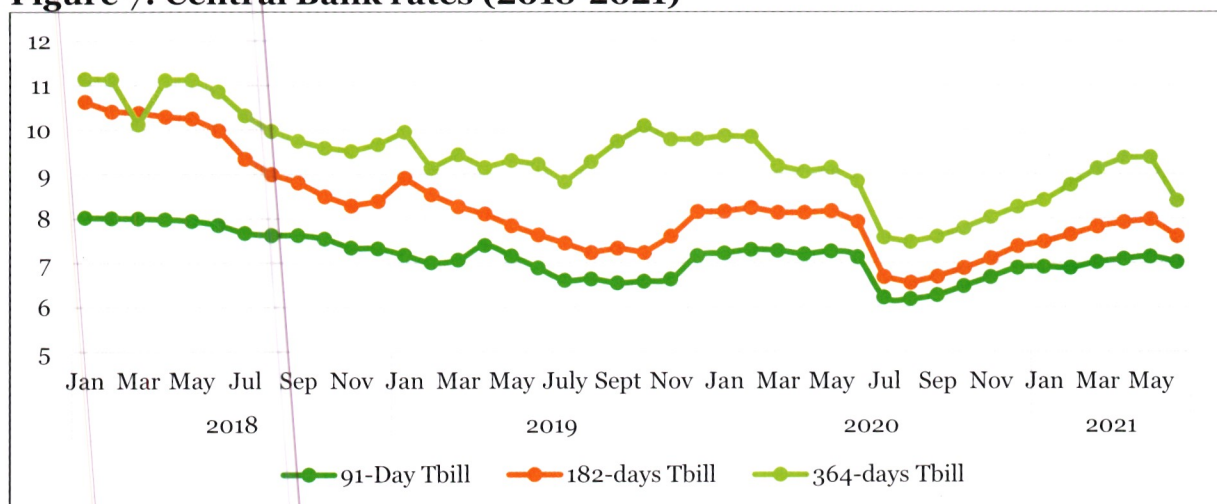
Inflation affects the cost of service delivery and therefore the expenditure needs to either level of government.

2.3. Monetary sector

2.3.1. Interest Rates

The 91-days, 182-days and 364-days Treasury bill rates declined in 2018 and 2019 during the period of interest rates capping. However, the rates have been steadily rising since 2020 as shown in Figure 7. High Treasury bill rates increases the cost of borrowing and incentivises lending to the government as opposed to the private sector.

Figure 7: Central Bank rates (2018-2021)



Source of data: Central Bank of Kenya

Figure 7 depicts a normal structure of interest rates where short-term securities have lower interest rates compared to the longer-term securities. This is an indication that investors have not changed their perception of the market and government policy.

As shown in Figure 7, the increase in the Central Bank Rates (CBR) in 2020, led to increased credit to the government by 43 percent as shown in Figure 8. From 2015, credit to the government has consistently grown at higher rates compared to credit to the private sector. It is important to note that the low uptake of credit by the private sector was not due to the high lending rates, given that over the same period, interest rates were capped at no more than four percentage points above the CBR. The low uptake could be attributed to stringent borrowing conditions by the lending institutions.

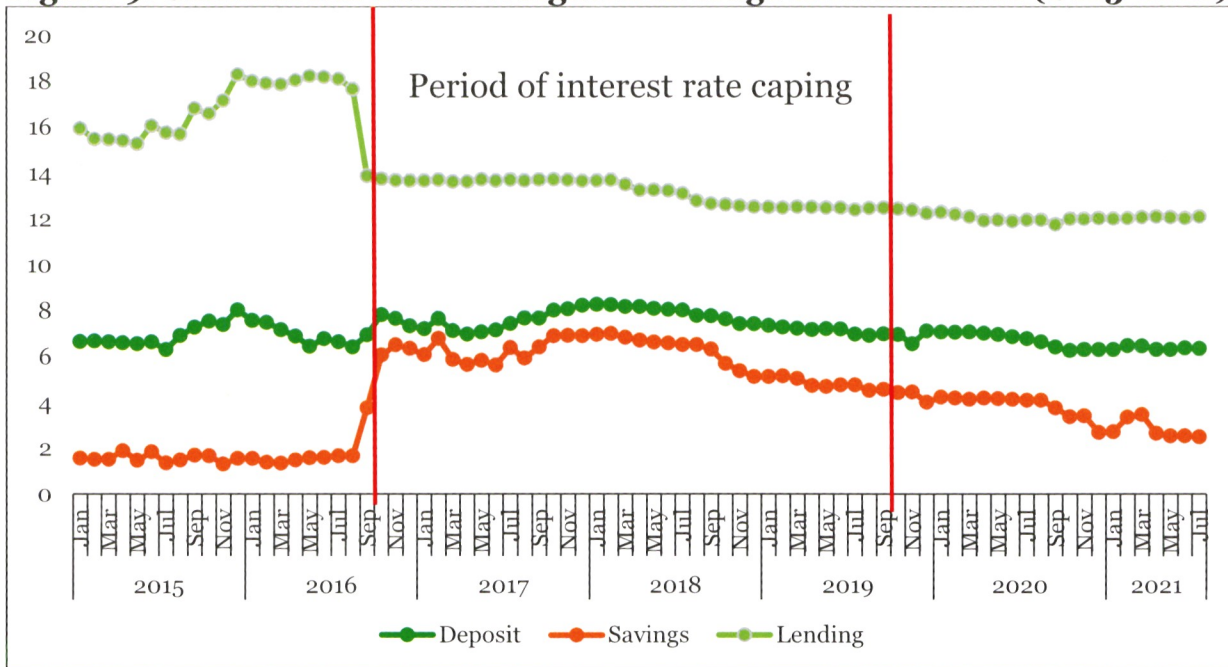
Figure 8: Growth in Credit to Government and Private Sector (2000-2020)



Source of data: Central Bank of Kenya

While the Central Bank rates have been increasing since September 2020, the savings and deposit rates have been declining as shown in Figure 9. The lending rate, which determines investors borrowing has been increasing slightly since the repeal on interest rate capping. It declined from 17.7 percent in August 2016 and has since stabilised at 12 percent. This has boosted private sector borrowing as depicted in Figure 8 as banks eased the stringent lending conditions.

Figure 9: Commercial Banks Weighted Average Interest Rates (2015-2021)

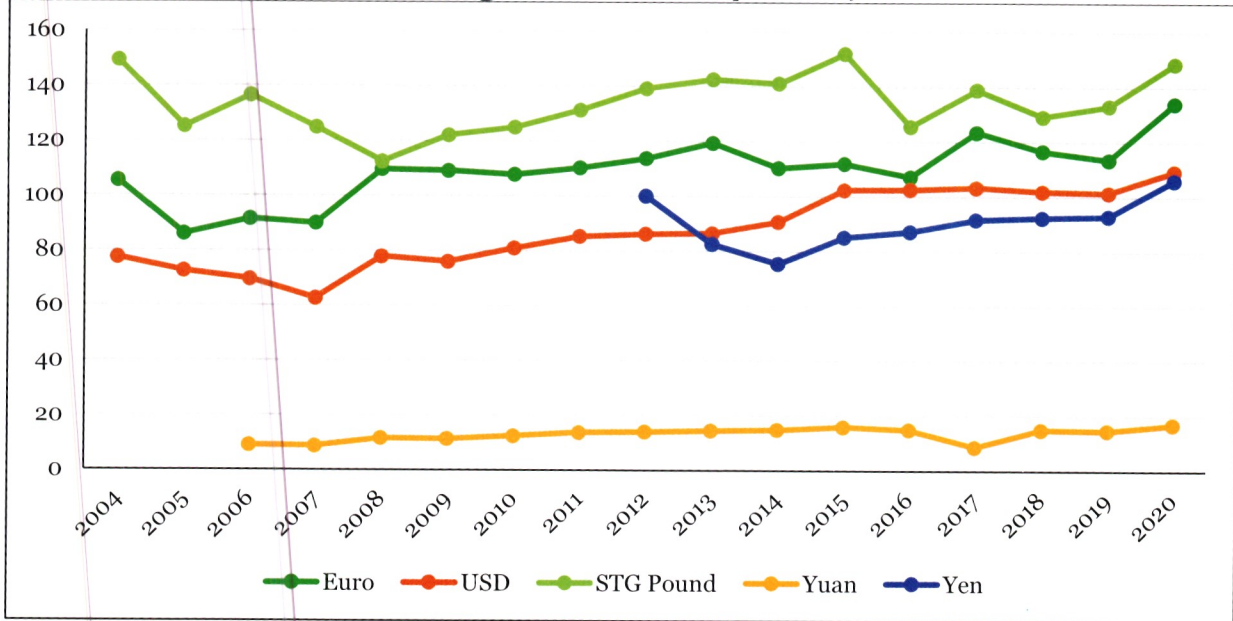


Source of data: Central Bank of Kenya

2.3.2. Exchange Rates

The Kenya shilling depreciated against the major world currencies in 2020 compared to 2019 due to the global lockdown as shown in Figure 10.

Figure 10: Selected Exchange Rates (2004-2020)



Source of data: Central Bank of Kenya

Exchange rate fluctuations have an effect on the current account balance and the amount of debt service repayable on foreign denominated loans. This negatively affects the external debt service that is mostly United States Dollar (USD) denominated leading to increased cost of debt repayment.

From the foregoing, the macroeconomic environment continues on a stable path as exhibited by the low inflation, relatively stable interest rates and stable exchange rates. Such an environment supports growth and boosts investor confidence in the economy.

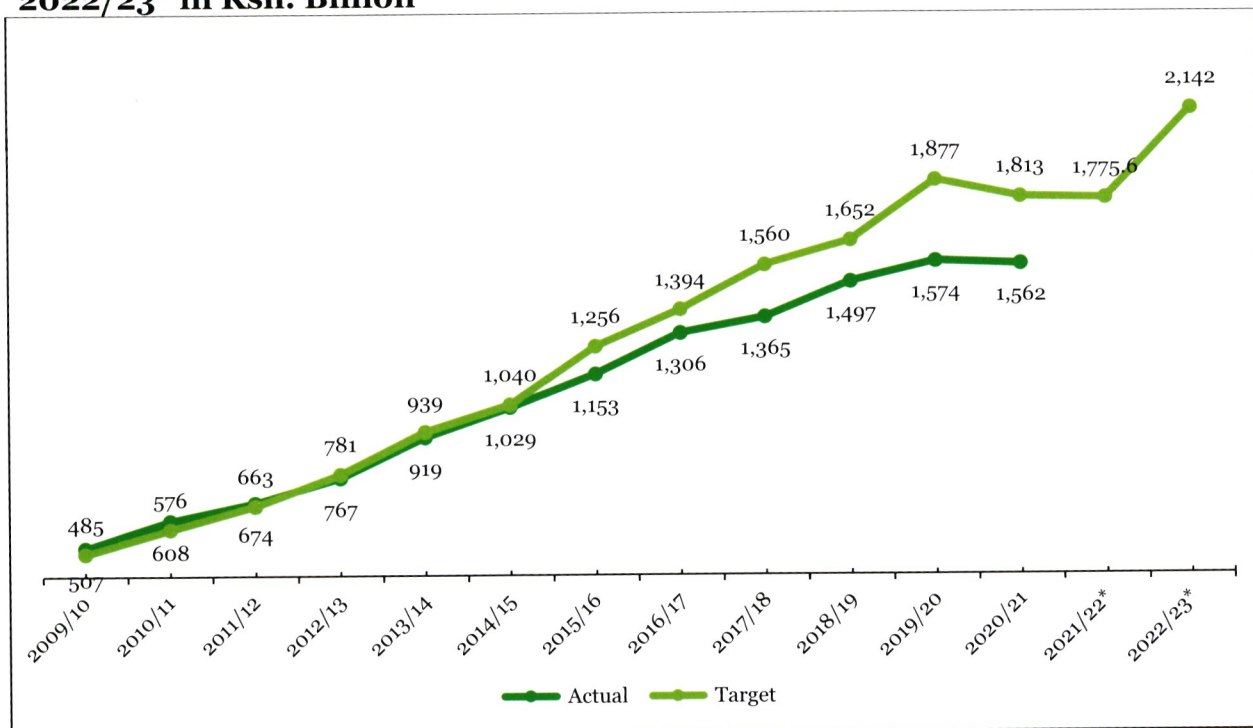
3.0. FISCAL PERFORMANCE

This section provides an assessment of national and county governments’ fiscal performance. The Fourth Schedule of the Constitution assigns functions to either level of government and Article 209 mandates both levels to raise revenues through taxes, fees and user charges. Revenues raised nationally are to be shared equitably to finance the assigned functions.

3.1. Performance of Ordinary Revenues

Actual ordinary revenue collections have been increasing over the years, but below target as shown in Figure 11. Over time, revenue collections have consistently remained below their target with the gap widening from the financial year 2015/16. For instance, during the financial year 2019/20 actual ordinary revenue collection was Ksh. 303 billion (19.3 percent) below the target. In the financial year 2020/21 ordinary revenue shortfall was Ksh. 251 billion (16.1 percent).

Figure 11: Actual and Targeted Ordinary Revenue from the FY 2009/10 to 2022/23* in Ksh. Billion



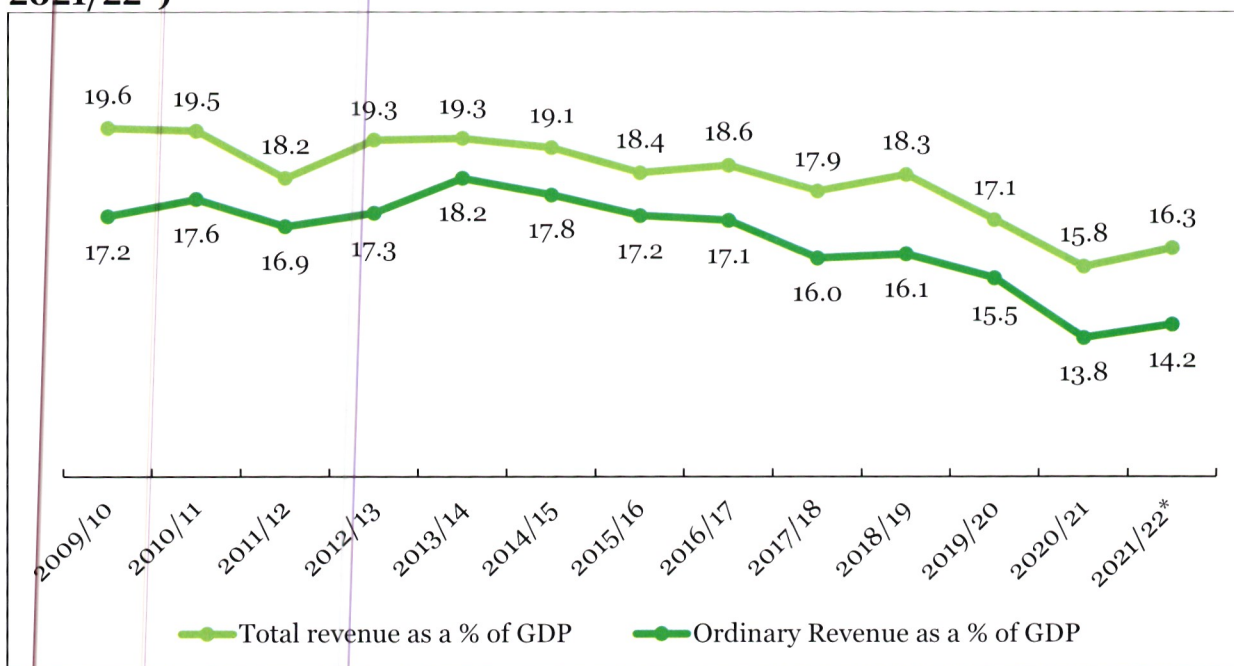
Source of Data: National Treasury *Projected

Performance of actual ordinary revenue for the financial year 2020/21 was not only below target, but also lower than the previous year’s. This has largely been attributed to some of the measures put in place to contain the spread of the COVID-19 pandemic. The containment measures are classified into administrative and tax policy measures. Administrative measures include; restrictions on movement of persons and goods, public gatherings, and dusk to dawn curfew. The tax policy measures include; a reduction in turnover tax rate

(from 3 to 1 percent), a reduction in the corporate and individual income tax rate (from 30 to 25 percent), and a reduction in the Value Added Tax (VAT) rate (from 16 to 14 percent).

Further analysis reveals that the actual total and ordinary revenues as a percentage of the GDP have been declining from financial year 2016/17 as shown in Figure 12. The actual ordinary revenue declined from 17.1 percent of GDP in the financial year 2016/17 to 13.8 percent of GDP in the financial year 2020/21. This has partially been attributed to the declining performance of the manufacturing sector which is one of the highest contributors to revenue.

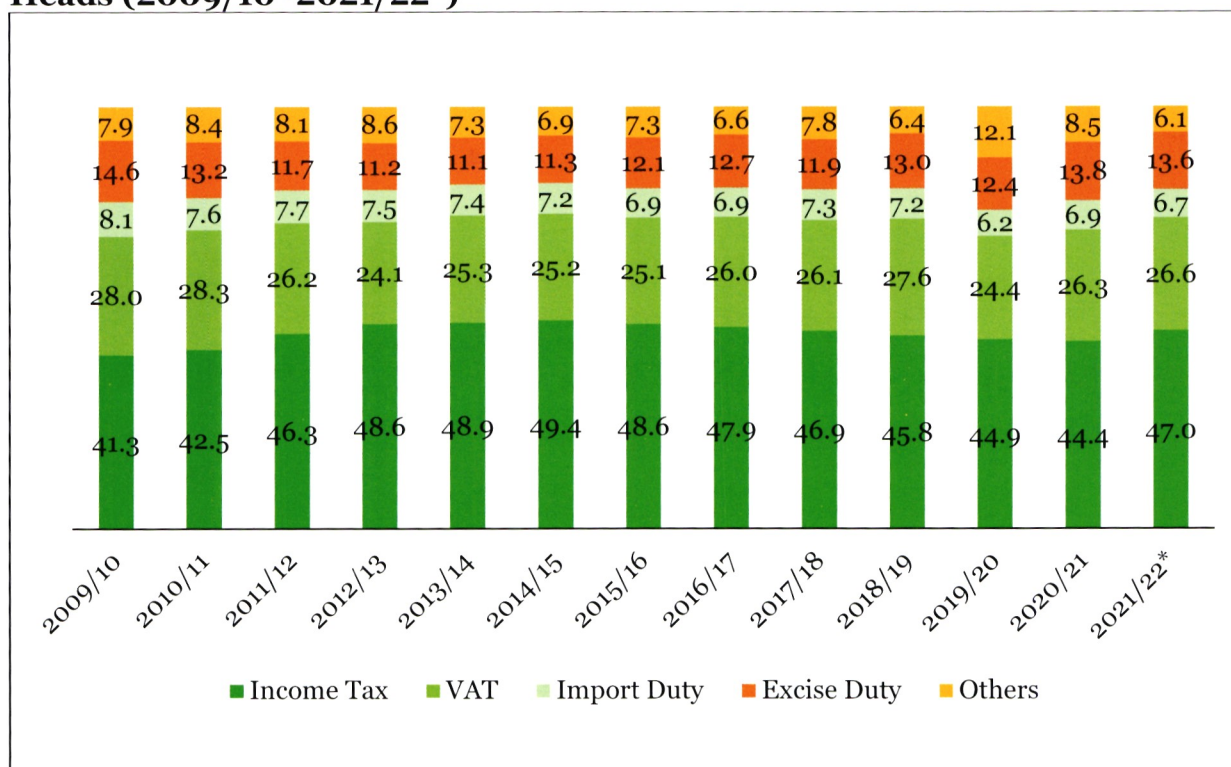
Figure 12: Total and Ordinary Revenue as a Percent of GDP (2009/10 - 2021/22*)



Source of Data: National Treasury

The expected slow recovery of Kenya's economy is likely to affect revenue performance and therefore the quantum of revenues available for sharing between the two levels of government. An analysis of the components of ordinary revenue reveals that the different tax heads' contribution to revenue have remained stable over time as shown in Figure 13.

Figure 13: Percentage Contribution to Ordinary Revenue by Main Tax Heads (2009/10 -2021/22*)



Source of Data: National Treasury

Income tax which comprises of pay as you earn (PAYE) and corporation taxes contributes the largest share to revenues at an average of 46 percent. The PAYE reduced in FY 2020/21 due to staff layoffs as companies instituted measures to deal with COVID-19 pandemic. Variations by Parliament/and or the Courts of tax measures approved in the finance bill to actualize the appropriations bill will continue to result non realization of revenue targets.

Non-realization of targeted revenue compromises budget implementation at both levels of government. At the national level, it leads to increased fiscal deficits and accumulation of public debt. At the county level, given that the county government’s budgets are largely financed from the nationally raised revenues, it leads to delayed equitable share transfers thereby affecting service delivery.

3.2. Revenues from Royalties

Article 69(1) of the Constitution obligates the government to ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources, and ensure equitable sharing of the accruing benefits. Natural resources revenues, which form part of the nationally raised revenue include proceeds from royalties⁶ and other levies from extractives as guided by the legal

⁶ A royalty refers to the payment for the right to use property, (Article 12 of the United Nations Model Convention)

provisions in the Mining Act 2016, Petroleum Act 2019 and the Energy Act 2019. Table 2 summarises the revenues from natural resources.

Table 2: Natural Resources Revenues FY 2018/19 to 2022/23* (Ksh. Million)

Source	2018/19	2019/20	2020/21	2021/22	2022/23*
Mining Royalties					
Cement levy	776.31	859.48	901.78	991.47	1,091.35
Royalty on Carbon Dioxide	6.43	-	21.34	23.46	25.82
Mining Royalties	74.42	193.38	146.51	161.08	177.30
Magadi Soda Royalties	195.12	105.23	175.98	193.48	212.98
Base Titanium Royalty	519.56	508.57	613.51	674.53	742.48
Total	1,571.84	1,666.66	1,859.12	2,044.02	2,249.93
Geothermal Royalties					
Royalties on Geothermal Development	745.79	602.00	906.00	409.00	508.56
Oil Exploration Royalties					
Royalties on Oil exploration	-	-	30.00	30.00	30.00
Royalties on Oil exploration training fees	421.18	-	192.00	230.47	232.90
Total	421.18	-	222.00	260.47	262.90

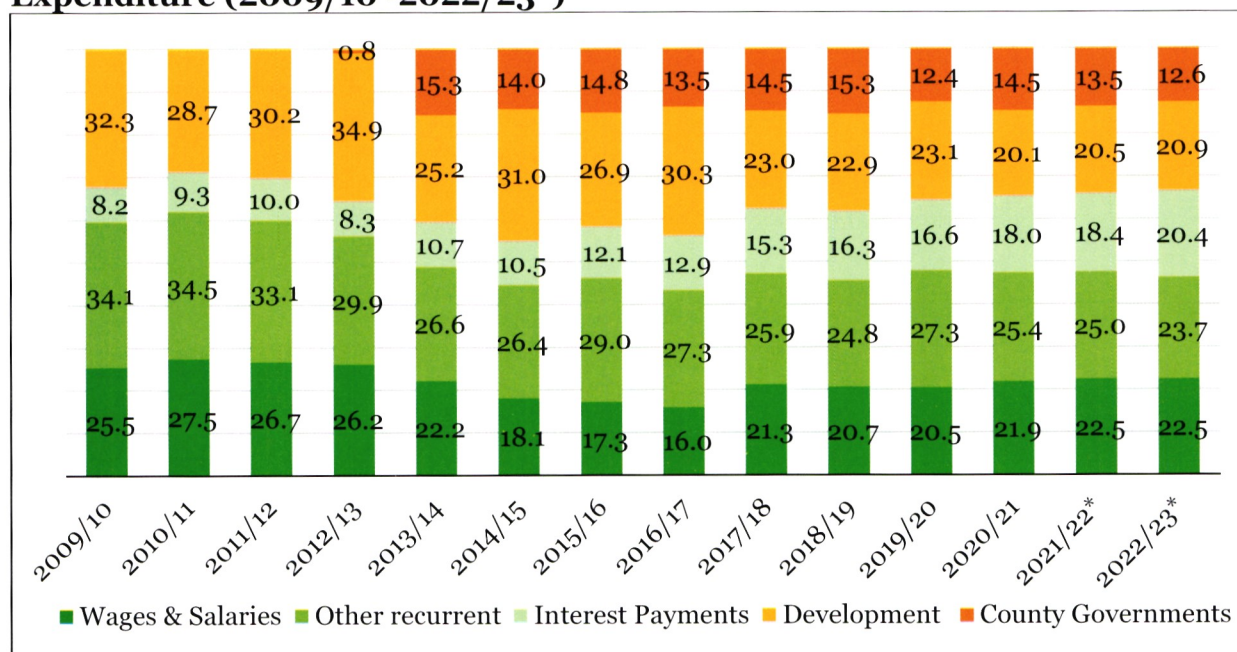
Source of data: National Treasury * Projections

The largest component of revenues from natural resources comes from cement levy which is collected from cement companies on account of use of limestone as a key raw material. However, the government does not collect royalties from extraction of limestone and therefore, counties with limestone mining areas will not benefit unless a framework is developed to collect the royalty at source.

3.3. Structure of Government Expenditures

As shown in Figure 14 recurrent expenditure of the national government accounts for two thirds of the total annual expenditure, of which wages and salaries is on average 22 percent. Interest payment on maturing debt accounts for an average of 13.4 percent (Appendix I).

Figure 14: Government Expenditures as a Proportion of the Total Expenditure (2009/10 -2022/23*)



Source of Data: National Treasury *Projected

Interest payments have been continuously increasing from 10.5 percent of total expenditure in the financial year 2014/15 to 18 percent in 2020/21. The continued increase has an effect on crowding out other key expenditures especially in development.

3.3.1. Pending Bills of the National Government

The total pending bills of the national government as at June 2021 amounted to Ksh. 36.4 billion⁷. This comprised of Ksh.35.11 billion from the previous years and Ksh.1.24 billion recorded in the financial year 2020/21 (Appendix II). The national government should prioritise payment of these pending bills to promote private sector investments.

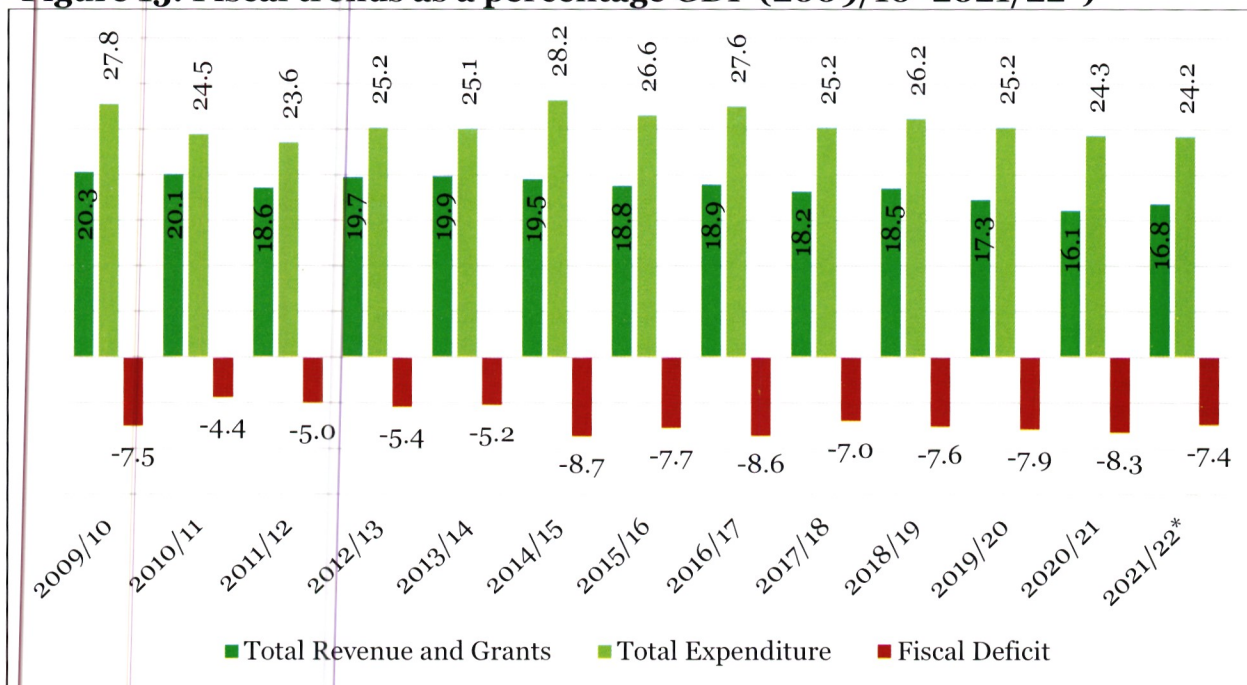
3.3.2. Fiscal Deficit

The underperformance of revenue in relation to the targets over the years together with upward pressure on expenditures have led to a widening fiscal deficit as shown in Figure 15. Since the financial year 2009/10 fiscal deficits have consistently remained above the 5 percent recommended threshold⁸. The fiscal deficit increased from 7 percent in the financial year 2017/18 to 8.3 percent in 2020/21. The fiscal deficit in the financial year 2022/23 is however projected to decline to 6 percent of the GDP.

⁷ Based on data from only 17 MDAs

⁸ Kenya Vision 2030

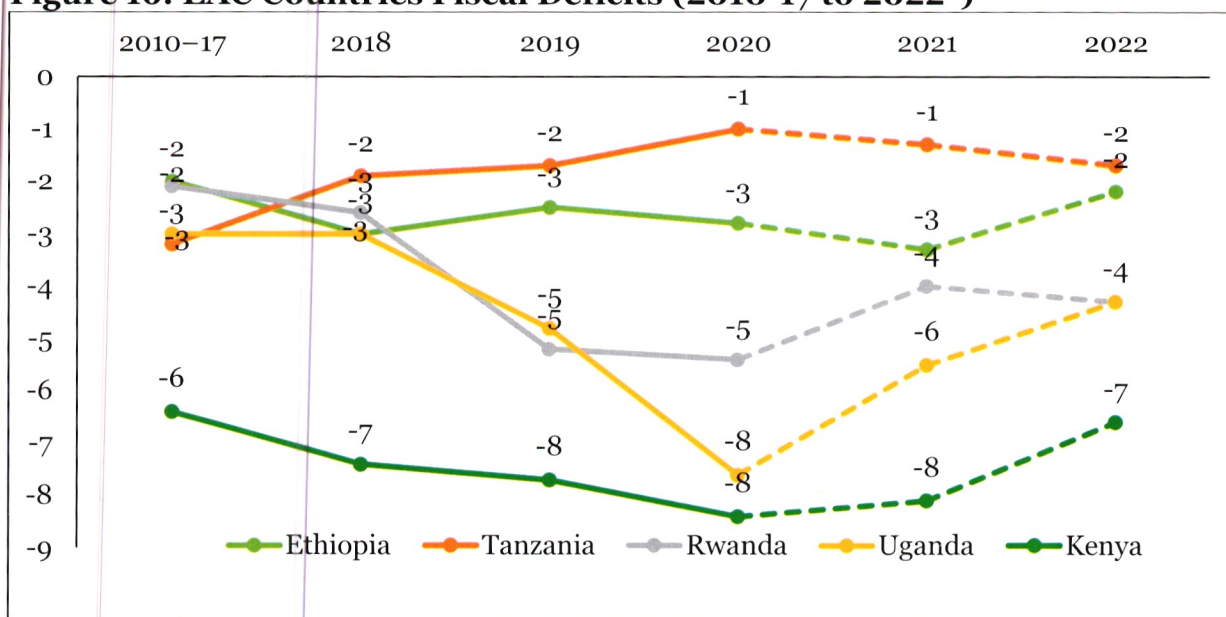
Figure 15: Fiscal trends as a percentage GDP (2009/10 -2021/22*)



Source of Data: National Treasury

Kenya has the highest fiscal deficit at an average of 7 percent in the East Africa region, followed by Uganda at an average of 5 percent⁹ as shown in Figure 16. Although each of the East African countries sets their own fiscal deficit threshold, the convergence criterion for the region is 3 percent of the GDP.

Figure 16: EAC Countries Fiscal Deficits (2010-17 to 2022*)



Source of data: IMF, 2021

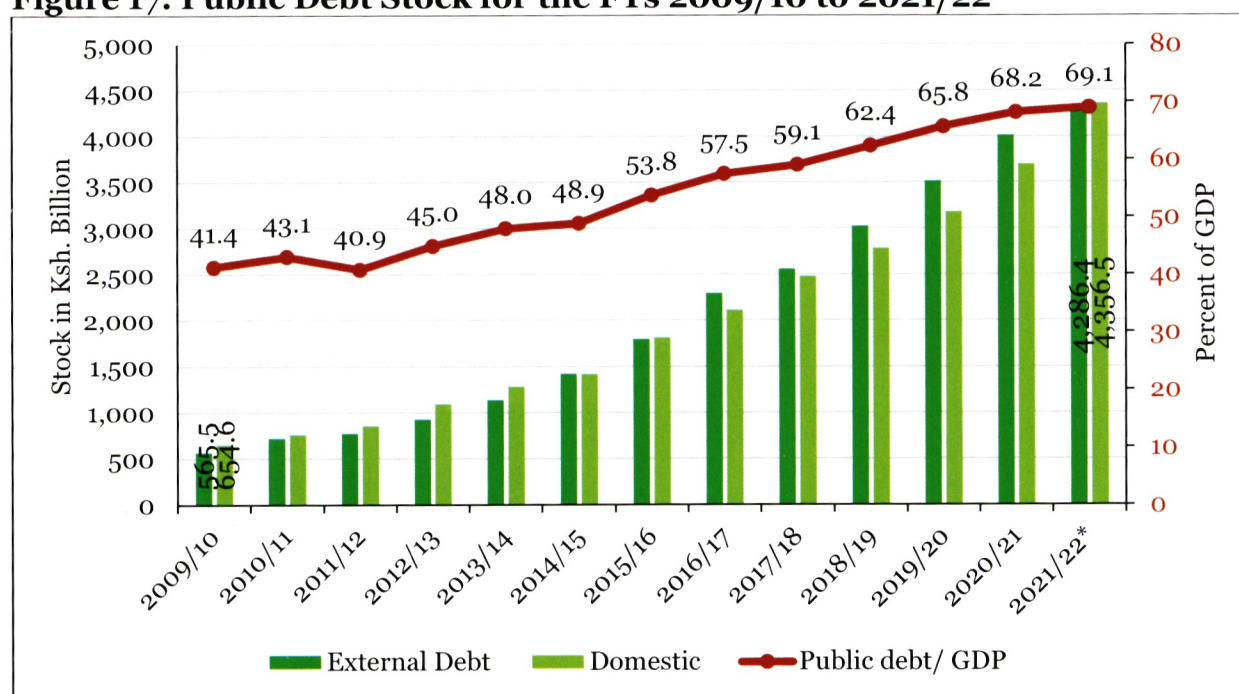
⁹ Sub-Saharan Africa Regional Economic Outlook, April 2021, IMF

3.4. Public debt

Kenya’s persistently high deficits above 5 percent target has resulted in cumulatively high public debt. The stock of public debt rose by 15.2 percent from Ksh.6, 694 billion in the financial year 2019/20 to Ksh.7, 712 billion in the financial year 2020/21 as shown in Figure 17. External debt which accounted for 52.1 percent of the total debt in the financial year 2020/21 rose by 14.2 percent to Ksh. 4,015 billion at the close of the financial year in June 2021. Domestic debt grew by 16.3 percent to Ksh. 3,697 billion over the same period. The stock of public debt is projected to rise to Ksh. 8,645 billion and Ksh. 9,420 billion during the financial years 2021/22 and 2022/23 respectively.

Parliament in 2019 amended the PFMA, 2012 on the debt limit to increase its threshold to Ksh. 9,000 billion by June 2024. The amendment also provided for restructuring of both domestic and external debts from short term expensive treasury bills and commercial loans to long term and less expensive treasury bonds and concessional loans.

Figure 17: Public Debt Stock for the FYs 2009/10 to 2021/22*



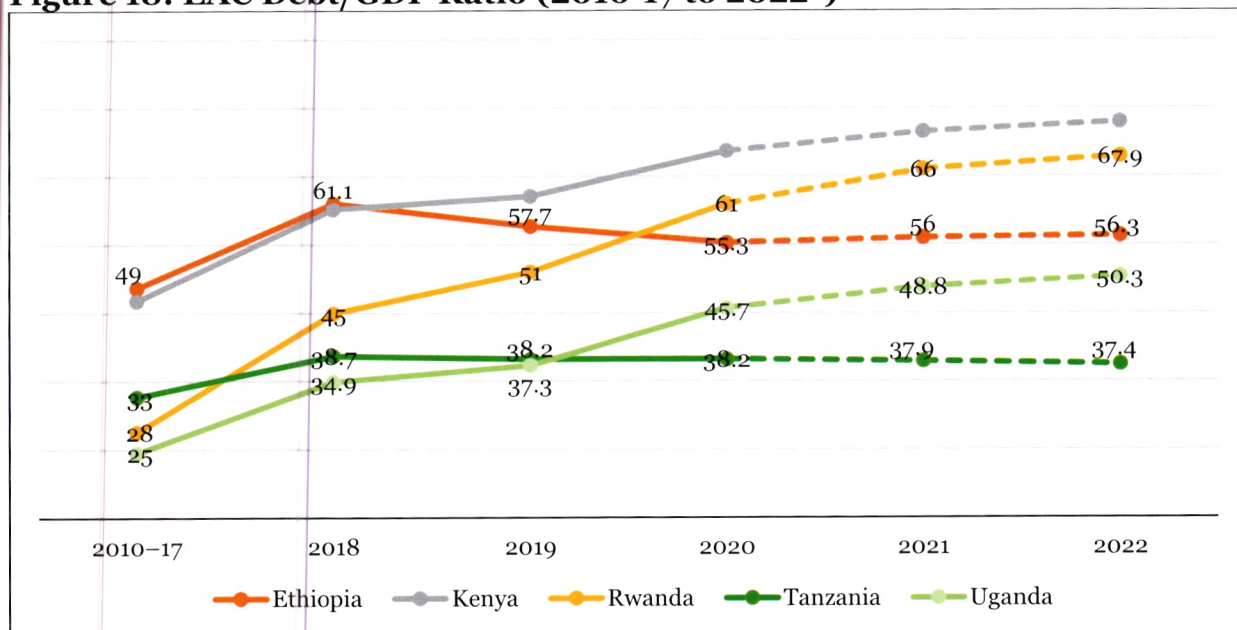
Source of Data: National Treasury

The country’s debt-to GDP ratio in the financial year 2020/21 was 68.2 percent and is projected to rise to 69.1 percent in the financial year 2021/22. This is above the 55 percent benchmark for Kenya which is rated at medium debt-carrying capacity¹⁰. Figure 18 presents the debt to GDP ratios for the East Africa region.

¹⁰ Under *Strong* debt carrying capacity the threshold on PV of public debt is 70 percent of GDP

Three countries namely, Kenya, Rwanda and Ethiopia are above the EAC debt to GDP convergence criterion of 50 percent¹¹.

Figure 18: EAC Debt/GDP Ratio (2010-17 to 2022*)



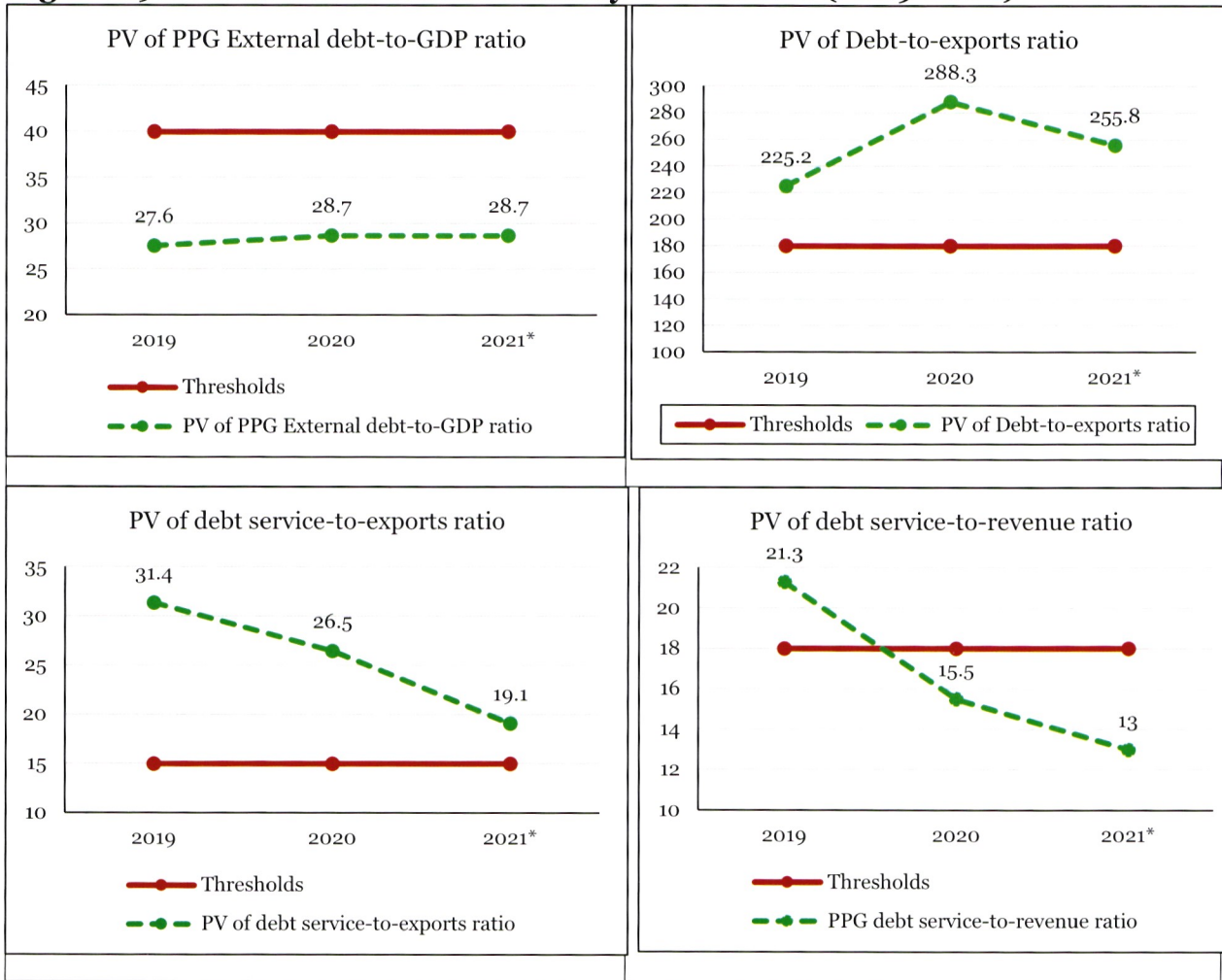
Source of data: IMF, 2021

Kenya's external debt sustainability in terms of exports is in breach of the present value (PV) of debt-to-exports and the debt service-to-exports ratio thresholds as shown in Figure 19. The present value of public and publicly guaranteed (PPG) external debt as a share of GDP remains below the 40 percent threshold, reflecting fiscal consolidation efforts and a mix of debt instruments that favour concessional borrowing¹². Overall, Kenya's risk of debt distress has been classified as high by both the World Bank and the IMF due to slow growth in exports and GDP.

¹¹ ibid

¹² Joint World Bank-IMF Debt Sustainability Analysis April 2021

Figure 19: External Debt Sustainability Thresholds (2019-2021)

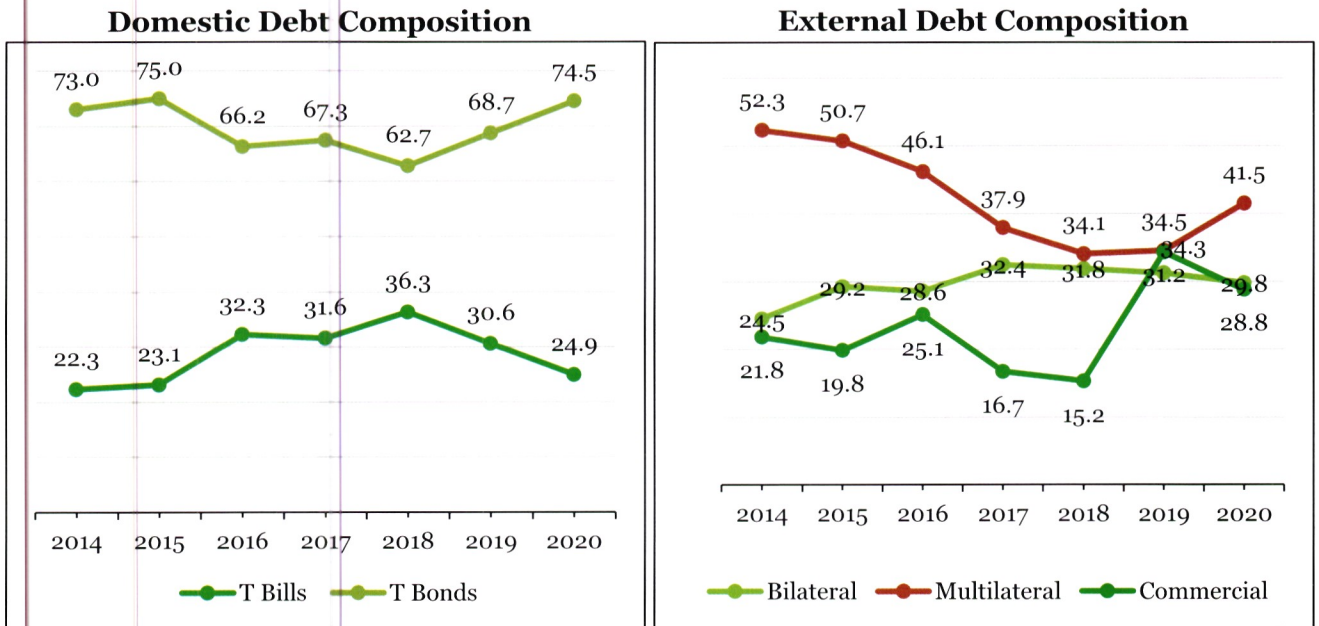


Source of Data: National Treasury

To cushion the country from further debt vulnerabilities, the government is implementing a debt management strategy that gradually substitutes domestic debt from short term to long term debt instruments and external debt from expensive commercial debt to cheaper concessional debt. The composition of treasury bonds in total domestic debt increased from 62.7 percent in 2018 to 74.5 percent in 2020 as shown in Figure 20. The longer maturity period associated with treasury bonds is important in easing the pressure on debt service.

The proportion of commercial debt to total external debt in 2019 was 34.3 percent. However, after restructuring, the proportion of commercial debt declined to 28.8 percent in 2020 as shown in Figure 20. This decline in the share of commercial debt to the total external debt indicates the government’s borrowing policy change towards concessional debt. Multilateral concessional debt has been increasing from 34.1 percent of the total external debt in 2018 to 41.5 percent in 2020.

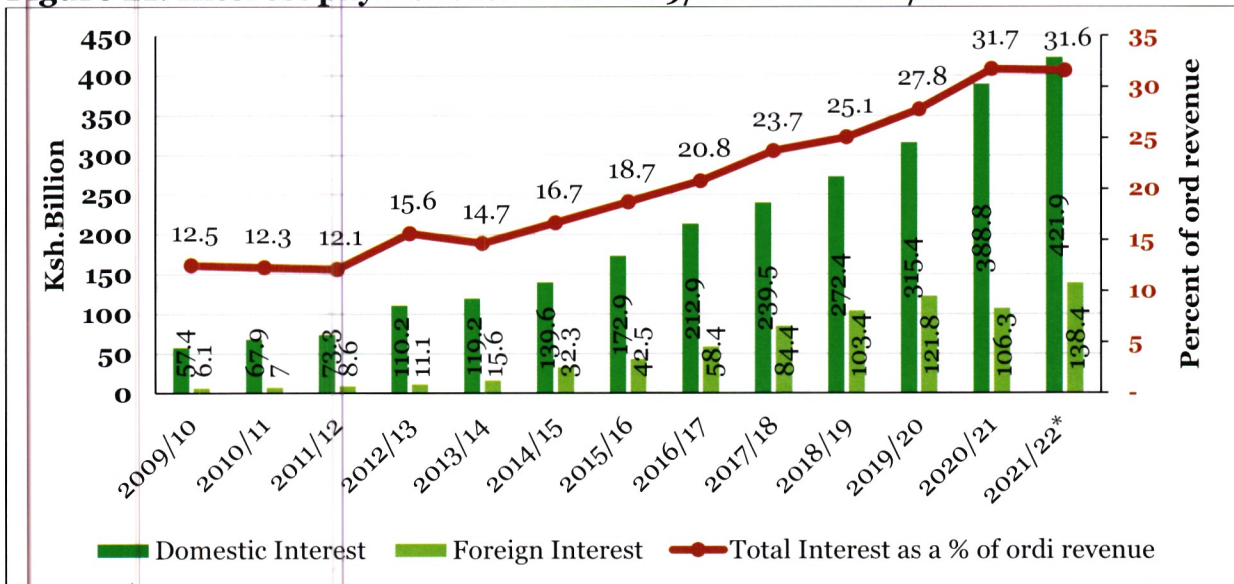
Figure 20: Domestic and External Debt Composition (2014-2020)



Source of data: National Treasury

Interest payments on debt in the financial year 2020/21 absorbed 31.7 percent of ordinary revenue, an increase from 27.8 percent in the financial year 2019/20. In the financial year 2021/22 interest payments are projected to absorb 31.6 percent of ordinary revenue as shown in Figure 21.

Figure 21: Interest payment for FYs 2009/2010 to 2021/22*



Source of Data: National Treasury

Debt repayment is a first charge when determining the shareable revenue between the two levels of government. A high debt service therefore reduces the equitable share available to either level of government.

3.5. County Governments Fiscal Framework

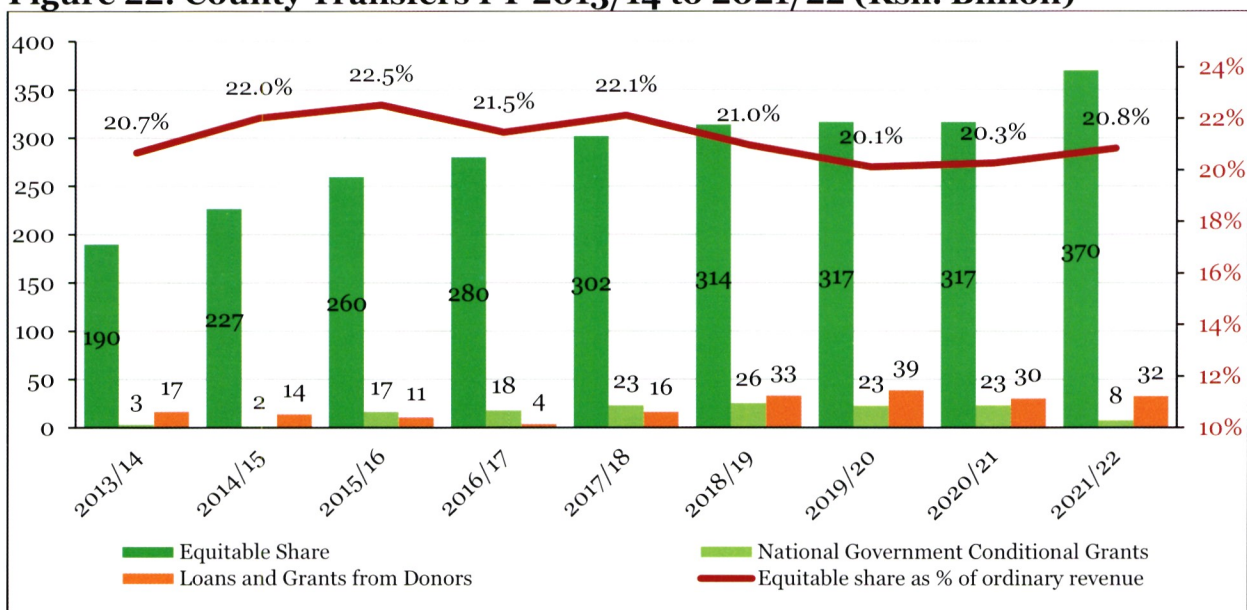
3.5.1. County Revenues

County governments' revenues comprise of equitable share, conditional grants, own source revenue (OSR), and loans. Article 202 provides that revenue raised nationally shall be shared between the national and county governments, and that counties may be given additional allocations from the national government's equitable share of revenue either conditionally or unconditionally. County governments also receive additional conditional grants from development partners. Further, Article 209 (3) authorises county governments to raise their own revenue by levying property rates, entertainment taxes, fees and charges on services provided. Article 212 provides for county borrowing.

In total, county governments have been allocated Ksh. 2,918.4 billion from the nationally raised revenue between financial years 2012/13 and 2021/22. This comprises of equitable share of Ksh. 2,585.5 billion and conditional grants of Ksh. 332.9 billion. In addition, counties have raised a total of Ksh. 270.7 billion in own source revenue between financial years 2013/14 and 2020/21.

Equitable share transfers constitute the main source of revenue to county governments. The equitable share has increased in absolute terms from Ksh. 190 billion in financial year 2013/14 to Ksh. 370 billion in financial year 2021/22. However, as a proportion of revenue raised nationally, the county equitable share has averaged 20 percent as shown in Figure 22.

Figure 22: County Transfers FY 2013/14 to 2021/22 (Ksh. Billion)



Source of Data: Controller of Budget

Conditional grants from the national government to counties from financial year 2013/14 to 2021/22 are summarised in Table 3. These grants are largely for financing health, roads and education.

Table 3: Summary of Conditional Allocations to the Counties from the National Government, FY 2013/14 – 2021/22

Conditional Allocation	Amount (Ksh. Billions)									
	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	Total
Level 5 Hospitals	3.4	1.9	3.6	4	4.2	4.3	4.3	4.3	-	30
User fees forgone			0.9	0.9	0.9	0.9	0.9	0.9	-	5.4
MES			4.5	4.5	4.5	9.4	6.2	6.2	7.2	42.5
RMLF			3.3	4.3	11.1	8.3	8.9	9.4		45.3
Construction of county HQS					0.6	0.6	0.49	0.3	0.3	2.29
Rehabilitation of polytechnic					2	2	2	2	-	8
Free maternal health care			4.3	4.1					-	8.4
Medical grant				0.2					-	0.2
Total conditional transfer	3.4	1.9	16.6	18	23.3	25.5	22.8	23.1	7.5	142.1

Source of data: County Allocation of Revenue Act, Various Issues

In the financial year 2021/22, counties have been allocated grants amounting to Ksh. 7.5 billion being allocations for the construction of county headquarters and the Managed Equipment Scheme (MES). The MES has a contractual obligation whereas the construction of county headquarters is part financing by the national and county governments. Other conditional grants, namely; level 5 hospitals, user fees foregone, Roads Maintenance Levy Fund, and rehabilitation of village polytechnics were converted into equitable share in the financial year 2021/22.

Conditional grants from development partners are summarized in Table 4. These grants are for financing health, agriculture, infrastructure, water and sanitation, social protection and capacity building.

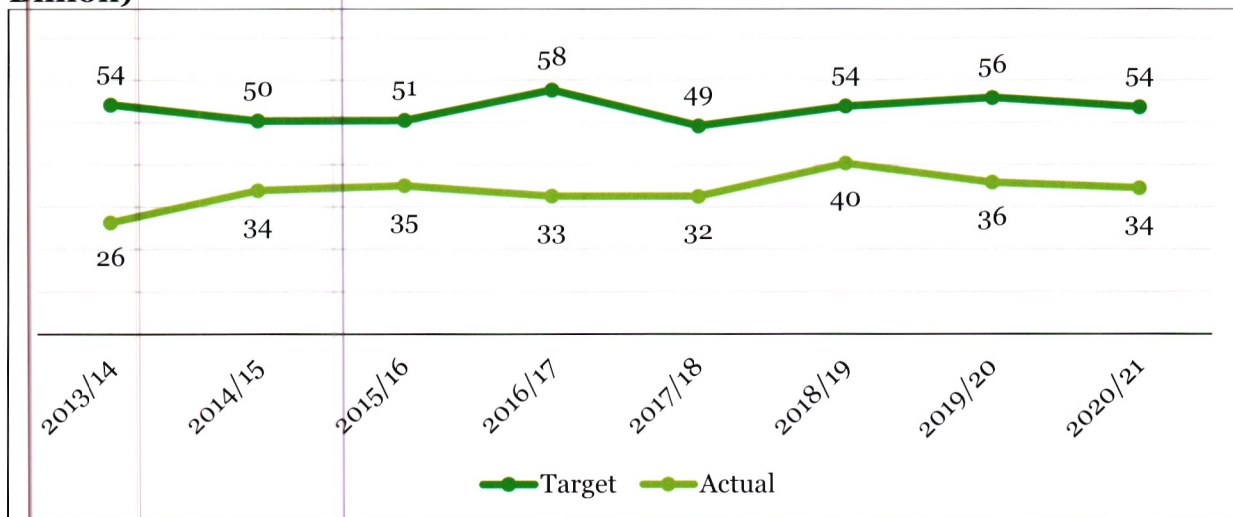
Table 4: Summary of Conditional Grants and Loans from Development Partners (Ksh. Millions) for FYs 2013/14 to 2021/22

	Source/Funding	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	Total
1	World Bank Loan to Supplement financing of County Health facilities	0	0	508	1,302	873					2,683
2	DANIDA Grant to supplement financing of County Health facilities			845	422						1,267
3	World Bank Transforming Health Systems for Universal Care Project					2,750	3,637	2,994	4,345	2,235	15,961
4	IDA credit (National Agricultural and Rural Inclusive Growth Project					1,050	2,949	7,233	4,262	6,395	21,889
5	IDA Kenya Climate Smart Agriculture Project						3,039	3,643	7,120	7,838	21,640
6	IDA credit: Kenya Devolution Support Project " Level 1 grant"					2,148	2,300	1,410	2,115	4,600	12,573
7	IDA credit: Kenya Urban Support Project - Urban Development Grant						11,465	11,465	6,366		29,296
8	DANIDA Grant (Universal Healthcare in Devolved System Program)					763	1,013	987	900	701	4,364
9	EU Grant (Instruments for Devolution Advice and Support					986	1,040	493	216	231	2,966
10	IDA credit: Water & Sanitation Development Project						3,800	3,500	3,400	5,000	15,700
11	IDA credit: Kenya Devolution Support Project Level 2 grant***						4,000	4,890			8,890
12	Sweden- Agricultural Sector Development Support Programme II							850	653	1,300	2,803
13	EU- Water Tower Protection and Climate Change Mitigation and Adaptation Programme							495	528		1,023
14	IDA credit: Kenya Urban Support Project - Urban Institutional Grants							396			396
15	German Development Bank - Drought Resilience Programme in Northern Kenya							350	300	370	1,020
16	World Bank-Emergency locust Response Project									800	800
17	World Bank-Kenya Informal Settlement Improvement Project									2,800	2,800
18	UNFPA-9th Country Program Implementation									74	74
19	Grants and loans from donors-Others	16,581	13,889	9,318	2,146	7,838					49,772
	Total	16,581	13,889	10,671	3,871	16,408	33,242	38,705	30,204	32,344	195,917

Source of data: CARA

County governments OSR is raised from property and entertainment taxes, fees and charges. Over time, the actual collection of OSR has not only remained below target but also unstable as shown in Figure 23. In the financial years 2019/20 and 2020/2021, OSR was negatively affected by the measures undertaken by county governments to contain the spread of the COVID-19 pandemic.

Figure 23: Performance of OSR against Target FY 2013/14 to 2020/21(Ksh. Billion)

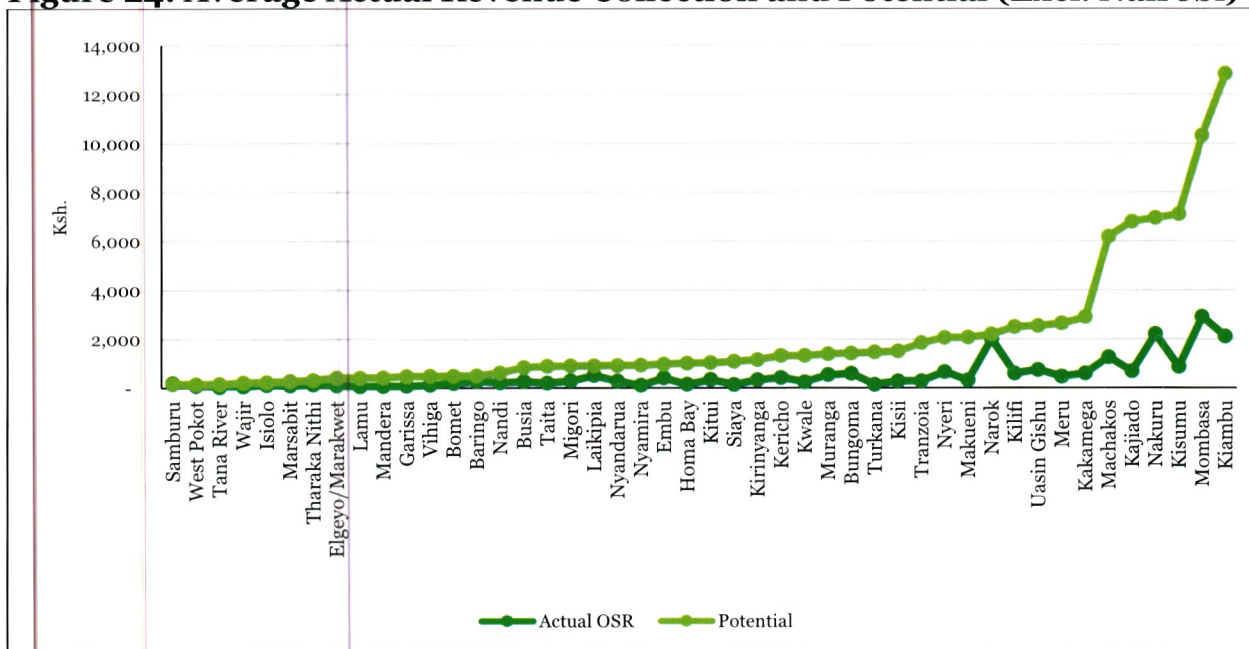


Source of Data: Controller of Budget

In the financial year 2020/21 county governments collected OSR amounting to Ksh. 34 billion against a target of Ksh. 54 billion. This represented an OSR performance of 62.9 percent. Over the devolution period, the highest collection by counties was in the financial year 2018/19 of Ksh. 40 billion, equivalent to 74.8 percent of the target.

Though county actual revenue collection remains unstable, available data on their OSR potential reveals that a number of counties can collect higher revenues. Figure 24 presents data on county actual average OSR collection against potential excluding Nairobi City County, which collects on average Ksh. 10 billion against a potential of Ksh. 79 billion.

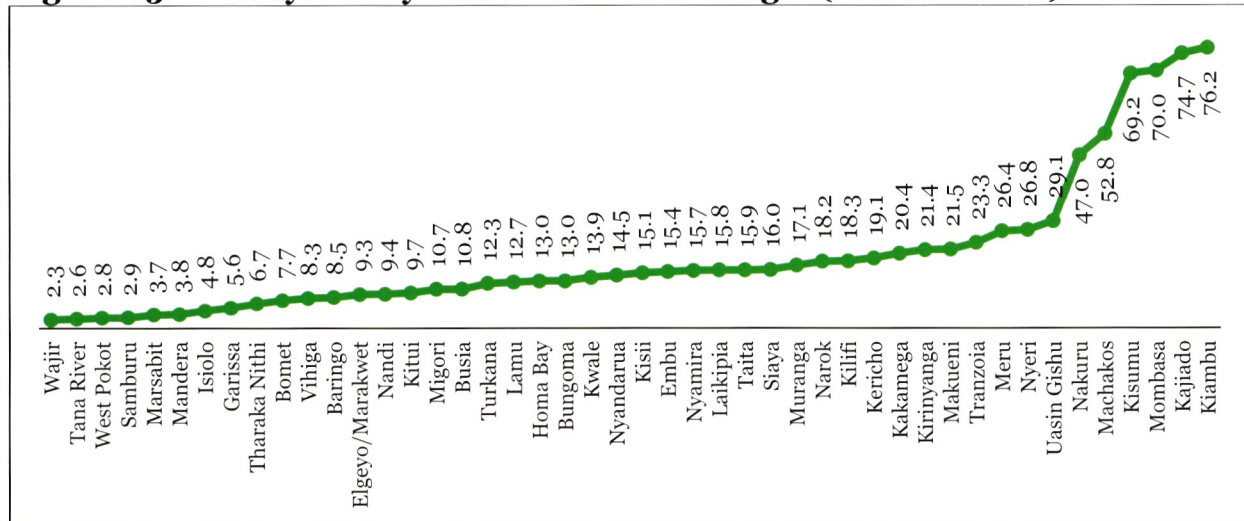
Figure 24: Average Actual Revenue Collection and Potential (Excl. Nairobi)



Source of data: OCOB and National Treasury

Nairobi City County has potential to finance 236 percent of its current budget. Other counties with high potential include Kiambu (76 percent), Kajiado (75 percent) Mombasa (70 percent), Kisumu (69 percent), and Machakos (53 percent) as shown in Figure 25. A total of 34 other county governments can only finance up to 20 percent, with 15 counties capable of financing less than 10 percent of their budgets. In effect, financing devolution in Kenya will continue to rely on nationally raised revenues unless a constitutional amendment assigns more taxing powers to county governments.

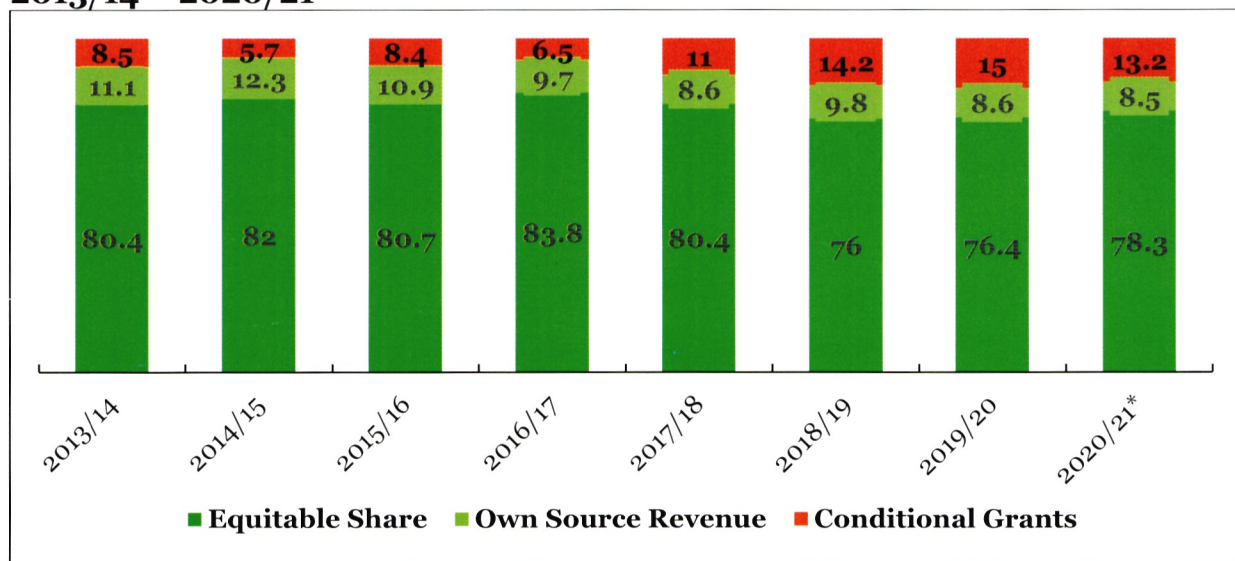
Figure 25: County Ability to Finance Own Budget (Excl. Nairobi)-Percent



Source of Data, COB, National Treasury

During the period from 2013/14 to 2020/21 the equitable share allocation contributed on average 79.3 percent to the total county revenue as shown in Figure 26. The proportion of OSR and conditional grants to total county revenue averaged 10.4 and 10.2 percent, respectively.

Figure 26: Contribution to County Governments' Total Revenue for FY 2013/14 – 2020/21*



Source of Data: Controller of Budget Note: OSR data for the FY 2020/21 is an estimate

A framework exists that provides for county governments to borrow for development financing up to a maximum of 20 percent of their total revenues. This requires approval from the county assembly, guarantee from the National Treasury and final approval by Parliament. However, to date no county has borrowed under this framework. Efforts are also being made to credit rate counties to enable them access additional funds from the capital markets.

3.6. County Expenditure Performance

Total county government expenditures increased from Ksh. 384 billion in 2019/20 to Ksh. 398 billion in 2020/21 as shown in Table 5. Over the same period, total county revenue was Ksh. 415 billion and Ksh.404 billion respectively. In effect county budget absorption is above 95 percent. Recurrent expenditure constituted 71 percent while development expenditure was 29 percent for the financial year 2020/21.

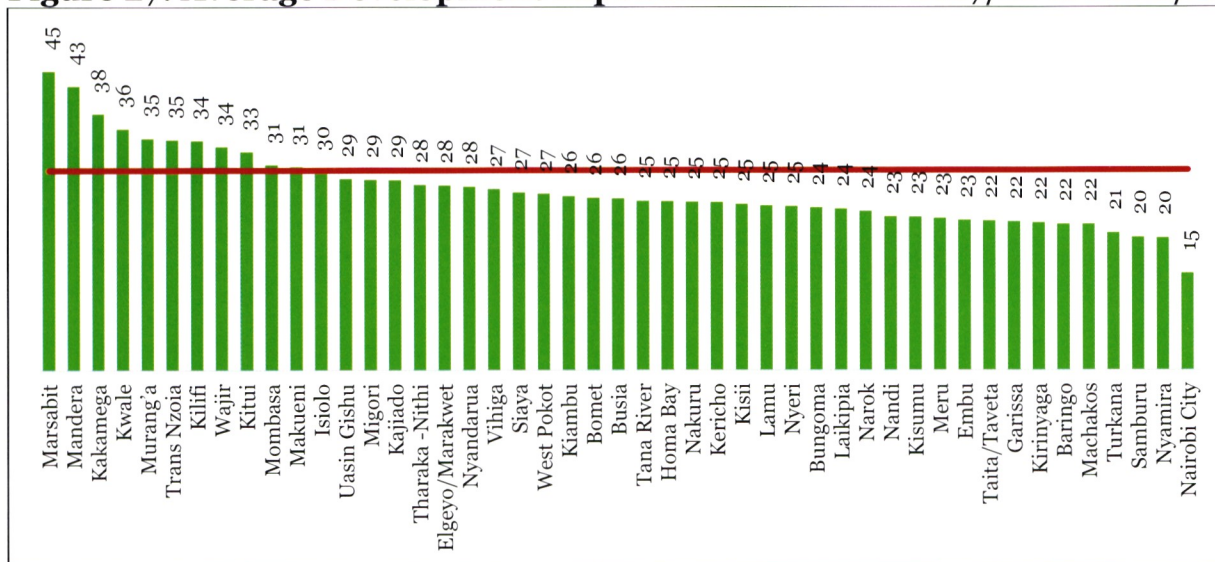
Table 5: Expenditure by Economic Classification, Ksh. Billion (2013/14-2020/21)

Expenditure	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Total Expenditure	169.4	258	295.4	319.1	303.8	376.4	383.8	398.01
Recurrent Expenditure	132.8	167.6	191.9	215.7	236.9	269.0	279.3	281.9
Of which, Personnel Emolument	77.4	103.1	118.7	130.9	151.1	162.8	171.8	176.0
O & M	55.4	64.5	73.2	84.7	85.8	106.2	107.5	105.9
% Recurrent	78.4	64.9	65.0	67.6	78.0	71.5	72.8	70.8
Development Expenditure	36.6	90.4	103.5	103.3	66.9	107.4	104.5	116.1
% Development	21.6	35.0	35.0	32.3	22.0	28.5	27.2	29.2

Source of Data: Controller of Budget

Analysis of actual expenditures over the period 2013/14 to 2020/21 shows that counties have on average spent 28.9 percent on development and 71.1 percent on recurrent expenditures. Section 107(b) of the PFMA 2012 requires that over the medium term, counties allocate a minimum of 30 percent of their total budget to development expenditure. Analysis of each county's actual development expenditure reveals that most counties spent less than 30 percent. During the financial years 2017/18 to 2020/21 only 12 counties had their actual development expenditures at 30 percent and above as shown in Figure 27.

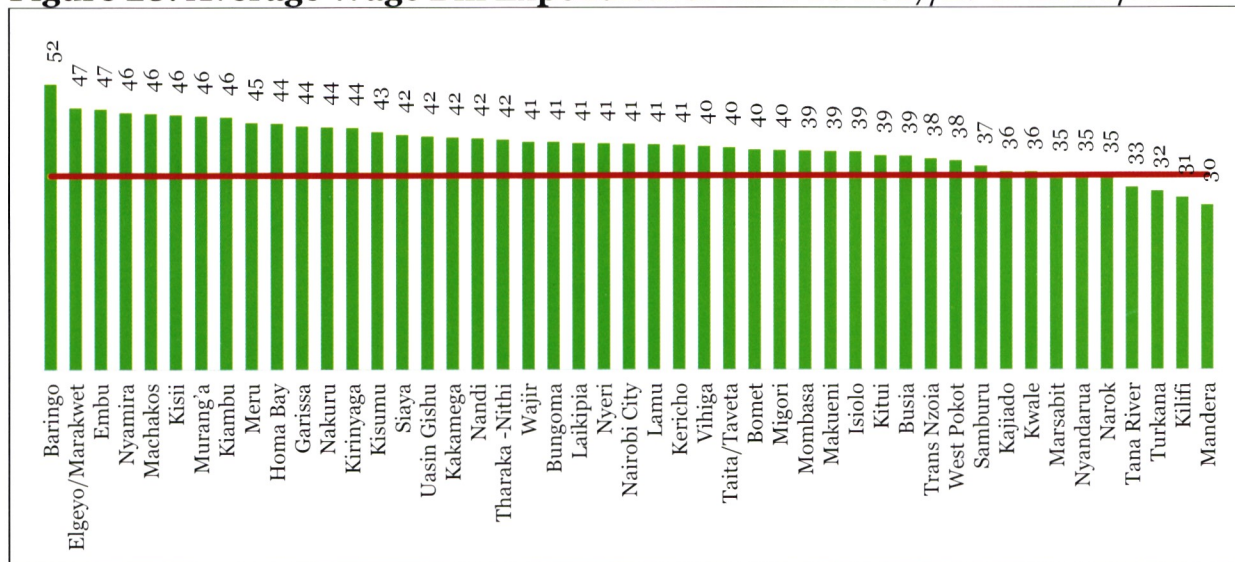
Figure 27: Average Development Expenditures for FYs 2017/18 to 2020/21



Source of Data: Controller of Budget

Section 25(1) (b) of the PFM regulations 2015 requires that county governments' wage bill does not exceed 35 percent of total revenue. As shown in Figure 28, counties spend a significant proportion of their recurrent budgets on personnel emoluments. On average, for financial years 2017/18 to 2020/21, only seven counties had their personnel emoluments expenditures within the maximum allowable limit of 35 percent.

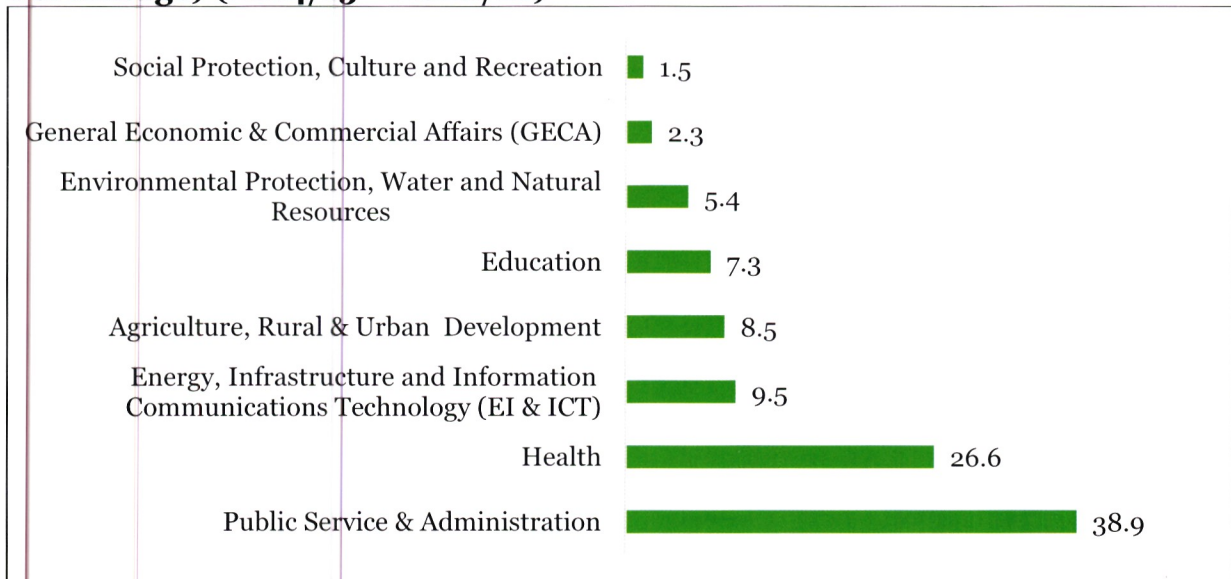
Figure 28: Average Wage Bill Expenditures for FYs 2017/18 to 2020/21



Source of Data: Controller of Budget

A breakdown of average actual county expenditure by sector is shown in Figure 29. A significant proportion of the total county expenditure is on public service and administration which constitutes 39 percent. The health, and agriculture, rural and urban development sectors account for 27 percent and 8.5 percent of the total county expenditures respectively.

Figure 29: Average actual County government expenditure by sector (in Percentage) (2014/15 – 2020/21)



Source of Data: Controller of budget

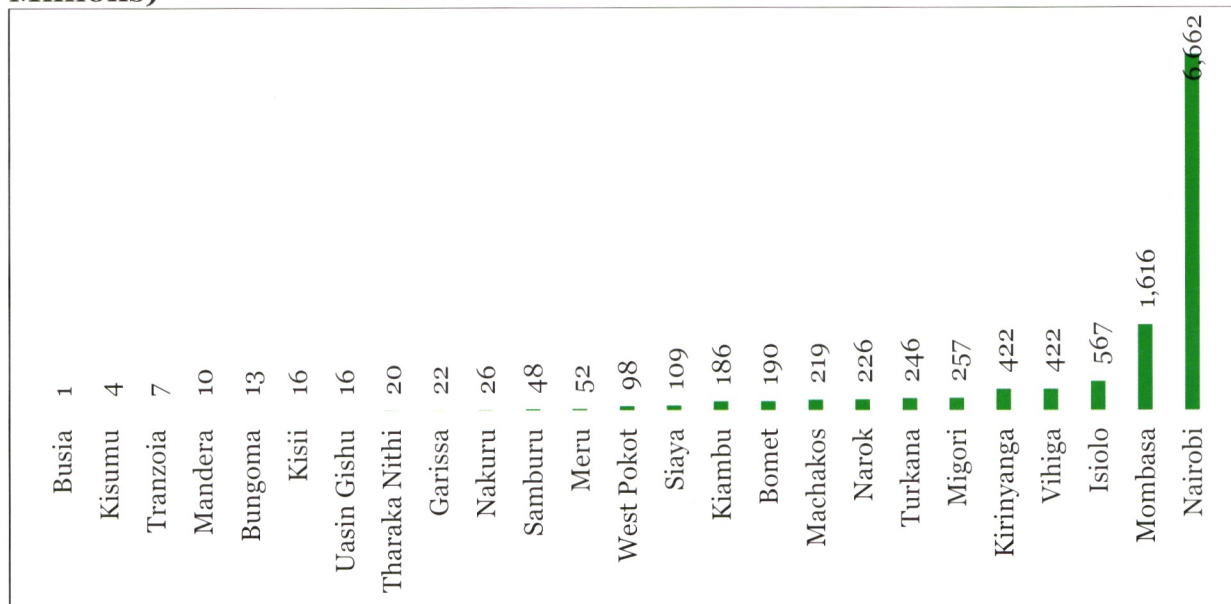
It is noted that detailed analysis of county sectoral expenditure is not possible since counties have no standard way of naming and coding their departments and therefore comparison across counties is difficult. It is therefore necessary for the Controller of Budget and other relevant agencies to standardize the Standard chart of accounts on the naming, coding and reporting by county governments.

3.7. County Pending Bills

Pending bills in most counties are historical. Some counties inherited pending bills from the defunct local authorities, others from the first county governments¹³, while other counties have accumulated bills since 2018. Figures 30 and 31 presents a summary of eligible pending bills as at June 2021 across a number of counties.

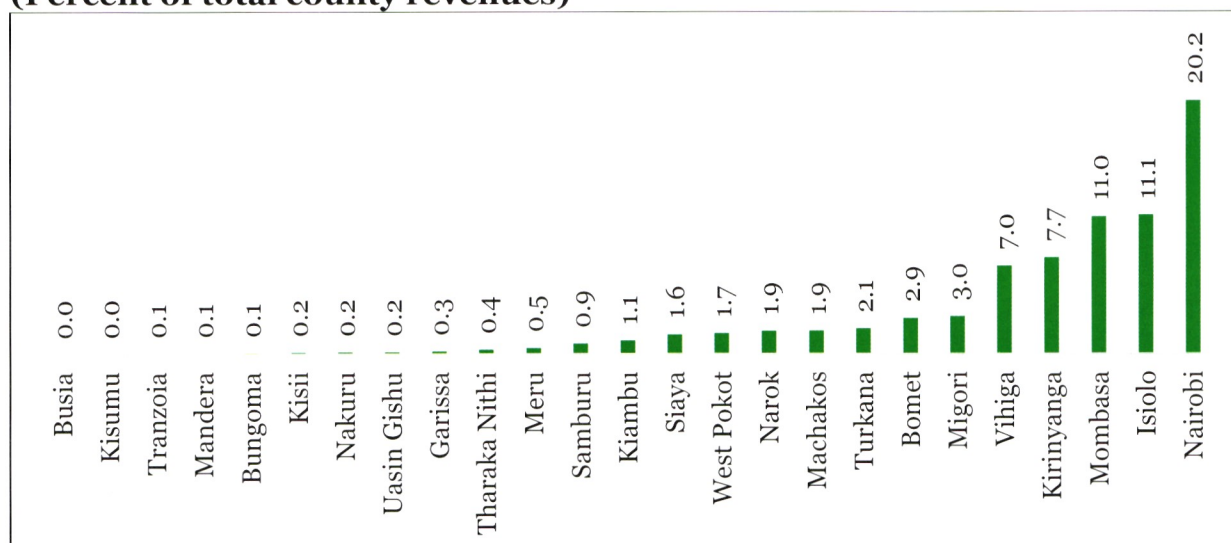
¹³ First County governments (2013-2017)

Figure 30: Outstanding eligible County Pending Bills as at June 2021 (Ksh. Millions)



Source of data: National Treasury

Figure 31: Outstanding eligible County Pending Bills as at June 2021 (Percent of total county revenues)

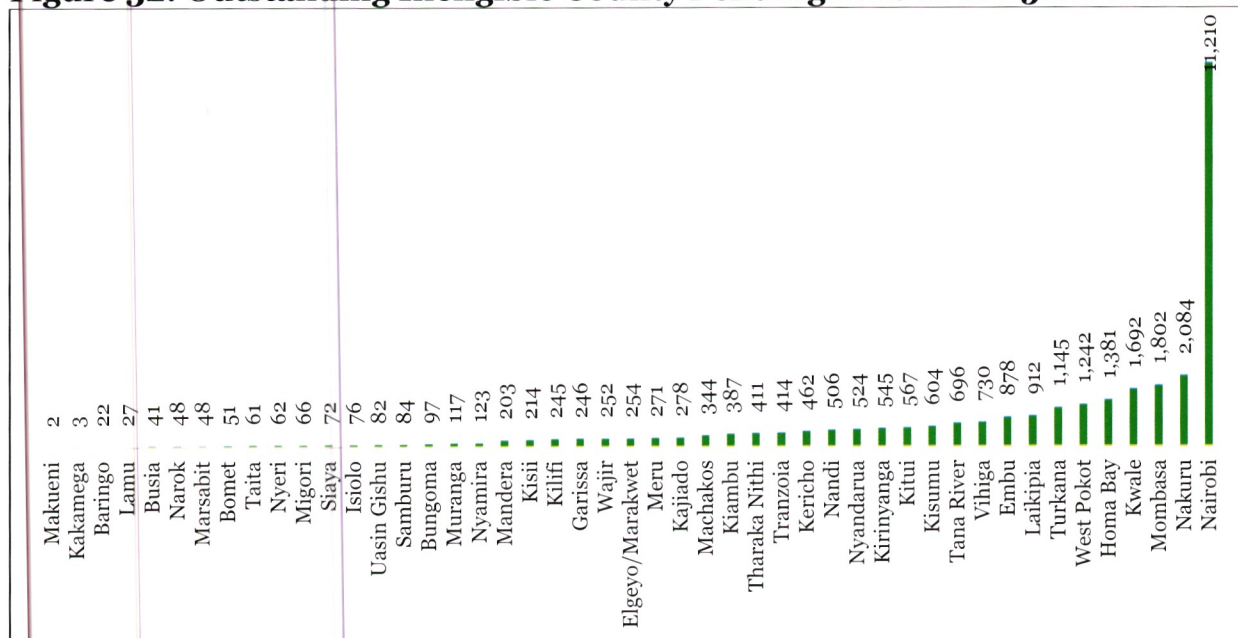


Source of data: National Treasury

Nairobi City County has the highest pending bills of Ksh. 6.6 billion, equivalent to 20.2 percent of the county's total revenue. Other counties with high pending bills are; Mombasa, Isiolo, Kirinyaga and Vihiga.

A significant amount of pending bills across different counties have been classified as ineligible by the Office of the Auditor General special report (Appendix III). These ineligible pending bills amounted to Ksh.31.6 billion as at June 2021. Figure 32 presents a summary of the bills across the various counties. This magnitude of pending bills should concern the Senate, County Assemblies and the National Treasury given their oversight responsibilities.

Figure 32: Outstanding Ineligible County Pending Bills as at 25th June 2021



Source of data: National Treasury

A number of governors are serving their final term in office, therefore the 2022 election is likely to see about 50 percent change in the leadership of county governments. From Figure 32, it is clear that majority of the counties with high ineligible pending bills had a change of government in 2017 notably; Nairobi, Nakuru, West Pokot, Laikipia, Vihiga, Kitui, Nyandarua, Tana River, Kirinyaga and Kisumu, among others. Ineligible pending bills is a cause for concern since it is imprudent financial management. It is therefore important that Parliament, National Treasury and the Office of the Controller of Budget put in place control measures to ensure that procurement processes are adhered to and that county governments pay their pending bills on time.

4.0. RECOMMENDATION ON EQUITABLE SHARES

Article 202(1) stipulates that the nationally raised revenue shall be shared equitably between the national and county governments. The shareable revenue is defined in the Constitution and Section 2 of the CRA Act, 2011 as:

“all taxes imposed by the national government under Article 209 of the constitution and any other revenue (including investment income) that may be authorized by an Act of Parliament, but excludes revenues¹⁴ referred to under Articles 206(1)(a)(b) and 209 (4) of the Constitution”.

For Financial year 2022/23, the Commission makes the following recommendations:

Recommendation 1: Equitable Shares of Revenue for financial year 2022/23

The shareable revenue for the financial year 2022/23 is projected to increase by Ksh. 366.4 billion from an estimate of Ksh. 1,775.6 billion in the financial year 2021/22 to Ksh. 2,142 billion. Since revenue collection has remained below target in the last 9 years of devolution, the national government has been bearing the revenue shortfall given that the Division of Revenue Act locks in the counties' allocation. Financing of the revenue shortfall in effect increases the national government's fiscal deficit and subsequently the stock of public debt.

Therefore, the Commission recommends that based on a revenue projection of Ksh. 2,142 billion for financial year 2022/23, the national government be allocated Ksh. 1,765.2 billion, county governments Ksh. 370 billion and Equalisation Fund Ksh. 6.8 billion. The Commission further recommends that the projected revenue increase of Ksh.366.4 billion above the financial year 2021/22 estimate of Ksh.1,775.6 billion if realised, be used to reduce the national government's fiscal deficit as a matter of national interest.

The county governments' allocation of Ksh. 370 billion is equivalent to 27.3 percent of the most recent audited and approved accounts for the financial year 2016/17 amounting to Ksh. 1,357.7 billion.

¹⁴ Art. 206(1)(a)(b) refers to revenues excluded from the Consolidated Fund by an Act of Parliament and payable into another public fund established for a specific purpose; or may, under an Act of Parliament, be retained by the State organ that received it for the purpose of defraying the expenses of the State organ. Art 209(4) refers to revenues from charges for services provided by either level of government.

This recommendation is underpinned by the following:

- 1. Economic growth:** The Commission is cognizant of the need to stimulate the economy following the slump occasioned by the COVID-19 global pandemic. However, given the limited fiscal space the Commission recommends that each level of government restructures its expenditures to stimulate the economy.
- 2. Revenue performance:** The expected slow recovery of the economy and the 2022 general election are likely to affect revenue performance negatively in the financial year 2022/23. To contain the fiscal deficits within the recommended target there is need for equitable shares to be retained at the financial year 2021/22 levels.
- 3. Debt Sustainability:** Persistent underperformance of revenues has led to increased fiscal deficits occasioning the accumulation of more debt to finance government functions. This call for fiscal consolidation to contain the public debt.
- 4. The 2022 General Election:** The general election will be held in August 2022. It is important that the national government restructures its expenditures to finance the election as a matter of national interest.

Recommendation 2: Sharing of Revenues from Natural Resources

Article 69(1) of the Constitution obligates the government to ensure not only sustainable exploitation, utilization, management and conservation of the environment and natural resources, but also ensure equitable sharing of the accruing benefits (Though there are legal provisions on revenue sharing from natural resources as stipulated in the Petroleum Act 2019, Energy Act 2019 and Mining Act 2016, the national government has not operationalized these Acts to ensure that counties and communities where mining activities take place benefit. A framework has been proposed by a task force established by the State Department for Mining to guide the sharing of revenues from natural resources.

The Commission recommends that the Ministry of Petroleum and Mining and Parliament expedite the enactment of the proposed framework for sharing natural resources revenues. The National Treasury should formulate procedures for receiving royalties into the Exchequer and disbursement of the same to the beneficiary counties.

5.0. FINANCING OF NATIONAL AND COUNTY GOVERNMENTS FUNCTIONS

The Fourth Schedule of the Constitution stipulates the functions and powers of national and county governments. In addition, Article 186(2) and (3) provides for concurrent functions. Table 6 presents a summary of the actual sectoral expenditure of the national government functions for financial years 2019/20 and 2020/21 and the estimates and ceiling expenditures for the financial years 2021/22 and 2022/23 respectively.

Table 6: Financing of National Government Functions for FY 2019/20 to 2022/23 Ksh. Billion

No	Sector	Actual Expenditure		Estimates	Ceilings
		2019/20	2020/21	2021/22	2022/23
1	Social Protection, Culture and Recreation: Sports, Culture and Arts; Labour Social Security and Services	68.7	51.4	72.2	75.7
2	Education: Education; Science and Technology; TSC	494.8	445.3	504.0	516.2
3	National Security: Defense, National Intelligence Services	159.3	167.0	162.2	189.7
4	Environment Protection, Water and Natural Resources: Environment & Natural Resources; Water & Regional Authorities; Mining	90.2	59.3	100.6	110.0
5	Health	92.7	91.9	121.1	123.3
6	Agriculture, Rural and Urban Development: Land, Housing and Urban Development, Agriculture, Livestock, Fisheries, NLC	59.6	47.5	75.7	64.9
7	Public Administration and International Relations: Presidency; Planning; Devolution; Foreign Affairs & International Trade; National Treasury, Parliamentary Service Commission, CRA, PSC, SRC, OAG, CoB; IGTRC; & CAJ	288.8	272.8	332.5	348.4
8	Energy, Infrastructure and ICT: infrastructure; Transport, ICT; Energy and Petroleum)	435.1	363.9	335.8	360.7
9	Governance, Justice, Law and Order: Interior; Coordination of National Government; AG & Justice; The Judiciary; EACC; DPP; Registrar of Political Parties, KNCHR, IEBC, JSC, NPSC; NGEC; IPOA	209.6	190.3	217.3	234.9
10	General Economic and Commercial Affairs: Industrialization & Enterprise, East African Affairs; Commerce & Tourism	29.9	22.0	20.6	24.2
	Total	1,928.8	1,711.4	1,942.0	2,048.0

Source of data: National Treasury

Based on the revenue sharing framework among county governments the financing of sectors at the county level is shown in Table 7.

Table 7: Financing of County Governments for FY 2018/19 to 2022/23, Ksh. Billion

Devolved Functions		Allocation to Counties				
		2018/19	2019/20	2020/21	2021/22	2022/23*
1	Health Services	90.8	91.5	91.5	116.2	116.2
2	Planning & Development	56.6	57.0	57.0	57.0	57.0
3	Agriculture, Livestock and Fisheries	24.2	24.4	24.4	33.0	33.0
4	Culture, Public Entertainment & Public Amenities	3.9	3.9	3.9	4.0	4.0
5	Youth Affairs and Sports	5.6	5.6	5.6	7.6	7.6
6	Trade, Cooperative Development & Regulation	5.6	5.6	5.6	5.6	5.6
7	Roads & Transport	48.9	49.4	49.4	58.7	58.7
8	Lands, Housing and Public Works	7.3	7.3	7.3	7.3	7.3
9	Water, Natural Resources & Environmental Conservation	8.9	8.9	8.9	15.4	15.4
10	Pre-Primary Education	2.8	2.8	2.8	2.8	2.8
Sub Total Devolved Functions		254.4	256.5	256.5	307.6	307.6
11	Public Administration	59.6	59.9	59.9	62.4	62.4
Total Equitable Share		314.0	316.5	316.5	370.0	370.0

Source of data: CRA

*Based on CRA recommendation for FY 2022/23

6.0. SHARING OF REVENUE AMONG COUNTIES FOR FINANCIAL YEAR 2022/23

Section 190 (1) (b) of PFMA, mandates the Commission to submit the determination of each county's equitable share in the county share of the revenue. The Third Basis for revenue sharing for financial year 2021/22 to 2024/25 is summarised in Table 8.

Table 8: Third Revenue Sharing Basis

No	Indicator of Expenditure Need	Assigned Weight(Percent)
1	Health index	17
2	Agricultural index	10
3	Population index	18
4	Urban services index	5
5	Basic share index	20
6	Land area index	8
7	Rural access index	8
8	Poverty head count index	14
Total		100

Source of data: CRA

The Third Basis for revenue sharing has a baseline allocation to each county equivalent to 50 percent of a county's actual allocation for financial year 2019/20. Based on a recommendation of allocating counties Ksh. 370 billion for financial year 2022/23, Ksh. 158.25 billion is therefore shared based on the 2019/2020 county allocation index and the balance of Ksh. 211.75 billion shared using the approved Third Basis for revenue sharing summarized in Table 8. The allocations to each county for financial year 2022/23 are as shown in Table 9.

Table 9: Allocation to each of County government for FY 2022/23

No	County	2019/20 Allocation Index	Allocation Index: 3rd Basis	Baseline Allocation: 158,250)	3rd Basis Allocation Ksh 211,750)	Total Allocation 2022/23
				A	B	D=A+B
1	Baringo	0.016	0.018	2,548	3,822	6,370
2	Bomet	0.017	0.019	2,750	3,938	6,687
3	Bungoma	0.028	0.029	4,450	6,213	10,663
4	Busia	0.019	0.020	3,008	4,165	7,173
5	Elgeyo-Marakwet	0.012	0.013	1,925	2,676	4,601
6	Embu	0.014	0.014	2,148	2,973	5,121
7	Garissa	0.022	0.021	3,512	4,414	7,926
8	Homa-Bay	0.021	0.021	3,372	4,435	7,807
9	Isiolo	0.013	0.012	2,125	2,590	4,715
10	Kajiado	0.020	0.022	3,209	4,742	7,952
11	Kakamega	0.033	0.034	5,209	7,183	12,392
12	Kericho	0.017	0.018	2,691	3,740	6,431
13	Kiambu	0.030	0.033	4,722	7,002	11,724
14	Kilifi	0.033	0.030	5,220	6,419	11,639
15	Kirinyaga	0.013	0.015	2,127	3,076	5,203
16	Kisii	0.025	0.024	3,886	5,001	8,887
17	Kisumu	0.022	0.022	3,418	4,608	8,026
18	Kitui	0.028	0.028	4,413	5,979	10,392
19	Kwale	0.025	0.021	3,894	4,373	8,266
20	Laikipia	0.013	0.014	2,083	3,047	5,130
21	Lamu	0.008	0.009	1,292	1,808	3,100
22	Machakos	0.024	0.025	3,876	5,285	9,162
23	Makueni	0.023	0.021	3,699	4,430	8,129
24	Mandera	0.032	0.029	5,114	6,079	11,193
25	Marsabit	0.021	0.018	3,384	3,890	7,274

No	County	2019/20 Allocation Index	Allocation Index: 3rd Basis	Baseline Allocation: 158,250)	3rd Basis Allocation Ksh 211,750)	Total Allocation 2022/23
26	Meru	0.025	0.026	4,027	5,474	9,501
27	Migori	0.021	0.022	3,383	4,618	8,001
28	Mombasa	0.022	0.019	3,529	4,038	7,567
29	Murang'a	0.020	0.019	3,147	4,031	7,178
30	Nairobi City	0.050	0.053	7,960	11,290	19,250
31	Nakuru	0.033	0.037	5,237	7,788	13,025
32	Nandi	0.017	0.020	2,680	4,316	6,997
33	Narok	0.025	0.023	4,013	4,825	8,839
34	Nyamira	0.015	0.013	2,413	2,730	5,143
35	Nyandarua	0.015	0.015	2,440	3,233	5,673
36	Nyeri	0.017	0.017	2,705	3,523	6,227
37	Samburu	0.015	0.014	2,312	3,061	5,373
38	Siaya	0.018	0.019	2,904	4,071	6,974
39	Taita-Taveta	0.013	0.013	2,122	2,722	4,844
40	Tana-River	0.018	0.017	2,926	3,601	6,526
41	Tharaka-Nithi	0.012	0.011	1,969	2,252	4,221
42	Trans-Nzoia	0.018	0.020	2,876	4,306	7,182
43	Turkana	0.033	0.035	5,275	7,340	12,614
44	Uasin-Gishu	0.020	0.023	3,167	4,904	8,071
45	Vihiga	0.015	0.013	2,330	2,741	5,071
46	Wajir	0.027	0.025	4,266	5,202	9,468
47	West Pokot	0.016	0.018	2,494	3,797	6,291
	Totals	1.000	1	158,250	211,750	370,000

Source of data: CRA 2021

APPENDIX I: GOVERNMENT EXPENDITURES

Total National Government Expenditure (Ksh. Billion) for FYs 2009/10 to 2022/23

No.	Item	2009/ /10	2010/ /11	2011/ /12	2012/ 13	2013/ 14	2014/ /15	2015/ /16	2016/ /17	2017/ /18	2018/ 19	2019/ 20	2020/ 21	2021/ 22*	2022/ 23*
1	Recurrent	536	583	639	820	753	904	1,039	1,184	1,320	1,462	1,694	1,797	2,021	2,141
	Wages & Salaries	202	225	245	333	281	298	307	337	449	488	540	603	526	550.7
	Operations & Maintenance	334	358	394	486	471	606	732	848	871	974	1,155	1,194	904	931.3
	of which the Interest paid	65	76	91	106	135	172	215	271	324	386	437	495	591	659.2
	Domestic	58	69	82	95	119	140	173	213	239	272	315	389	460	515.2
	Foreign	6	7	9	11	16	32	42	58	84	114	122	106	131	144.1
2	Development	255	235	277	444	319	510	479	640	486	542	608	554	627	675
3	County Governments	0	0	0	10	193	229	264	285	306	361	325	399	410	407
4	Contingency Fund													5	5
	Total	792	817	916	1,273	1,265	1,644	1,782	2,109	2,111	2,365	2,627	2,749	3,063	3,228

Source of Data: National Treasury *Projected

Government Expenditures as a Proportion of the Total Expenditure for FYs 2009/10 to 2022/23

No.	Item	2009/ 10	2010/ 11	2011/ 12	2012/ 13	2013/ 14	2014/ 15	2015/ 16	2016/ /17	2017/ 18	2018/ 19	2019/ 20	2020/ /21	2021/ 22*	2022/ 23*
1	Recurrent	67.7	71.3	70	64.4	59.5	55	58.3	56	62.5	61.8	64.5	65	66	66
	Wages & Salaries	25.5	27.5	26.7	26.2	22.2	18.1	17.3	16	21.3	20.7	20.5	21.9	17	17
	Operations & Maintenance	42.2	43.8	43	38.2	37.3	36.9	41.1	40	41.2	41.2	43.9	43.4	29	29
	of which the Interest paid	8.2	9.3	10	8.3	10.7	10.5	12.1	13	15.3	16.3	16.6	18	20	20
	Domestic	7.4	8.5	9	7.4	9.4	8.5	9.7	10	11.3	11.5	12	14.1	16	16
	Foreign	0.8	0.9	1	0.9	1.2	2	2.4	2.8	4	4.8	4.6	3.9	4	4
2	Development	32.3	28.7	30	34.9	25.2	31	26.9	30	23	22.9	23.1	20	21	21
3	County Governments	0	0	0	0.8	15.3	14	14.8	14	14.5	15.3	12.4	15	13	13
4	Contingency Fund													5	5
	Total Expenditure	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Source of Data: National Treasury *Projected

APPENDIX II: PENDING BILLS OF THE NATIONAL GOVERNMENT AS AT JUNE 2021

No.	MINISTRY/STATE DEPARTMENT	Ksh. Ineligible Bills	Balance from Prior Years	Bills for FY 2020/21	Total Pending Bills as at 30th June 2021
1	The Executive Office of the President	-	121,816,988	-	121,816,988
2	The Executive Office of the President Nairobi Metropolitan Services	-	-	-	-
3	State Department for Interior and Citizen Services	-	681,422,207	-	681,422,207
4	State Department for Correctional Services	15,790,136	3,485,000	-	3,485,000
5	State Department for Devolution	-	641,734,108	-	641,734,108
6	State Department for Development for the ASALs	-	-	-	-
7	Ministry of Defence	-	-	-	-
8	Ministry of Foreign Affairs	-	51,848,830	-	51,848,830
9	State Department for Vocational and Technical Training	-	-	22,500,596	22,500,596
10	State Department for University Education	-	1,009,828	-	1,009,828
11	State Department for Early Learning & Basic Education	-	-	-	-
12	State Department for Post Training and Skills Development	-	-	1,070,500	1,070,500
13	The National Treasury	4,214,149	-	-	-
14	State Department of Planning	3,693,372	-	-	-
15	Ministry of Health	-	96,871,159	-	96,871,159
16	State Department of Infrastructure	-	-	-	-
17	State Department of Transport	-	6,081,485,056	-	6,081,485,056
18	State Department for Shipping and Maritime	-	5,533,103	-	5,533,013
19	State Department for Housing and Urban Development	-	199,323,982	-	199,323,982
20	State Department for Public Works	-	489,283,855	-	489,283,855
21	State Department for Environment and Forestry	-	43,981,448	-	43,981,448
22	State Department for Water & Sanitation and Irrigation	-	47,000,000	-	47,000,000
23	State Department of Lands and Physical Planning	-	-	-	-
24	State Department for Information Communications Technology & Innovation	-	11,473,560	-	11,473,560
25	State Department for Broadcasting & Telecommunications	370,907,048	350,582,409	523,147,350	873,729,759
26	State Department for Sports	66,604,052	1,140,370,688	-	1,140,370,688
27	State Department for Culture and Heritage	-	27,820,292	-	27,820,292
28	Ministry of Energy	-	-	-	-
29	State Department for Livestock	-	102,388,012	341,516,639	443,904,651
30	State Department for Fisheries, Aquaculture and the Blue Economy	-	-	-	-
31	State Department for Crop Development & Agricultural Research	-	1,884,106,203	-	1,884,106,203
32	State Department for Cooperatives	-	-	-	-
33	State Department for Trade	-	16,311,360	-	16,311,360

No.	MINISTRY/STATE DEPARTMENT	Ksh. Ineligible Bills	Balance from Prior Years	Bills for FY 2020/21	Total Pending Bills as at 30th June 2021
34	State Department for Industrialization	-	21,957,749	2,326,313	24,284,062
35	State Department for Labour	-	35,147,078	76,535,746	111,682,824
36	State Department for Social Protection, Pensions & Senior Citizens Affairs	-	-	42,300,410	42,300,410
37	State Department for Mining	2,652,490	35,429,881	29,745,894	65,175,775
38	State Department for Petroleum	-	222,772,578	115,954,566	338,727,144
39	State Department for Tourism	1,683,911	4,041,905	-	4,041,905
40	State Department for Wildlife	-	2,628,515,301	-	2,628,515,301
41	State Department for Gender	-	-	34,345,725	34,345,725
42	State Department for public Services NYS	-	14,749,698,989	-	14,749,698,989
43	State Department for Public Service HQ	-	85,000,358	-	85,000,358
44	State Department for Youth Affairs	-	-	35,729,036	35,729,036
45	State Department for East Africa Community	-	4,315,133	589,655	4,904,788
46	State Department for Regional and Northern Corridor Development	-	2,218,189,273	-	2,218,189,273
47	State Law Office and Department of Justice	-	56,659,285	-	56,659,285
48	The Judiciary	-	93,515,159	-	93,515,159
49	Ethics and Anti-Corruption Commission	16,672,537	25,382,916	-	25,382,916
50	National Intelligence Service	-	-	-	-
51	Office of the Director of Public Prosecutions	-	-	-	-
52	Office of the Registrar of Political Parties	-	-	1,406,489	1,406,489
53	Witness Protection Agency	-	-	-	-
54	Kenya National Commission on Human Rights	-	-	-	-
55	Kenya National Commission on Human Rights	-	1,495,568	8,328,437	9,824,005
56	National Land Commission	-	23,730,437	-	23,730,437
57	Independent Electoral and Boundaries Commission	170,826,686	2,793,044,212	-	2,793,944,212
58	Parliamentary Service Commission	-	15,981,574	-	15,981,574
59	National Assembly	-	86,323,156	-	86,323,156
60	Parliamentary Joint Services	-	-	-	-
61	Judicial Service Commission	-	-	-	-
62	The Commission on Revenue Allocation	-	4,300,227	3,318,294	7,618,521
63	Public Service Commission	-	-	-	-
64	Salaries and Remuneration Commission	-	-	953,907	953,907
65	Teachers Service Commission	-	-	-	-
66	National Police Service Commission	-	527,260	-	527,260
67	Auditor General	-	-	4,810,295	4,810,295
68	Controller of Budget	-	-	-	-
69	The Commission on Administrative Justice	-	1,199,428	-	1,199,428
70	National Gender and Equality Commission	-	31,000	-	31,000
71	Independent Policing Oversight Authority	-	-	-	-
	Total	653,044,381	35,105,106,555	1,244,579,852	36,350,586,317

Source of data: Office of the Controller of Budget

APPENDIX III: PENDING BILLS OF THE COUNTY GOVERNMENTS' AS AT 25TH JUNE 2021

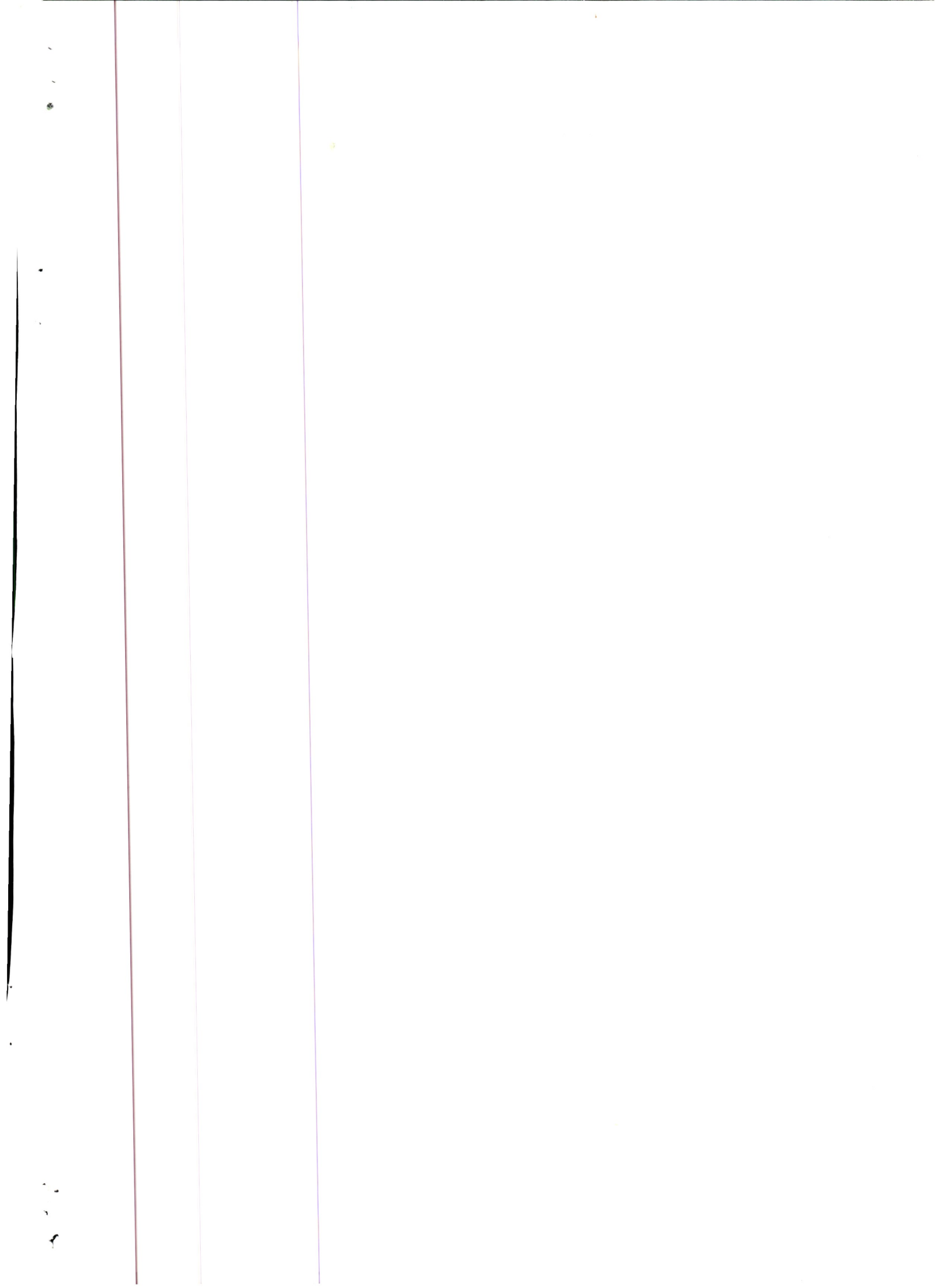
No	County	Outstanding Ineligible pending bills	Outstanding Eligible pending bills
1	Baringo	21,719,172	-
2	Bomet	51,229,065	190,289,257
3	Bungoma	97,217,037	13,264,596
4	Busia	40,597,280	1,251,277
5	Elgeyo/Marakwet	254,484,042	-
6	Embu	877,593,591	-
7	Garissa	245,817,795	22,388,845
8	Homa Bay	1,380,926,807	-
9	Isiolo	76,302,092	567,119,383
10	Kajiado	278,162,041	-
11	Kakamega	2,774,084	-
12	Kericho	462,458,288	-
13	Kiambu	387,321,944	186,016,083
14	Kilifi	244,608,239	-
15	Kirinyaga	545,018,717	421,640,121
16	Kisii	213,530,710	15,763,785
17	Kisumu	603,522,521	3,750,000
18	Kitui	566,669,432	-
19	Kwale	1,691,897,513	-
20	Laikipia	911,905,209	-
21	Lamu	27,084,302	-
22	Machakos	344,162,574	219,411,070
23	Makueni	1,884,530	-
24	Mandera	202,703,749	10,483,313
25	Marsabit	48,151,280	-
26	Meru	271,048,979	51,909,462
27	Migori	65,645,768	257,194,604
28	Mombasa	1,801,985,966	1,616,338,172
29	Murang'a	117,489,891	-
30	Nairobi	11,209,524,315	6,662,090,196
31	Nakuru	2,084,397,064	26,186,081
32	Nandi	505,539,764	-
33	Narok	48,094,649	225,945,054
34	Nyamira	123,328,993	-
35	Nyandarua	524,064,122	-
36	Nyeri	61,686,531	-
37	Samburu	83,913,621	48,201,481
38	Siaya	72,459,541	109,367,567
39	Taita	61,013,152	-
40	Tana River	695,596,755	-
41	Tharaka Nithi	410,780,973	19,647,982
42	Trans Nzoia	413,936,298	6,890,490
43	Turkana	1,144,668,972	246,023,591
44	Uasin Gishu	81,845,239	16,130,999
45	Vihiga	729,847,282	421,968,816
46	Wajir	251,688,769	-
47	West Pokot	1,242,486,979	98,070,427
	Total	31,578,785,637	11,457,342,652

Source of Data: National Treasury

**APPENDIX IV: AGGREGATE ALLOCATIONS TO COUNTY GOVERNMENTS
(2012/13-2021/22, Ksh. Million)**

No.	County	Equitable Share	National Government conditional grants	Loans and Grants from donors	Total
1	Baringo	43,153	1,981	2,572	47,705
2	Bomet	46,441	2,126	2,598	51,166
3	Bungoma	75,279	3,038	4,568	82,884
4	Busia	50,668	2,340	2,792	55,800
5	Elgeyo/Marakwet	31,889	1,747	2,854	36,491
6	Embu	36,580	4,010	2,964	43,554
7	Garissa	57,053	4,560	5,186	66,799
8	Homa Bay	55,465	2,447	4,176	62,088
9	Isiolo	32,265	2,133	2,201	36,600
10	Kajiado	48,987	2,089	3,259	54,335
11	Kakamega	86,625	6,342	4,833	97,801
12	Kericho	44,859	2,119	2,860	49,837
13	Kiambu	77,370	6,360	8,845	92,575
14	Kilifi	81,000	3,112	7,339	91,451
15	Kirinyaga	35,365	1,831	2,934	40,130
16	Kisii	65,981	5,539	3,360	74,880
17	Kisumu	56,298	5,231	4,893	66,422
18	Kitui	72,474	2,717	4,057	79,249
19	Kwale	57,692	2,438	4,778	64,908
20	Laikipia	34,939	1,820	2,490	39,249
21	Lamu	21,955	2,054	1,611	25,619
22	Machakos	65,574	5,123	5,746	76,443
23	Makueni	59,109	2,455	3,720	65,284
24	Mandera	84,838	2,752	2,995	90,585
25	Marsabit	53,717	2,026	3,008	58,750
26	Meru	65,440	5,063	10,412	80,916
27	Migori	56,450	2,510	4,719	63,680
28	Mombasa	57,403	5,383	5,774	68,560
29	Murang'a	52,144	2,439	2,869	57,452
30	Nairobi City	130,641	4,259	12,334	147,234
31	Nakuru	82,899	6,351	6,253	95,503
32	Nandi	45,853	2,070	3,136	51,060
33	Narok	57,494	2,240	3,023	62,757
34	Nyamira	39,608	2,116	2,684	44,407
35	Nyandarua	41,145	2,447	2,544	46,136
36	Nyeri	43,584	5,042	3,267	51,893
37	Samburu	36,062	1,661	2,630	40,353
38	Siaya	48,691	2,281	2,815	53,786
39	Taita Taveta	33,584	1,827	4,178	39,589
40	Tana River	43,967	2,425	2,323	48,714
41	Nithi	31,064	2,131	2,800	35,995
42	Trans Nzoia	48,949	2,222	3,315	54,486
43	Turkana	93,519	2,838	3,642	99,998
44	Uasin Gishu	51,685	2,245	4,249	58,178
45	Vihiga	37,645	2,022	3,357	43,023
46	Wajir	70,093	2,428	5,029	77,549
47	West Pokot	42,019	1,897	2,646	46,562
Total		2,585,519	142,285	190,635	2,918,439

Source of data: CRA



COMMISSION ON REVENUE ALLOCATION

14 Riverside Drive Grosvenor Building, 2nd Floor.

P.O BOX 1310 – 00200, NAIROBI

TEL: +254-(020) 4298000 / 0709822000.

Email: info@cra.go.ke

Website: www.cra.go.ke

CRA 46