



# ombudsman

## Newsletter



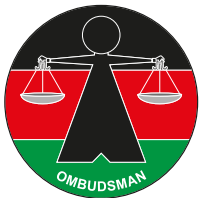
**Commission Launches Digital Public Complaints System**



**New CEO Promises Team Work, Automation of Commission's Services**



**Oversight Institutions Celebrate a Decade of Service**



**Commission on Administrative Justice  
(Office of the Ombudsman)**  
*Hata Mnyonge ana Haki*



## CMIS LAUNCH

## Commission Launches Digital Public Complaints System



*Commission Chairperson, Hon Florence Kajuju, with Commission Secretary/CEO, Ms. Mercy Wambua during the launch of the CMIS .*

The Commission with the support of GIZ, Good Governance Programme on Tuesday, May 24, 2022 launched the Public Portal of the Complaints Management Information System (CMIS) which will improve complaints management and allow the public to lodge and monitor their complaints online.

Speaking during the event, **Hon. Lady Justice Ndung'u** who represented Lady Justice Martha Karambu Koome, Chief Justice of the Republic of Kenya and President of the Supreme Court of Kenya, congratulated the Commission for launching the system and took the attendees down memory lane on the challenges the Committee of Experts faced in having the Chapter 15 Commissions in the Constitution.



*Hon. Lady Justice Njoki Ndung'u during the launch of the CMIS at KICC.*

On her part, the Chief Justice, in her speech read by Hon Ndung'u, congratulated the Commission for launching the CMIS system which will go a long way in improving the efficiency and effective management of complaints by the Commission, and that the Commission had taken a major step in making its services more accessible to Kenyans, especially the vulnerable.

"This system will reengineer the Commission's approach and improve the efficiency and effectiveness of its work and enable its services to reach more Kenyans especially the marginalised and vulnerable groups in our society," she said.



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www.ombudsman.go.ke

Office of the  
Ombudsman-Kenya0800 221 349  
(Toll free)2<sup>nd</sup> Floor, West End Towers  
P.O. Box 20414 – 00200  
NAIROBI.

## Editor

Osman Mohammed

## Contributors

Florence Mumbi

Sammy Cheboi

Edward Opany

Wanjiru Kibaki

Esha Mohammed

Winnie Tallam

Keith Changalwa

Franklin Lilako

## Design &amp; Layout

Moses Sukali

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## CMIS LAUNCH

### Commission Launches Digital Public Complaints System

The system enables the public to lodge their complaints online and track the complaint resolution progress online. This system leverages the latest technology to facilitate electronic receipt of complaints, indexing, processing, and digital archival.



CAJ Chairperson, Hon Florence Kajuju together with the Vice Chairperson, Mr. Washington Sati and the commissioner in-charge of access to information Commissioner Ms. Lucy Ndungu during the launch of the CMIS.

Further, the Chief Justice noted that the system is a promise to offer high-quality services to Kenyans and to reach more Kenyans as the public can now lodge and monitor their complaints from the comfort of their homes.

"Apart from allowing CAJ to resolve complaints from individuals, complaints-handling also serves a wider goal, considering information provided acts as an early warning system of serious underlying problems with the inner workings of a public body," said Hon. Justice Koome.

The Chairperson of the Commission, Hon. Florence Kajuju, noted that digitisation and decentralisation of Ombudsman Services were the key commitments the Commissioners made when they took office in 2018. With the launch of the CMIS, she said, the Commission will be able to bridge the gap where there are no physical offices since complainants can easily access the Ombudsman services online with the system being able to receive complaints on administrative injustices and appeals for review under the access to information.

Hon. Kajuju further noted that since 1st April 2022 when the CMIS system was piloted, the Commission has processed 493 complaints through the system. She also thanked GIZ for their support which was very central in the development and launch of the system.

She also appreciated the Judiciary for promoting alternative dispute resolution (ADR) and committed that the Commission will continue partnering with the Judiciary in promoting the utilisation of ADR.

The Commissioner in Charge of Access to Information, Ms. Lucy Ndung'u while making her remarks stated that public institutions must provide information proactively and upon request as access to information is important as an enabler for public participation and good governance, promoting transparency and accountability in the management of public affairs. She noted that the CMIS system will offer real-time information as the public can lodge and monitor complaints and will improve transparency in the management of complaints and digitisation of records at the Commission which is a key requirement under the access to information law.

## CMIS LAUNCH

# Complaints Management System Launch

The Commission Secretary/CEO, Ms. Mercy Wambua on her part said the launch of the CMIS was a historic event for the Commission and the people of Kenya as it marks a major transition of the Commission and its services to the digital era. Ms. Wambua said the system will enable members of the public to lodge their complaints and monitor the complaints from wherever they are and assured partners that the Commission is committed to ensuring efficient resolution of complaints, timely access to information, and enhancement of transparency.

The County Director for GIZ, Mr. Bodo Imminik, noted that the launch of the CMIS system marks a very significant milestone in improving access to justice and is a sign of the long-standing partnership between GIZ and the Commission. He further noted that access to information challenges and inefficient public service delivery are major risks as they contribute to corruption.

He said GIZ will continue supporting the Commission in the promotion of good governance and accountability and enumerated the programmes GIZ is currently supporting, which include capacity building of public officers on complaints management, enhanced compliance by MDAs and counties under the performance contracting framework, among others.

The launch of the CMIS system, at the Kenyatta International Convention Centre, was attended by representatives from Constitutional Commissions and Independent Offices, the Civil Society Organisations, Ministries, Departments and Agencies, and Members of the Ombudsman Mashinani Committee drawn from Korogocho, Kangemi, Kiambu and Kawangware.

The system was developed with the support of GIZ, the Good Governance Programme and it enables the public to lodge their complaints and monitor them online to enhance efficiency in complaints management. The system can be accessed through [cmis.ombudsman.go.ke](http://cmis.ombudsman.go.ke)



### STEP ONE

Visit  
[www.ombudsman.go.ke](http://www.ombudsman.go.ke)

### STEP TWO

Click on Complaints Management System (CMIS)



### STEP THREE

Create an account on the portal

### STEP FOUR

Lodge your complaint through the system



### STEP FIVE

Check the platform and your email frequently for feedback from the Ombudsman





## STAFF MEETING

## New CEO Promises Team Work, Automation of Commission's Services



Commission Secretary/ CEO Ms. Mercy Wambua addressing a staff meeting on 4th April 2022

***“I will ensure fidelity to the Constitution and will live up to the expectations of the mission, vision, and core values of the Commission in ensuring that we achieve on the mandate and I will ensure good governance at the Commission.”***

This was the commitment of the new Commission Secretary/ CEO, Ms. Mercy Wambua in her first formal meeting with the Commission staff following her appointment as the second Commission Secretary/ CEO taking over from the pioneer CEO, Mr. Leonard Ngaluma whose term came to an end in January 2022 having served the Commission for ten years.

Ms. Wambua noted that she joined the Commission at an important time when the Commission is in the process of undertaking Mid Term Review to its Strategic Plan (2019-2023) which has four results areas; Resolution of public complaints, Oversight, and enforcement of access to information, Public education, awareness and visibility and Institutional strengthening and capacity building and that the review will go a long way in giving her insights on the challenges the Commission is currently facing in the execution of its mandate and opportunities to build on in addressing the challenges.

Ms. Wambua also committed to building on teamwork and commitment to duty and urged the staff to synergize their skill towards the achievement of the Commission mandate.

Further, she informed the staff that the Commission will in May 2022 launch the Complaints Management Information System (CMIS) which will improve complaints management and will make it easier for the public to lodge their complaints and for public institutions to submit their quarterly reports on complaints handled.

On human resource management, Ms. Wambua has promised to enhance the staffing levels to ensure that the Commission reaches the optimum level as envisaged in the organisational structure with capacity building of staff being at the center. The Commission will also continue partnering with the various Constitutional Commission, Independent Offices, MDAs, and donor agencies as this is the only way the Commission can achieve its two-fold mandate.

On her part, the Chairperson, Hon Florence Kajuju thanked the staff for their commitment and dedication, especially during the COVID 19 pandemic where the office remained open to serve the public irrespective of the challenges brought by the pandemic. To reunite the staff after the pandemic, the Chairperson has promised a staff team building which will bring together all the staff including those in the regions.

Present at the meeting were the Commissioner in Charge of Access to information, Ms. Lucy Ndung'u, and the various head of departments. The officers at the regional offices joined the meeting virtually.

## ATI REGULATIONS

## Commission Makes Presentation on the Draft Access to Information Regulations, 2022 before a Parliamentary Committee



*The Commission led by the Chairperson, Hon Florence Kajuju making a presentation on the Draft Access to Information Regulations, 2022 before the Delegated Legislation Committee of the National Assembly.*

In the wake of a new constitutional order which demands transparency, accountability and participation in governance, information held by the state is a key element. In September 2016, Kenya enacted the Access to Information Act, 2016 pursuant to Article 35 of the Constitution to provide a framework for full realisation of the right of access to information. This was a bold and unequivocal statement aimed at enhancing good governance in the country. It also enabled Kenya to meet its obligations on access to information under the various international legal instruments.

The importance of access to information lies in its empowerment of the public to effectively participate in governance, and promotion of open and accountable government. An informed public is a prerequisite of democratic governance and sustainable development. The implementation of the right of access to information bridges the gap between policy formulation and implementation, and building trust in government by curbing maladministration, corruption and unethical practices that thrive in secrecy. This leads to enhanced delivery of public services, and transparent and accountable governance.

One of the biggest handicaps in the implementation of the Act, however, has been lack of a regulatory framework. In September 2018, the Chairperson of the Commission, Hon Florence Kajuju launched the Taskforce on Access to Information Regulations. The task force came up with the draft regulations which have been subjected to public participation from various stakeholders.

The task force drew its membership from Commission on Administrative Justice, Kenya Law Reform Commission, Office of the Attorney General, and the National Communications Secretariat under the Ministry of ICT, Innovation and Youth Affairs.

To this end, the Commission on Saturday, April 2, 2022 made a presentation on the Draft Access to Information Regulations 2022 before the Delegated Legislation Committee of the National Assembly chaired by Tiaty Member of Parliament, Hon William Kamket at the Sarova Whitesands Beach Resort & Spa Hotel in Mombasa. The regulations will go a long way in bridging the gap in the Act, and enable full operationalisation of the law.

Since 2017, the Commission under the Access to Information Act has received 506 applications for review of the denial of requests to access information. Of the 506 applications for review, 450 were against Ministries, Departments, and Agencies while county government and private entities have recorded 56 cases. The resolution rate for these appeals is 95 percent.

Present at the meeting were the Commission Chairperson, Hon Florence Kajuju, the Vice Chairperson, Mr. Washington Sati, the Commissioner in Charge of Access to Information, Ms. Lucy Ndungu, the Commission Secretary/CEO, Ms. Mercy Wambua, and the technical staff from the secretariat.





## CCIOs AT 10

## Calls for Adequate Funding as CC&IOs Celebrate Ten Years



*The IEBC Chairperson, Mr. Wafula Chebukati with the Chairperson of CAJ, Hon Florence Kajuju and the Auditor General Ms. Nancy Gathungu during a public lecture to celebrate 10 years of CC&IOs.*

The Constitutional Commissions need to be well resourced to be able to achieve their respective mandate and to devolve their services in order to offer effective oversight to the counties and to take their services to the people.

Speaking during a panel discussion to commemorate the 10th anniversary of Constitutional Commissions and Independent Offices (CC&IOs), Hon Florence Kajuju noted that resource challenges have hampered the decentralisation of the Commission's services.

Hon Kajuju has also called on parliament to amend the Access to Information Act, 2016 to review to make the exempted information to be limited and specific to strengthen the enforcement power of the Commission on Administrative Justice and the need to uphold the independence of the CC&IOs to be able to effectively undertake their mandate.

The public lecture provided an opportunity for Kenyans to share experiences and possible areas of improvement as each Commission and Independent Office take stock of their progress in delivering their mandate. The CCIOs will on Wednesday, April 13, 2022, celebrate their 10th anniversary since the promulgation of the Constitution of Kenya, in 2010. The event will be under the theme will Celebrating a Decade of Promoting Constitutionalism."

In its ten years of existence, the Commission has helped hundreds of thousands of Kenyans recover hundreds of millions in forms of compensation, retirement dues, and court awards, transformed public service by training over 20,000 public officers to enhance capacity and service delivery, and assisted public institutions set up complaints handling infrastructure, contributed to enhanced engagement in public affairs through county outreach programs, complaints handling, training of public officers and media-based advocacy and awareness.

Additionally, the Commission has issued over one hundred Advisory Opinions on the improvement of public administration in Kenya, reviewed 506 appeals for denial of information under the access to information law, conducted over one hundred investigations on various matters that impede public administration, assisted hundreds of thousands of Kenyans in the resolution of diverse complaints over the ten years with over 800,000 being lodged with a resolution rate of 87% among other key milestones.





## CCIOs AT 10

# Oversight Institutions Celebrate a Decade of Service



*Chairpersons of various constitutional commissions and holders of independent offices during a public lecture at the University of Nairobi in May 2022*

Oversight institutions under the caucus of the Constitutional Commissions and Independent Offices (CCIOs) have on 13th April 2022 marked a ten-year milestone on the founding of the forum to advance public service.

The caucus was established 10 years ago bringing together Chairpersons of the institutions to collaboratively work together to deliver on their respective mandates.

To mark the anniversary, the CCIOs held a day conference and public exhibition at the Kenyatta International Convention Centre, Nairobi.

The CCIOs Chairperson, who is also the Chairman of the National Land Commission, Mr. Gershom Otachi underscored the milestones the agencies had achieved in spite of the many challenges they have had to overcome. He expressed optimism that more will be achieved in the next decade.

Vice Chairperson of CCIOs and Chairperson of the Commission, Hon. Florence Kajuju, emphasised that the caucus had made it possible for the institutions to work closely and share resources such as office spaces. She noted that shortfall in budget support it made it difficult for the CCIOs to effectively discharge their mandates by having presence in all counties.

Chief Justice Martha Koome, who is the guest speaker, said the institutions are alive to the expectations of the people and have faithfully gone about executing their mandates. She regretted that instances when court orders are ignored are unfortunate and undermines the courts.

The theme of the conference was "Celebrating a Decade of Promoting Constitutionalism and Observance of Democratic Values and Principles." The CCIOs are clustered into four thematic areas, namely; human rights, administrative/governance, financial prudence & oversight, and justice & legal.





## PARTNERSHIPS AND COLLABORATIONS

### Commission, International Republican Institute to Collaborate During the Electioneering period



Commission Vice Chairperson, Mr. Washington Sati with the IRI Program Director-Kenya, Mr. Yomi Jacobs.

The Commission and the International Republican Institute (IRI) have agreed on possible areas of collaboration and partnership during the electioneering period and beyond to promote citizen participation in governance. This was discussed during a meeting on Wednesday, April 6, 2022, when the Commission management team led by the Vice Chairperson held a meeting with IRI team Mr. Yaomi Jacobs, Program Director, Kenya and Mr. Cosmas Tabuche – Program Manager, Kenya to discuss possible areas of partnerships which will go a long way in the achievement of the mandate of the two institutions.

During the meeting, the two institutions agreed on possible areas of collaboration which include; promotion of access to justice and the rule of law through monitoring continued service delivery, accountable and transparent election through monitoring election processes and observation on the election day, monitoring of misuse of public resources during the electioneering period capacity building on access to information for public institutions key in the management of election, and publishing and dissemination of advisory opinions on emerging issues within the electioneering period among other areas.

IRI works on political inclusion, with the aim of bringing marginalised groups into political and civic life. To achieve this, the organisation provides skills and network-building programming to Kenyan women, youth, and persons living with disabilities who aspire to hold office and/or work inside political parties, and integrity.

In the context of elections, the Commission is empowered to improve public administration in Kenya through investigation of any conduct in state affairs or any act or omission in public administration in any sphere of Government that is alleged or suspected to be prejudicial or improper or to result in any impropriety or prejudice.

Notably, the Commission is required to secure the observance of the democratic values and principles, which are primarily found under Article 10(2) of the Constitution, and include democracy, participation of the people, good governance, transparency, accountability in the 2022 elections, the Commission will participate in monitoring and observation.

This will be the third time that the Commission will be participating in the exercise, the first time having been in the 2013 general elections. The primary focus of the Commission in the exercise will be three-fold: monitoring use of public resources in political activities, monitoring, assess the service delivery standards during the electioneering period, access to election related information and observing the general management and conduct of the elections on 9th August 2022.

Present during the meeting were the Commission's Director of Corporate Services, Mr. Dan Karomo, Director, Public Education, Advocacy and Corporate Communications, Mr. Osman Mohammed, Senior Resource Mobilisation officer, Edith Imende and Mr. Moses Sukali from the Corporate Communications Division.

## PARTNERSHIPS AND COLLABORATIONS

### The Commission to Partner with Kituo Cha Sheria in Promoting Access to Justice and Good Governance

The Commission hosted a team from Kituo cha Sheria led by the Executive Director, Dr. Annette Mbogoh, who paid a courtesy call on the Commission. During the meeting, the two institutions discussed possible areas of partnership and collaboration.

The Director, Public Education Advocacy and Corporate Communications, Mr Osman Mohamed who received the team expressed concerns that most Kenyans still view service provision from government offices as favour and not as a right which they enjoy in the Constitution and noted that the Commission is working to change the perception and need partners in awareness creation and public education. He also highlighted that the Commission and Kituo cha Sheria have cross-referred cases and that has promoted access to justice.

On her part, Dr. Mbogoh highlighted the different interventions that Kituo engages in and through which the two institutions can partner. Some of the areas include; Public Interest Litigation cases, complaint referrals, joint public awareness and education through media and various forums and advocacy at various levels and fundraising.

Moving forward, the two institutions will sign an MOU which will formalise the partnership. Present during the meeting were officers from the various departments from the two institutions.



A delegation from Kituo Cha Sheria during a courtesy visit to the Commission.



Assistant Director Advisory Unit, Dr. Mary Kimari with the Program Manager - Civic Education at the URAIA Trust, Ms. Hellen Mudora.

### Commission to partner with Uraia on Alternative Dispute Resolution mechanisms

A team from the Commission led by the Ass. Director Advisory Unit, Dr. Mary Kimari held a meeting with Ms. Hellen Mudora the Program Manager - Civic Education at the URAIA Trust. The aim of the meeting was to better understand the mandate of each institution with a view to identifying areas of convergence.

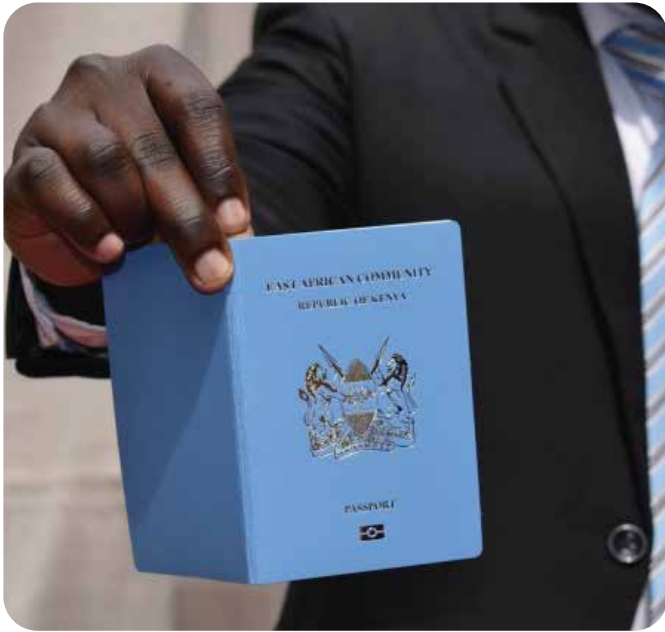
The areas identified for cooperation and collaboration are; Public Education where the Commission will leverage the existing decentralized structures of URAIA (County and Constituency Civic Education Officers) to conduct public awareness on the rights and obligations of the citizens and the government agencies respectively, to work closely in monitoring service delivery under the civic engagement program and to work closely with URAIA to create linkages with other Civil Society Organisations (CSOs).

Appreciating the pivotal place of CSOs in advocacy and access to justice, the two institutions have agreed on the need to further explore how the individual institutional strengths could be harnessed to enhance access to justice during and post the general election including the uptake of Alternative Dispute Resolution mechanisms.



## SUCCESS STORIES

### Passport Issued After Two Years



A resident of Taita Taveta County can finally travel following the processing and issuance of his passport by the Immigration Department in a case of inordinate delay.

Abdi Noor Mohammed lodged a complaint with the Commission alleging delay by the Immigration Department to process and issue him with a passport. According to Mr. Mohamed, he applied for a passport in July 2019 and paid the requisite charges. However, despite making numerous follow-ups at the Immigration Department officers at Nyayo House, Nairobi, he had not been assisted hampering his travel plans. The unresponsiveness from the department pushed him to seek the intervention of the Commission's Mombasa Regional Office in March 2022.

The Commission by way of inquiry took up the matter with the Director of Immigration Services leading to the processing and issuance of the passport. Mr Mohamed in a letter to the Commission dated 1st April 2022 acknowledged receipt of the passport and appreciated the Commission for the intervention.

"I wish to express my sincere appreciation following your effort to help me get my passport after two-year delay. After lodging my complaint with the Commission and upon your inquiry with the immigration Department on the delay in the issuance of my passport, the department officials called me and requested that I visit Nyayo house and collect my passport. I wish to inform you that I was issued with a passport unconditionally." Read a letter from Mr. Mohammed to the Commission.

### Death Gratuity Paid

A beneficiary finally received death gratuity from the public trustee following the intervention of the Commission. Mr. Alex Ouya lodged a complaint with the Commission alleging failure by the public trustee to pay the death gratuity of the late Morine Atieno Osura. According to him, the Pension's Department had processed the death gratuity and forwarded to the public trustee's office for payment to the beneficiaries. The delay in processing the payment impelled him to seek the intervention of the Commission's Kisumu Regional Office.

The Commission by way of inquiry took up the matter with the public trustee. In their response, the office indicated that they had not been made aware of the payment but they confirmed from their bank statement and located the same. The office then commenced the administration process and on 7th March 2022, Mr. Ouya confirmed receipt of Kshs. 434,887.95 being death gratuity for the deceased.

### Census Enumerator Paid Dues Two Years later

An enumerator in the 2019 Kenya National Housing and Population Census was forced to wait for two years to be paid for the services following a delay by the Kenya National Bureau of Statistics (KNBS) to process her payment.

According to Ms. Cornelius Achika, she worked as an enumerator in Kisii county for KNBS during the 2019 census exercise but was not paid her dues despite making several follow ups with the agency. The unresponsiveness by the agency prompted her to seek the intervention of the Commission.

The Commission by way of inquiry took up the matter with the Director General, KNBS on 21st December 2021. In their response to the Commission on 15th March 2022, the agency indicated that they had process the dues owed to Ms. Achika on 24th October 2019 but the money was unfortunately channeled to a wrong account and the money was returned to KNBS account.

The agency subsequently processed and paid her dues through her Equity Bank account on 2nd March 2022.



## SUCCESS STORIES

### University Student Finally Graduates

A student finally graduated from Kibabii university after complying with the Council for University Education's (CUE) directive in a case of unresponsive official conduct by the University.

According to Mr. Simon Khatonge, he was admitted at Kibabii University on 8th August, 2015 to undertake a Bachelor of Education (Arts) which his previous qualification of Diploma in Teaching was considered, he was exempted from taking first year courses and allowed to begin from second year. However, upon completing the course, he was denied an opportunity to graduate during the 2018/2019 graduation.

Mr. Khatonge took up the matter with the university but despite follow-ups with through letters dated 4th June, 2020 and 4th March, 2021, the institution failed to respond to his matter. His predicament pushed him to seek the intervention of the Commission's Kisumu Regional Office.

The Commission initiated an inquiry on 1st September, 2021. In their response to the Commission through a letter dated 23rd September 2021, the institution indicated that Mr. Khatonge had been informed of the directives by the CUE through the Quality Audit Inspection in 2017 that required all students with Credit transfers who were admitted at second and third years to undertake enhancement courses to complete the required courses to qualify for the graduation.

The Commission forwarded the response from the university to Mr. Khatonge for compliance. Mr. Khatonge in a telephone call to the Commission on 31st March, 2022 informed the Commission that he had since complied with the directive and he graduated from the university on 25th March 2022.



### Seconded Employees' Dues

Two seconded employees engaged by Kenya Rural Roads Authority (KeRRA) were finally paid their dues, thanks to the intervention of the Commission.

According to the two; Abigael Jelagat and Gordon Odoyo, they were seconded to the road's authority as Office Assistant and Chainman respectively during the construction of the Luanda - Esirulo - Magada roads. However, KeRRA failed to pay them and their efforts to have the agency to settle their dues proved futile prompting them to seek the intervention of the Commission.

Following the intervention of the commission, they were duly paid their dues amounting to Kshs.324, 453 and 261,165 respectively.



### Survey Department Release Map

A resident of Kisumu County lodged a complaint with the Commission alleging delay by the Surveys Department to issue him with a map for Kadhiambo Adjudication Section, Kisumu County.

According to Benjamin Ayieyi, the map had been issued to the Surveys Department after the adjudication process that was undertaken by the Ministry and forwarded to the department for drawing of the map and that the delay in releasing the map has deprived him ascertaining of his boundary.

Following the Commission's intervention, the drawing of the map was duly expedited and the same was been availed to Mr. Ayieyo and to the public.



## SUCCESS STORIES

### Appeal Date Set

The Commission received a complaint from an inmate at the Naivasha Maximum Prison alleging delay in hearing and determination of his appeal Eldoret HC CRA No. 26. According to him, he was charged, tried and convicted of a criminal offence on 5th February 2016. He lodged an appeal at the Eldoret High Court in 2016 but was yet to be assigned a hearing date.

The Commission by way of inquiry took up the matter with the Deputy Registrar, Eldoret High Court who updated the Commission that the appeal had been listed for mention on 31st March 2022 at the Kapsabet High Court.



### Gratuity Dues Settled

A former employee of the National Government Constituency Development Fund (NGCDF) finally received his gratuity in a case of delay, thanks to the intervention of the Commission.

According to Joseph Mwebi, he was employed as a clerical officer by NDCDF, Kitutu Masaba Constituency on a three-year renewable contract on 1st May 2018. He undertook his duties diligently until the end of his contract on 30th April 2021 when he sought to be paid gratuity which he was entitled to at the end of the three-year contract.

He made a follow up with the fund manager and his dues were not being settled necessitating him to seek the intervention of the Commission. The Commission took up the matter with the Fund Manager, NGCDF Kitutu Masaba Constituency leading to settlement of the gratuity.



### Inmates Secure Appeal Dates



The Commission received complaints from inmates serving sentences at the Kisumu Maximum Security Prison and Kibos Prison alleging delay in determination of their appeals.

In the first case, an inmate serving life sentence at the Kisumu Maximum Security Prison after his conviction alleged delay in hearing and determination of his appeal.

According to him, he was dissatisfied with the ruling rendered at the lower court prompting him to lodge an appeal at the Kisumu High Court in 2018. However, the same did not proceed, as he had not been issued with a hearing date for his appeal.

The Commission by way of inquiry took up the matter with the Judiciary which led to the lower court's proceedings to be forwarded to the High Court and the matter being scheduled for mention on 25th November, 2021 and 15th March, 2022 for further directions.

In the second case, an inmate serving his sentence at the Kibos Maximum Prison following his conviction at the Kisumu High Court alleged that he was dissatisfied with the ruling rendered at the High Court and lodged an appeal at the Court of Appeal in Kisumu in 2017. However, the case could not proceed as the Kisumu High Court Proceedings were yet to be received at the Court of Appeal.

Following the Commission's intervention, the High Court Proceedings were forwarded to the Court of Appeal and the matter has been scheduled for hearing.

"We hereby acknowledge your letter and kindly be informed that the same file was forwarded to the Court of Appeal, Kisumu, on 7th April 2022 (C.O.A No. 157 of 2017)," read a letter from the Kisumu High Court to the Commission on 14th April 2022.

## SUCCESS STORIES

### Pension Processed

A retired teacher finally received her pension following the intervention of the Commission in a case of inordinate delay.

According to Agnes Odera, she retired from the service of the Teachers Service Commission (TSC) in August 2018 and upon processing of her file by both the TSC and the Pensions Department, she was allocated pension number. In May 2021, she was informed that her pension had been processed and would be paid, but despite several follow-ups, she had not received her pension impelling her to seek the intervention of the Commission.

The Commission took up the matter with the Pensions Department on 1st March 2022. The department in a response to the Commission on 21st March 2022 confirmed that they had transmitted the pension to her bank account and on boarded her into the April 2022 payroll.

### Statutory Deductions Remitted

Imagine your employer failing to remit your statutory deductions for five years? This was the predicament of a secondary school employee in Kisumu County.

Mr. Michael Mbeja, a driver at the Awasi P.A.G Boys High School, lodged a complaint with the Commission alleging non-remittance of his National Social Security Fund (NSSF) contribution by the School between January 2017 to December 2020 and June 2020 to 2022 despite making several follow-ups with the institution.

The Commission by way of inquiry took up the matter with the principal of the School. In his response to the Commission, the principal indicated that they had entered into an agreement with NSSF on how the arrears will be settled. NSSF in a letter dated 4th April 2022, stated that all the arrears had been paid and that they had updated Mr. Mbeja's account.

### Service Provider Paid

A service provider finally received his dues following the intervention of the Commission in a case of inordinate delay by the Ministry of Information, Communication, Innovation and Youth Affairs.

According to Mr. Fredrick Otieno, he provided consultancy services as a Master Craftsman to the National Industrial Training Authority (NITA) in the Kenya Youth Employment Opportunities Project (KYEOP) Circle 5 Programme between 23rd November, 2020, and 16th April, 2021. However, he had not been paid for the service even after making numerous follow ups, forcing him to seek the intervention of the Commission.

The Commission took up the matter with the Ministry leading to the payment of his dues amounting to Ksh. 30,000 in April, 2022. Mr. Otieno in a communication to the Commission on 14th April, 2022 confirmed receipt of the payment.

### Injury Pension Paid



A retired teacher finally received injury compensation following the intervention of the Commission in a case of unfair treatment by the Pensions Department.

Mr. Filemon Bwana lodged a complaint with the Commission alleging underpayment of accumulated injury pension and readjustment of his monthly pension contrary to a 2009 ruling at the Migori Principal Magistrate's Court.

According to him, he was involved in an accident while on duty on 17th January 1994 while employed by the Teachers Service Commission (TSC) which occasioned him a fracture to both arms. Upon his retirement in 2006, the dues owed to him as consequence of this accident had not been paid or computed in his pension dues which necessitated him to lodge the suit where the court ruled in his favour in 2009 and directed the Pensions Department to pay him Kshs. 220,843 being accumulated injury pension for the period 17th January 1994 to February 2009. Additionally, he was to be paid Ksh. 1,600 injury pension per month from March 2009 until final pension or death and the interest thereto at 8%.

The Pensions Department, in total disregard of the court order, paid him Kshs. 129,718 as accumulated injury pension as opposed to Kshs. 220, 843 and Kshs.427 injury pension from September 2018 as opposed to Kshs1,600 from March 2009. The Department also failed to factor in the interest thereto. The disregard of the court order prompted him to lodge a complaint with the Commission.

The Commission by way of inquiry took up the matter with the Department which acknowledged the anomaly in computing the dues owed to Mr. Bwana and duly reprocessed the same. Mr. Bwana was subsequently paid all his dues.



## SUCCESS STORIES

### County Assembly of Kisumu Releases Information

The County Assembly of Kisumu complied with the orders of the Commission under the Access to Information Act, 2016, compelling the assembly to release information to a requester.

Ms. Mariam Abdallah lodged a complaint with the Commission under the Access to Information Act, 2016, on 25th January 2022 alleging failure by the Clerk of the County Assembly to provide information. According to Ms. Abdalla, she had, through a letter dated 9th July 2021, requested for information relating to the approved budgets for the County Government of Kisumu for the FY 2020/2021, Kisumu County Annual Development Plans, Kisumu County Budget Review and Outlook Paper, and the County Fiscal Strategy Paper as well as all policies passed and gazetted by the County Assembly from the year 2017.

The Commission wrote to the Clerk of the Assembly on 1st February 2022 to provide the reasons for the failure to disclose the requested information. The Clerk did not respond and did not provide the information requested.

On 7th April 2022, the Commission made an order for release of information pursuant to Section 23(2) (a) of the Access to Information Act, 2016. On 19th April 2022, Ms. Abdalla, in a communication to the Commission, indicated that she had received a call from the County Assembly requesting her to go and get the documents.

The County Assembly in a letter to the Commission dated 19th April 2022, confirmed that they had provided all the requested information and documents to the requester.

### County Employee Re-designated and Salary Arrears Paid

A county employee was finally re-designated to his previous job group in a case of unfair treatment by the Vihiga County Public Service Board.

According to Moses Omuyoma, the Board unfairly re-designated him from Job Group N to J in July 2016 without any justification. The decision necessitated him to appeal to the Public Service Commission (PSC) on 30th June 2020 but no action had been taken to determine the appeal impelling him to seek the intervention of the Commission.

The Commission took up the matter with PSC and upon this intervention, the Vihiga County Public Service Board recommended the reinstatement of Mr Omuyoma to the right Job Group N and that he be paid all salary arrears. On 22nd April 2022, he informed the Commission that the County Public Service Board had reactivated his personal file number on the payroll and paid all his arrears.

### Widows and Children Pension Benefits Paid

"I am pleased and grateful to inform you that the Widows and Children Pension arrears were factored in my April 2022 pension and the same was channelled to my account. I take this opportunity to sincerely thank you for your endless effort on the matter that ensured that I got my rightful dues." These are the words of Ms. Priscilla Talu in a letter to the Commission's Mombasa Regional Office.

Ms. Talu lodged a complaint with the Commission alleging delay in processing the Widows and Children Pension Scheme (WCPS) benefits upon the demise of her husband who was an employee of the Teachers Service Commission (TSC) in 2018.

According to her, she had availed all requisite supporting documents and despite follow-ups at Pensions Department, the benefits had not been processed prompting her to seek the Commission's intervention in November 2021.

The Commission by way of inquiry took up the matter with the Pensions Department leading to the processing and payment of the benefits. Ms. Talu in a letter to the Commission dated 10th May 2022 notified the Commission of receipt of the outstanding pension benefits.



### Customer Gets Meter Replacement Three Years Later

Imagine waiting for three years to get a meter transfer from postpaid to prepaid? This was the predicament of Esmail Abdulrehman in a case of inordinate delay and unresponsiveness by the Kenya Power Company. Mr. Abdulrehman lodged a complaint with the Commission alleging delay at the Kenya Power Mombasa office to process his request to transfer the meter account from postpaid to prepaid since August 2019. He indicated that his request was informed by the constant wrongful meter readings by Kenya Power officials.

Following the complaint, the Commission made necessary follow-ups which impelled Kenya Power to install a pre-paid meter as requested. The Company in a letter to the Commission confirmed the installation of the new meter.

"We installed a prepaid meter number 462...68 at the customer's premises on 26th April 2022 as per his request," read the letter from Kenya Power to the Commission.

## PUBLIC EDUCATION

### Commission Participates in Meru ASK Show



CAJ Assistant Director, Public Education, Advocacy and Public Education, Mr. Sammy Cheboi engaging with Meru University of Science and Technology Vice-Chancellor, Prof. Romanus Odhiambo.

As part of public education, the Commission exhibited at the Meru Agricultural Society of Kenya show. The four days' exhibition took place from 1st to 4th June, 2022. The show provided a platform for the Commission to enhance visibility, receive complaints, offer legal aid and also create awareness of the Commission, and in particular the Isiolo Regional Office, which also serves Meru County.

During the exhibition, about 1,000 assorted brochures were issued to show-goers who visited the stand.

In addition, one of the chief guests, Prof. Romanus Odhiambo, the Vice Chancellor of Meru University of Science and Technology, paid a visit to the Commission and appreciated the close working relationship on performance contracting indicator on resolution of public complaints and access to information.



CAJ Assistant Director, Public Education, Advocacy and Public Education, Mr. Sammy Cheboi presenting a branded clock to Meru University Vice-Chancellor, Prof. Romanus Odhiambo.

## CAPACITY BUILDING

### Commission Staff Trained as Trainers

The Commission in June carried out a five-day staff training of trainers' workshop in Nakuru. The participants were drawn from the Commission's head office and regional branches. The workshop was officially opened by the vice chairperson, Mr. Washington Sati.

In his opening remarks, he emphasised on the importance of capacity building aimed at increasing the pool of trainers and improving the skills of the team. He also thanked the workshop partner, GIZ.

On the third day of the training, the Commission staff were joined by experts from the Kenya School of Government who facilitated the rest of the 5 day workshop.

The training was aimed at; equipping participants with skills on systematic training approach, the principles of adult training, designing training programmes, training evaluation, and transfer of learning.



Commission Vice-Chairperson, Mr. Washington Sati with the staff during the training workshop.



CAJ Senior Legal Officer, Mr. Simon Nzioka facilitating a session on Access to Information during the training.





## Court Enforces Commission's Access to Information Decision

The High Court of Kenya, Constitutional and Human Rights Division, sitting in Nairobi on Friday, 3rd June 2022, issued a judgement which adopted the decisions and orders of the Commission on Administrative Justice under the Access to Information Act, 2016.

This follows a court case where Pragon Electronics Limited moved to court to have the Commission's order adopted by the court as provided under section 23(5) of the Act after Ms. Njeri Kariuki, an Arbitrator, failed to comply with the orders of the Commission.

The case arose out of a complaint where Pragon Limited, through AKO Advocates, made a request for information under section 8 to Ms. Kariuki on 11th November 2022. The request for access to information was made for:

- a. Timesheets indicating the proof of time spent during the arbitration proceedings between Yusuf Sharafally and Amana Yusuf Sharafally, and Paragon Electronics Limited;
- b. Invoices providing a breakdown of services provided or a justification of arbitration fee of Kshs. 972,000; and
- c. ETR receipts to enable their client to offset their own Value Added Tax liabilities.

However, Ms. Kariuki, in her response in a letter dated 16th November 2021, denied the information request. She indicated that the requester would only be allowed to peruse the copies of the timesheets in her office without the right to obtain copies and refused to issue ETR receipts for payments which was already made to her.

The response prompted AKO Advocates to write another letter to Ms. Kariuki in line with the provisions of Article 35 of the Constitution on access to information but Ms. Kariuki merely acknowledged their letter without providing the requested information, prompting the law firm to make an application for review of Ms. Kariuki's action to the Commission under section 14(1) (a) of the Act.

In their appeal for review dated 10th December 2021, AKO Advocates stated that the requested information was essential in determining the propriety of the demands for money sought by the Arbitrator and that the information and records sought from the Arbitrator were, therefore, necessary for the purpose of their client, Pragon Limited, in enforcing their constitutional right.

The Commission considered the matter extensively and made a decision on 11th January 2022 directing that the Arbitrator, Ms. Kariuki, facilitate access to information as requested as the information sought was not limited by Section 6 of the Access to Information Act, 2016. Ms. Kariuki failed to implement the decisions and orders of the Commission and failed to appeal the decision within twenty-one days, prompting Pragon Limited to move to court to have the Commission's orders adopted as orders of the court.



Upon considering the parties' cases and submissions, the following issues were put forward for determination by the court;

- a) Whether the Commission had the jurisdiction to determine the case before it?
- b) If (a) above is in the affirmative, whether in the circumstance the application be allowed.

In his judgment, Hon. Justice A.C. Mrima granted leave to enforce the orders of the Commission and to enforce the orders of the court. The court further found as follows:

- i. That the Commission had jurisdiction to deal with the complaint laid before it by the applicant, Pragon Limited;
- ii. That the Constitution has expressly provided that information held by another person which is required for the exercise or protection of any right or fundamental freedom must be availed. The only exception to the right to access information should only be where a limitation is permissible under the Constitution and the law. In this case, Section 6 of the Access to Information Act provides for limitations of the right to access information;
- iii. That arbitral proceedings do not oust the jurisdiction of the Commission over the subject matter. Further an arbitrator is not excluded from complying with Article 35 of the Constitution and the Access to Information law unless within the limitations in law; and
- iv. That the access to information law imposes a duty on the Commission to decide whether certain information ought to be released to a requesting party. The law calls on the Commission to make a decision. Therefore, the letter dated 11th January 2021, was a decision of the Commission.



## COURTESY CALLS

### Commission Presents Spot Check Reports to Six Counties



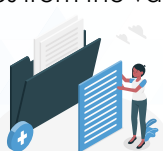
*A team from the Commission led by the Commissioner in Charge of Access to information, Ms. Lucy Ndungu during the presentation of the spot check report to the County Secretary, Elgeyo Marakwet County Mr. Paul Chemmutut, and the Speaker of the County Assembly, Hon Kiplagat Sabulei.*

The Commission on 6th to 9th June 2022 presented spot check finds to the county executive and the assembly of Kisumu, Bungoma, Vihiga, Siaya, Kakamega and Elgeyo Marakwet. This was a culmination of a spot check which the Commission conducted in May 2022 in the six counties.

The aim of the exercise whose focus was on the county executive, the county assembly and the various county department and agencies was to establish the levels of compliance in regards to grievance redress and access to information, identifying gaps and challenges faced by the county in operationalising the complaints handling and access to information infrastructure, and establishing the specific intervention and technical support required by the counties to overcome the challenges faced in setting up and operationalizing the complaints handling and access to information infrastructures.

Moving forward the Commission with the support of GIZ, Good Governance programme will train public officers at the counties to enhance their capacity and service delivery at the counties.

The Commission will also offer assistance to the various counties to set up complaint handling and the access to information infrastructure. Additionally, the Commission will enhance accountability and transparency through the institutionalisation of service charters at the counties to enable the public to demand services from the various institutions.



*Vice Chairperson of the Commission, Washington Safi accompanied by the Commission Secretary/ CEO, Ms. Mercy Wambua with the Deputy Governor, Kisumu County Dr. Mathew Owili.*



*Cmmr. Lucy handing over the spot check report to the County Secretary of Kakamega County Government Amb. James Ochami.*



## MDCAs Training

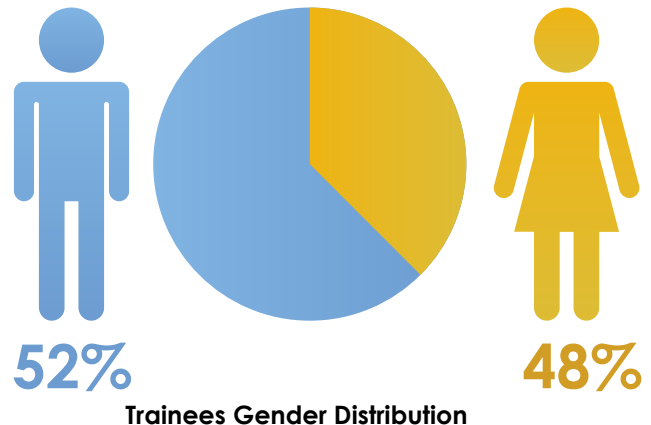
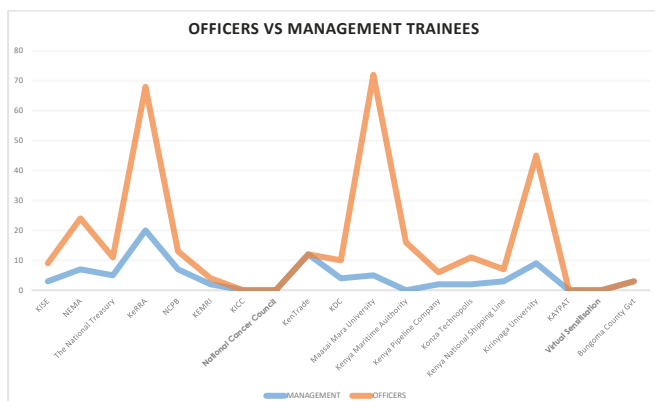
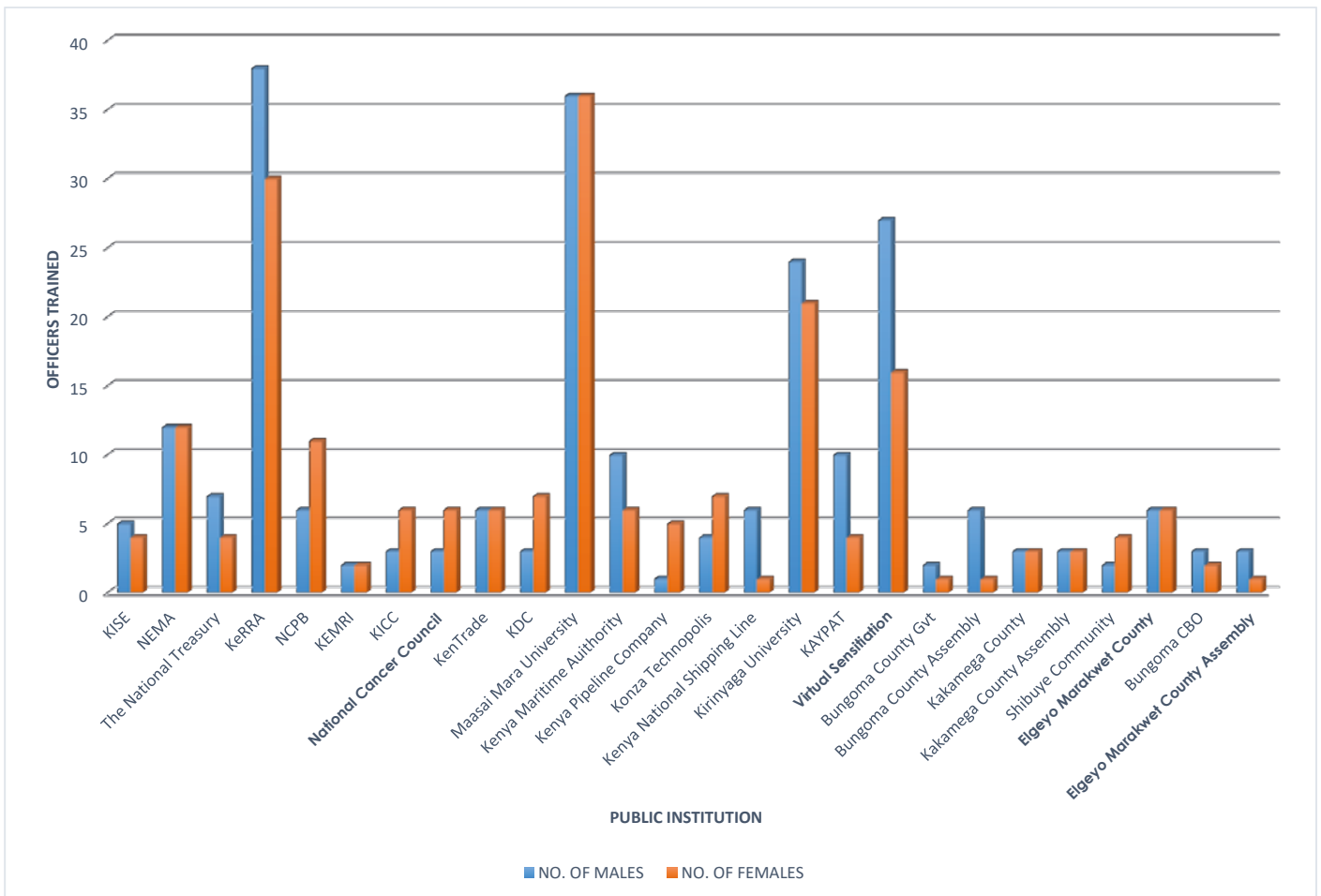
### 1145 Officers Trained

The Commission has continued to influence good governance and continuous improvement of service delivery in the public sector. As an oversight institution, the Ombudsman plays a central role in instilling a culture of responsiveness, transparency and accountability which are key ingredients of good governance and quality service delivery.

In this regard, the Commission trained **1145 public officers** from various public institutions between **April and June 2022** on effective public complaints handling and access to information. The training targeted complaints committee members, access to information offices, senior management team, staff and board of selected public institutions.

The Commission is an important stakeholder in public service delivery. Pursuant to section 8 ( e) of the constitutive Act, the Commission serves to facilitate the setting up of, and build complaint handling capacity in the public sector.

The Commission also acts as a check on policies, processes, systems and procedures involved in service delivery. Equally, it plays a critical role in the process of implementing performance contract in the public service. This is done by monitoring the implementation of the indicator, 'Resolution of Public Complaints.'



## PICTORIAL



A team from the Commission led by Vice Chairperson, Mr. Washington Sati during a meeting with a team from African Institute for Development Policy (AFIDEP)



A team from the European Centre for Electoral Support (ECES) during a courtesy visit to the Commission. The meeting discussed partnership during the electioneering period.



Commissioner in-charge of Access to Information, Ms. Lucy Ndung'u presenting a branded clock to the Executive Director, Electoral Law and Governance Institute for Africa (ELGIA), Mr. Felix Owuor.



A team from the Commission led by the Chief Executive Officer, Ms Mercy Wambua with a team from Act Change Transform (Act!). The meeting discussed possible areas of partnership and collaboration.



# PICTORIAL



The Chief Justice, Hon. Lady Justice Martha Koome with the chairpersons of various constitutional commissions and holders of independent offices during the celebration of the 10th Anniversary of CC&IOs.



CAJ Officers engaging with members of the public who visited the Commission's booth during the celebration of the 10th year Anniversary of CC&IOs at the Kenyatta International Convention Centre, Nairobi.



The first Ombudsman, Hon. Dr. Otiende Amollo poses for a photo with a team from the Commission when he visited the Commission's booth during the celebration of the 10th year Anniversary of CC&IOs at the Kenyatta International Convention Centre, Nairobi.







# PICTORIAL



Commission staff during a training for trainers workshop at the Alps Hotel, Nakuru City. The five-day training was supported by GIZ Strengthening Good Governance Programme.



Commission Chief Executive Officer, Ms. Mercy Wambua with the training curriculum review working group during a retreat in Nakuru.



Officers from the Commission facilitating a five-days' training on effective public complaints management and access to information for committee members of the Kenya National Shipping Line.



The Commission staff, with the support of the Electoral Law and Governance Institute of Africa (ELGIA), during a two-day consultative election observers' sensitisation workshop at Sawela Lodge in Naivasha.





## THE OMBUDSMAN NEWSLETTER

### Head Office

West End Towers, 2nd Floor, Waiyaki way  
P.O. Box 20414- 00200, Nairobi  
Tel: 0202270000 / 0800221349 (Toll Free)  
Email: [info@ombudsman.go.ke](mailto:info@ombudsman.go.ke) (for general inquiries)  
[complain@ombudsman.go.ke](mailto:complain@ombudsman.go.ke) (for complaints)  
Twitter: @kenyasombudsman  
Facebook: Ombudsman Kenya

### Kisumu Branch Office

Central square Building, 2nd Floor  
Oginga Odinga Street  
P.O. Box 1967 - 40100, Kisumu  
Tel: 0572022810 / 0731248906  
Email: [kisumu@ombudsman.go.ke](mailto:kisumu@ombudsman.go.ke)

### Mombasa Branch Office

Mombasa Trade Centre, 2nd Floor,  
North Wing, Nkrumah Road  
(Former Ambalal House)  
P.O. Box 80979 - 80100  
MOMBASA.  
Tel: 041 2315411/0731 011116  
Email: [mombasa@ombudsman.go.ke](mailto:mombasa@ombudsman.go.ke)

### Eldoret Branch Office

Kerio Valley Development Authority (KVDA)  
Plaza, 7th Floor Oloo Street  
P.O. Box 10326 - 30100, Eldoret  
Tel: 020-8106515  
Email: [eldoret@ombudsman.go.ke](mailto:eldoret@ombudsman.go.ke)

### Isiolo Branch Office

County area, along kiwandani road,  
Near KRA office  
Tel: 020 2007671  
Email: [isiolo@ombudsman.go.ke](mailto:isiolo@ombudsman.go.ke)

### Nyahururu Branch Office

Laikipia County  
Opposite Nyahururu Referral Hospital  
Tel: 0800221349  
Email: [nyahururu@ombudsman.go.ke](mailto:nyahururu@ombudsman.go.ke)

### Garissa Branch Office

Hosted by National Gender  
and Equality Commission  
KRA Route, Off Lamu Road  
P O Box 485 - 70100, Garissa

**Huduma Centres:** Nairobi, Embu, Nyeri, Nakuru, Kajjado, Kakamega, Kisii, Bungoma, Kwale, Wundanyi, Makueni and Meru.

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