Involving Local Authorities In the programming process of EU Cooperation in Kenya

LOCAL AUTHORITIES ROADMAP FOR THE 2021-2027 CYCLE OF EU COOPERATION

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LIST OF ABBREVIATIONS
INTRODUCTION

This Roadmap is distinctively divided into three parts that thus present; the status quo on the involvement of County Governments (CGs) in Kenya’s national development and cooperation framework, as well as the way forward towards enhancing that position, including the roles to be played by key stakeholders in the process and the target timelines for achieving the goal.

The first part presents an overview on the current levels of CG involvement in the national development and cooperation policy. This is crucially important because it enlightens us on the current status and trend in order to enable us identify the gaps that need to be addressed. This part is largely drawn from the key highlights and conclusions of the compendium and analytical reports arising from a study that was specifically commissioned by United Cities and Local Governments of Africa (UCLG Africa), to inform the development process of this roadmap.

The second part delves into the identification of key stakeholders and most specially the role of policymakers at national and EU level. Its purpose is to highlight roles of the key stakeholders in creating an enabling environment for enhancing the participation of National Associations of Local Government Associations (NALAs), in the definition and implementation of national development and cooperation policy. It looks at the mandate of CGs as defined by the decentralization laws in the country and identifies gaps between what is prescribed and what is implemented, as well as areas of improvements for enhanced participation CGs in the development frameworks.

The part also looks at the priority goals of EU cooperation and identifies appropriate mechanisms for CGs access to available EU funds and other development driving opportunities, in order to improve their delivery capacity.

The third focusses on the status quo and potential contribution of the CGs and their national association, the Council of Governors (COG), towards enhancement of their involvement in the national development and cooperation policy framework. This involves a look at the managerial, financial and technical capacity of COG, as well as assessing the gaps that require to be addressed to enable it effectively play its role as a unified voice for CGs in the country.

The three parts are followed by annexes, which provide additional data and information considered to be useful to the highlights and discussions presented by the roadmap.
The involvement of County Governments (CGs) in development and cooperation policy and arrangements is not only desirable, but also necessary and even crucial. One of the key benefits of a strong involvement of CGs is that it can bring first-hand data and locally-grounded knowledge that can allow decision-makers at national level to define development and cooperation policies that take into account local contexts, in a more accurate manner. It also enhances the participation of key non-state holders at the local level, such as the local civil society, whose contribution can be sought through participatory multi-stakeholder’s consultations organized at the local levels. Such multi-stakeholder engagement is important in the definition of local policies and exploration of multiple and innovative ways that better inform the policy formulation process. Besides the benefits associated with local participation in information and data collection, the involvement of CGs is likely to strengthen solidarity between the local and national levels in implementing development and cooperation policy. On the other hand, it is assumed that effective involvement would facilitate better appreciation and consideration of local priorities in the development process.

Against that background, a study was commissioned to analyse the level of involvement of County Governments in Kenya’s national development and cooperation framework. This is part of a process intended support the CGs along the path of strengthening their interaction with national government. Such synergy will, among others, be crucial in facilitating their participation in the EU programming process. In that light an analytical study was conducted and its report findings are part this roadmap, which is intended to guide the CGs and NALAs in their interaction with their national government and European Union Delegation.

The analytical study of CG involvement in national development and cooperation processes, with in context of the decentralisation framework and political economy of Kenya, is aimed at examining the feasibility of the new EU political agenda by providing strategic answers to the 3 questions that feeds into the Integration of County Governments in the European Cooperation Programming Process 2021-2027.

The three broad clusters of questions on which the report is built are:

- **Shifts towards territorialization on national plans and policies**
  To what extent has there been an evolution at central government level in terms of moving towards a “territorialization” of core national plans and (sectoral) public policies? What is the reason for central government doing it and how solid is this national commitment to integrate the spatial dimension in order to recognize that territories have different needs? Has this has been translated into clear plans, policies and implementation processes? The existing national funding mechanisms foreseen to ensure effective territorialization of core public policies?
- **County Governments as development actors**
  To what extent does central government consider CGs as a “development actor” in its own right and an essential partner to be associated in the territorialized public policies (including SDGs or the Nationally Determined Contributions for the Paris Agreement)? Or are subnational authorities merely seen as subordinated “implementing agencies” of centrally conceived and steered national policies?

- **Recognition of the added value of territorial approaches to local development**
  To what extent does central government recognize the added value of territorial approaches to local development spearheaded by the CGs on the basis of their “general mandate”? Do central governments acknowledge that CGs have not only a role in helping to implement national (territorialized) policies, but that they should also act as a catalyst of bottom-up processes of territorial development by developing partnerships with all relevant local actors (private sector, civil society, etc.)?

The study assessed; i) the opportunities and constraints created by the decentralisation reforms; established whether it is a development-friendly national decentralization policy, and one of the building blocks of a national strategy for territorial development, whether it provides a necessary foundation for it. The added value of the assessment was to identify the opportunities and/or constraints created by the decentralization system for the empowerment of County Governments as developmental actors in their own right. (ii) The extent to which national development policy supports place-based, territorial development and the role of County Governments in promoting it.

The study went beyond a diagnostic of the prospects of territorial development, assessing the opportunities created (or not) by decentralization reforms. By definition, if ‘territorial development’ is understood as the difference that empowered sub-national authorities can make, decentralization may generate it only if the central government is also committed to ‘place-based’ (as opposed to ‘spatially blind’) policy making. To that end the analysis looked not only at the country’s decentralization policy, but also at a) whether and how it interacts with the national urban, rural and regional development policies and b) the role these national (urban, rural and regional) policies give to sub-national authorities in their design and implementation. The document has three parts as below:

The goal of this roadmap is to review the current status of decentralisation in Kenya, with a view of making recommendations towards the development or strengthening of a local government system that would ably respond to the challenges and needs of communities, in order to foster holistic development for their areas. The drafting of this roadmap particularly envisages the availability of potential avenues for support from the European Commission (EC) to strengthen County Governments and their national association.

The European Commission concluded a new financing instrument the Neighborhood Development and International Cooperation Instrument (NDICI) that will guide its next
programming of the next 6 years (2021 to 2027). The programming process has already started with the pre-programming phase that is conducted internally between the EU delegations and the EU headquarters in Brussels, particularly the External Action Service (EAS) in charge of the political dimension of the EU cooperation programme. The pre-programming phase aims at defining the key political objectives of EU cooperation in each partner country.

The in-country programming phase is expected to be completed by end of 2020. Generally, the programming exercise is meant to identify strategic and priority areas and sectors for interventions to be financed by the EU cooperation. The process is to be informed by a political dialogue that would ideally include central governments, County Governments and other development actors, including the civil society and private sector. Among other considerations, it will be pertinent for the short and medium-term consequences of the COVID-19 pandemic to be fully integrated into the next programming process. This is in addition EU’s other geopolitical such as migration, security and trade and the Sustainable Development Goals.

EU delegations in partner countries are, therefore, expected to play a major role in the consultations and discussions that will inform the priorities and programs to be included in the 2021-2027 EU cooperation framework of the respective countries. The consultations and discussion have, however, often been confined to the central government level. The integration of local and other sub national governments will, therefore, present a key innovative feature of the programming process, since they until now continue to be considered by many central governments as non-state actors. The integration will indeed be in line with the EC 2013 Communication on “Empowering County Governments in partner countries for enhanced governance and more effective development outcomes”, which recognises local and sub national governments (County Governments) as state actor in their own rights and capacity. This is partially because they ideally work as proximity public authorities besides the central government, as in accordance to the subsidiarity principle.

The Republic of Kenya is no exception to the list of countries, striving for good governance and attempting to reform its governance structure, to better decentralise and maximise national development implementation efforts. Despite being highly centralised, considerable strides have been made to establish the required framework and mechanisms that would essentially facilitate the processes of decentralisation. In consideration of the fact that the transition from a centrally planned system to that of an autonomous regional/local administration can be lengthy and not without its challenges, the country has embarked on a journey seeking to improve accountability, transparency in local governance and to drive a bottom-up approach in decision-making among local communities. The Local Government Act was enacted in 2015 and ratified in 2019 the ‘African Charter on The Values and Principles Decentralisation, Local Governance and Local Development’. These milestones illustrate the political commitment that the country has, in pushing the decentralisation agenda within its local settings.
It is against that background that this roadmap has been developed to present a case, as well as facilitate the course of action, in the negotiations intended to allow for the effective involvement of local and other sub national governments in the EU programming process.
THE THEORETICAL AND CONTEXTUAL REVIEW OF KEY CONCEPTS

For purposes of understanding better the status quo, discussions and recommendations presented in this roadmap, it is pertinent to first explore the theoretical and conceptual issues that underlie the foundation and importance of strengthened involvement of local and sub-national governments, in the national development and cooperation policy framework. Prior to further discussion, however, it is worth mentioning that this roadmap is mostly inclined to local and sub-national government structures and not the broader spectrum of local governance. In that light and specifically in the case of Kenya, the term ‘counties’ is generally used to refer to the County Governments. We, nonetheless, begin by discerning the conceptual difference between government and governance, since districts are part of the country’s local governance system.

The Terms ‘Governance’ and ‘Government’

Although it is not rare for the terms ‘governance’ and ‘government’ to be used interchangeably, they are increasingly being deliberately distinguished in recent literature. According to the Oxford Dictionary the word ‘government’ can mean “the group of people who are responsible for controlling a country or state,” or a “particular system or method of controlling a country.”¹ More than often, however, application of the word ‘government’ is, as in term ‘local government’, extended to other legitimate levels responsible for public service delivery.

The term ‘governance’ is broader that ‘government’. Rhodes finds six separate uses of the term ‘governance’. We, however, take interest in the one that looks at governance as a network where both government and non-government actors are involved in service delivery,² thus suggesting the involvement of non-state actors in public sector matters. The term ‘governance’ and not ‘government’ is, therefore, particularly used to “denote the interaction between public and private institutions and actors.”³ According to Eckerberg et al, the common aspect in recent usage of the term ‘governance’ entails the erosion of the traditional bases of power by the shifting from the traditional to a new way of management or government.⁴ In that context we see that government is part of governance but not vice-versa. As such the theory surrounding the concept of governance remains applicable and relevant to the study of government.

The importance of County Governments in the governance system rests upon the hypotheses that government structures poses higher levels of universal legitimacy; already have structures and capacity to build on; are more broadly accountable; are permanent; and can easily be coordinated. As such, this roadmap’s advocacy for the involvement of County Governments is not being fronted as a panacea to the challenges being faced by the national development and

cooperation framework, but rather as a means intended to facilitate the participation and coordination among interests at various levels of government.

**Why Sub-National Government?**
As is the case with many other development issues, local-level participation in matters of national interest has progressively been presented with ideas that imply a multitude of changes/reforms, some of them being radical. As the concept of state-centrism continues to be attributed as a major cause for the inefficiencies in the management of local affairs, several options have been presented to complement and in some case supplant the centralist paradigm in various public services. Therefore, the question ‘why sub-national government?’ arises from the fact that advocacy for local level participation in national matters can as well be championed non-state actors in the local governance sphere, including Community Based Organisation (CBO) and Non-Governmental Organisation (NGO) networks. There remain wide disparities, however, as to the institutional setup that is deemed likely to return the best results in a sustained and all-encompassing manner.

As has been mentioned, our focus on government structures, and this case the County Governments, is not intended to marginalise the potential contribution of non-state actors, but to emphasize that they ought to operate within a permanent, legitimate and robust institutional framework. Although the rapid rise of NGOs, since the 1980s, can be attributed to poor performance of the public sector, they cannot be a perfect substitute to government structures. NGOs are faced with the problems of: legitimacy; external control, especially from their funders; not being broadly accountable; and being constrained in mandate. Indeed, Arts Bas stresses that the power of NGOs should not be exaggerated, as their success depends on partnerships with government and other stakeholders.

**Working Through the Sub-National Government Framework**
While it appears to be a widely appreciated position that a good national development and cooperation process entails effective participation or representation of local communities, unpopularity of the sub-national government system is mainly founded in the contention that it is merely an extension or localisation of central government. The truth, however, greatly depends on the manner in which the local-central relations are defined. Loose systems such as those based on administrative deconcentration tend to maintain a thin line between local and central government, while the reverse is true under strong devolution models. The central-local relations must be complementary and not based on submissiveness. Saito observes that:

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8 Arts Bas, ‘The Global-Local Nexus: NGOs and the Articulation of Scale,’ 95 Economic and Social Geography 498.
“Facilitation differs from domination. Thus, creating effective local facilitation is indispensable, and often this role needs to be played by the public offices.”

Whatever the shortcomings of non-state actor, they nonetheless remain important actors in the advocacy and implementation of local service delivery mechanisms. Their contribution is likely optimised if coordinated through a local government system, which usually has a broader spectrum of services and is also fully accountable to its entire citizenry. Aside from the likely problems of conflict of interest and the unnecessary waste of resources that often arises from fragmented approaches to service delivery, the mandate and capacity of non-state actors is more limited, especially when they operate in isolation. Indeed several writers have questioned the effectiveness of self-standing community based interventions, especially, if based on models that negate the participation of other critical stakeholders such as sub-national government. It is probably because of the advantage of economies of scale that Zaidi contends that, the only alternative to state failure in development related service delivery is the state itself. He also observes that the state should, nonetheless, be reformed along principles of participation under democratic and decentralised structures.

**Definition and Contextual Application of Decentralisation**

Prior to delving into the main body of this roadmap which presents a situation analysis followed by a statement on possible remedial actions, it is important to first define or describe the terms deemed to pivotal in the discussion to follow. This is intended to elevate our understanding and appreciation of such terms from both theoretical and contextual points of view, since systems and application of some words and concepts may vary across countries.

**Decentralisation**: There is no commonly accepted definition of decentralisation. Nevertheless, almost all authors who have attempted to define the concept often hold that decentralisation involves, even if in varied forms, transferring responsibilities, powers, functions and resources from a centre to peripheral governmental institutions. Yet, decentralisation is not meant to deprive the centre of all political powers. There are certain areas of authorities which are appropriate to the national actors and other areas of authorities which are appropriate to subnational actors. “Both national and sub-national actors have a complementary role to play.

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12 “Decentralisation is commonly regarded as a process through which powers, functions, responsibilities and resources are transferred from central to local governments and/or to other decentralized entities howsoever defined.” Kauya (2005)
However, their role needs to be “determined by analyzing the most effective ways and means of achieving a desired objective.”

**Forms of Decentralisation:** Decentralisation takes various forms. The most known ones are deconcentration (also known as administrative decentralisation), devolution (democratic decentralisation) and delegation.

**Deconcentration:** Also known as administrative decentralisation is the transfer of responsibilities, authorities and resources from a centre to local units of the centre. Through deconcentration, powers and responsibilities are transferred to governmental institutions within the jurisdictional authority of the central government.

**Delegation:** refers to a situation where decision-making and administrative authority and responsibility for definite tasks are transferred from a centre to an autonomous sub-national unit. The central government defines the powers which are to be transferred.

**Devolution or democratic decentralisation:** refers to a situation where a local level government is constituted legally as a ‘separate governance body’ and that powers and responsibilities are transferred to such unit on permanent basis. This form of decentralisation is referred to as “genuine decentralisation.

**Potential Levels of Disjuncture in the Decentralisation Process**

According to Andrews *et al* the effectiveness of decentralisation is based on a joined-up flow of service assignments. The authors identify three levels at which disjuncture can occur in decentralisation programmes. The first is at the **theoretical level** where principles in normative literature on decentralisation are depicted in terms of the decentralised powers and functions. It is at this level, for instance, where differences may occur in the conception of the definition, types and dimensions of decentralisation.

Secondly, there is the **legal level**, which encompasses the legal framework that mandates and implements the decentralisation programmes. The importance of this level is well presented by the UNDP, which contends that the robustness of sub-national government systems is greatly dependent on the clarity and level of protection embedded in the instruments that establish and

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18 UNDP (1999) at p. 7; De Visser (2005)
19 Manor (1999)
21 ibid.
22 ibid., at p. 32.
operationalise them. Legal mandate and clarity of power relations and scope of responsibility among different levels of government are not only crucial for the implementation of decentralisation but also in the management of conflicts that arise as a result. This partially explains why the proponents of sub-national government are increasingly seeking for constitutional fortification of complementary systems in public governance. Though it is argued that constitutionalisation of decentralisation protects it from various forms of threat, there are always justifications for recentralisation. In some instances functions or services that are legally decentralised are held back by bureaucratic tendencies and direct forms of inter-organisational conflict.

Thirdly, there is the practical level which depicts the degree to which a given component is actually decentralised. The transfer of services or sectors does not necessarily spell what components of it are actually decentralised. Also, decentralisation of a sector or service may not take into account capacity issues in terms of the human, financial and physical resources, at the disposal of the decentralised units. Andrews et al further observe that disjoints between theory and reality arise from various factors including intergovernmental politics, bureaucracy and local level incapacities. Indeed, political commitment, exhibited in the form and level of support extended by the centre to local units, remains a core foundation for effective decentralisation. As we shall see later, however, several disjoints in the decentralisation process can be attributed to the elevation of state-centrism in local affairs management.

Decentralisation and Sub-National Government in Africa

Decentralisation has, since the 1980s, been embraced by many African countries as a complementary system of government, although in different forms. Unlike its earlier forms founded on administrative deconcentration, most of the new decentralisation efforts are linked to state democratisation and poverty reduction programmes that usually entail the transfer of political and fiscal powers. Notwithstanding this, administrative deconcentration still remains widely practiced.

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26 Andrews op. cit., n. 2.
27 ibid., at p. 30.
29 Andrews op. cit., n. 2.
The renewed interest in decentralisation in Africa is attributed inter alia to: failure of centralised public sector management; the need to address conflict resolution at sub-national levels; the push for local democratisation in decision making and management; pursuance of poverty reduction through equitable resource distribution; the absence of parastatals, many of which have since been privatised or liquidated; economic crisis and structural adjustment reforms; and the realities of globalisation. Without undermining central government roles, Africa’s renewed interest in decentralisation can be said to result significantly from donor pressure acting in concert with non-state domestic organisations, the private sector, civil society and various international organisations. Nonetheless, not all decentralisation programmes have been initiated by donors. Uganda’s decentralisation programme, for instance, was inspired by the informal Resistance Councils’ system, which was used by the leadership of the current government to manage areas that were under their control as a guerrilla army, before capturing state power in 1986. In fact, as Uganda’s decentralisation programme was being rolled out, government objected to the model that was being pushed by the World Bank, to decentralise up-to district instead of sub-county level.

Although pressures for its adoption are great, decentralisation faces a number of challenges and criticisms, most of which concern its functioning rather than the principle itself. As seen in the discussion on the potential levels of disjuncture, the challenges occur at the different stages of implementation as well as at different levels of the participating parties. Often the failure of decentralisation is significantly blamed on central government in that, aside from taking a leading role in designing the decentralisation programmes, it possesses and controls the powers and resources that are required to run the programmes. The outstanding issue in this respect is the pseudo devolution of powers and functions, which is usually compounded by poor central-local relations. The principal laws on decentralisation are sometimes ambiguous or inadequate to enable the proper running of the decentralised functions. This may be a deliberate outcome or an omission or may as well be due to lack of the required expertise in designing the decentralisation programmes. A study of twenty-one African countries, funded by the International Union of County Governments (IULA), revealed that although decentralisation was increasingly being adopted, crucial powers and functions were being retained at central government level, rendering the local councils more as functionaries than partners in the entire

33 Olowu (2003) op. cit., n. 6; See also, Kirkby, op. cit., n. 13; and Olowu Dele, Decentralization Policies and Practices under Structural Adjustment and Democratization in Africa (Democracy, Governance and Human Rights Programme Paper Number 4, United Nations Research Institute for Social Development 2001).
34 Olowu (2003) op. cit., n.6.
36 See Olowu (2003) op. cit., n. 6.
37 See earlier discussion on ‘Potential Levels of Disjoint’.
38 For examples see, David Dent Dalal-Dayton and Oliver Dubois, Rural Planning in Developing Countries: Supporting Natural Resource Management and Sustainable Livelihoods (Earthscan, London 2005) p. 27-89; See also, Wunsch (2001) op. cit., n. 13; and Olowu (2003) op. cit n. 6.
development process. The ‘power and control equation’ that defines the relationship between central and local government continues to disfavour the later. Such a scenario is what another study with similar findings refers to as the ‘power retention’ syndrome. Generally, most sub-national government operational challenges such as insufficient human, financial and physical capacity and administrative or political interference are associated with the refusal of the centre to cede reasonable power to the local units. This is partially a result of conflicts between national and local socio-economic development needs, which according to Onyach-Oola, are inherent in long-term development strategies, and their resolution may require hard decisions.

Aside from the challenges associated with the design and implementation phases, the tenure of decentralisation in Africa is often under constant threat of being scaled down or completely abolished. Partial or full recentralisation may occur at any stage of the decentralisation process. Recentralisation is often based on the argument that decentralisation has failed to deliver the expected results. However, such conclusions are often arrived at without taking into account all the factors contributory to the failures. In fact, decentralisation is at times said to have failed even before it actually commences effectively. In certain cases decentralisation fails to effectively take off due to lack of the necessary institutional or legal adjustments that would facilitate its alignment within the broader context of government. It is at times neutralised by elaborate supervision and control measures by the centre, which often degenerates into interference. On the other hand, decentralisation programmes are at times too ambitious, in that a lot is expected from them within a short period of time, irrespective of shortfalls in the desired level of inputs for its implementation.

The failure of decentralisation programmes should not be blamed on only normative issues or the central government. Crook, for instance, observes that the democratisation process in Africa is facing an ‘elite capture’ problem. He believes that ‘elite capture’ has been deliberately constructed by ruling elites to establish and maintain power bases over the grass roots. Power structures largely remain under control of local elites who are resistant to change and at times disinterested in the development of pro-poor policies. In their study, Keeley et al observed that,

43 ibid.
48 See Crook (2003) op. cit., n. 12, at p. 85.
49 ibid.
certain local councils despite their potential were more pre-occupied with issues of revenue collection than substantially engaging in policy processes.\textsuperscript{50} They argue that democratic decentralisation does not necessarily imply that available opportunities are optimally utilised.\textsuperscript{51} In addition, local officials and leaders are at times found to be incapable of performing their duties and instead reign within highly bureaucratic systems that defeat the essence of decentralisation.\textsuperscript{52}

On the other hand, the local communities have their own share of the blame. Although their responsiveness to decentralisation is greatly dependent on awareness campaigns, it can also be influenced by attitudinal, behavioural, and cultural conditions.\textsuperscript{53} While the ‘power lies with the people’ idiom is cherished under decentralisation philosophy, the local population at times fails to be responsive to their roles. They may, for instance, fail to exert pressure on the local institutions for accountability.\textsuperscript{54} They may resort to physical or social resistance methods that strongly impact on the decentralisation programmes.\textsuperscript{55}

The positive relationship between decentralisation and sub-national government in Africa has generally remained limited because of shortfalls in the legal and regulatory frameworks that govern the interrelationship among various actors.\textsuperscript{56} This is often exacerbated by lack of local capacity, enthusiasm of the local officials and laxity among the local communities. Scepticism is rife as to whether Africa’s new decentralisation programmes will consistently stand the test of time as a major platform for local service delivery.\textsuperscript{57} As is the case with potential drivers for effective local participation and representation, successful involvement of the County Governments in the national development and cooperation framework is not only dependent on the policies and laws that create it, but also the entire set-up of the sub-national government system, including its intended beneficiaries. In other words, the involvement of County Governments requires not only an enabling legal, policy and institutional framework, but also the capacity, awareness and commitment on the part of all the key stakeholders including the national and sub-national governments and local communities.

\textsuperscript{51} ibid.
\textsuperscript{52} Crook, C. R., ‘Decentralisation and Poverty Reduction in Africa: The Politics of Local-Central Relations’ 23, Public Administration and Development 77, at pgs. 79-81.
\textsuperscript{54} Olowu (2003) op. cit., n. 6; Crook (2003) op. cit., n. 12.
\textsuperscript{55} Olowu (2003). ibid.
\textsuperscript{56} United Nations Development Programme (2002), op. cit., n. 5.
PART I

1.0 Why improve CGs involvement in development and cooperation policy? Rationale of the Roadmap.

Considering their mandate and proximity to local communities, sub-national governments (SNGs) are crucially important components of the public service delivery institutional frameworks. It is, therefore, important for them to be effectively involved in the national development processes right from the planning, implementation, review and reporting stages. Since national development process often involve the participation of various actors, its success is inevitably founded on the cooperation among the stakeholders. Usually, such cooperation is not only among between state and non-state actors within a country but also transcends across borders. In many African countries, however, development and cooperation policy is often championed by the central government with limited involvement of local and other sub-national governments. SNGs are in many cases involved at the implementation phase, whose specifics are at times decided by the central government.

It is in that light that many proponents are increasingly arguing for increased involvement of the local and other sub-national governments in the national development and cooperation policy. Indeed, other development partners have gone ahead to restructure their development assistance framework, with a view of making them conducive and more responsive to greater involvement of sub-national governments in the development process.

It is therefore imperative for County Governments, through the Council of Governors, to be integral of the programming process alongside the representatives of the national government, in the dialogue with the EU delegations.

Involvement of SNGs in the EU will, however, require not only an agreement on their crucial priorities but also the approach to the negotiation that will ensue, first with the national government and eventually with the EU. It will be important for the priorities to underlie a clear and credible development agenda that supersedes a mere statement of financial requirements. The purpose of this roadmap is to, therefore present, a working framework against which CoG members will collectively and consistently chart and defend the proposed actions to be considered by the EU programming process.

By putting across their priorities in the national development agenda, CGs will seek for the support and endorsement of the central governments, for purposes of engaging it in a mutually beneficial partnership. This will be important in reinforcing the fact that the intention of the CGs is not to present themselves as competitive but rather a complementary level of government in the development process.
1.1. Main conclusions resulting from the Compendium

The compendium on reference documents on the involvement of SNGs in the national development and cooperation policy is based on desk review of several reference documents including national and sub-national laws and development policies. It is also informed by interviews held with key informants in National Government ministries and County Government Departments. Notably, the Ministry of Devolution and ASAL; the National Treasury and State Department of Planning; and County Executive Committee Members responsible for finance and planning, County Secretaries, and select City and Municipality Board Chairperson and Managers, as well as European Union Delegation.

The compendium highlighting the background to the devolution process and the subsequent current trend of events, in respect to the country’s governance structure mainly constituted of the central and county governments. It notes that, since her independence, the Republic of Kenya has experienced different forms of decentralised governance.

The compendium observes that Kenya’s development policies are anchored on the national development blueprint, Vision 2030 (Annex I: Vision 2030), and the Constitution promulgated in 2010. The national development blueprint was launched in 2007 and is implemented through five-year development plans, the Mid-Term Plans (MTPs). The MTPs are in turn anchored on the manifesto of the party that forms the government after every five-year period. This coincides with the election period when the party that wins the election is required to form a government. The first MTP covered the period between 2007 – 2012; the second covered 2013 – 2017 and the country is currently implementing the third MTP running for the period 2018-2022.

Vision 2030 seeks to transform Kenya into a newly industrialized middle-income country providing high quality of life to all citizens. It comprises three main pillars for this purpose:

   a) Economic pillar: maintaining sustainable growth of at least 10% per annum for the next 20 years from 2020
   b) Social pillar: building a just, cohesive society enjoying equitable social development in a clean and secure environment
   c) Political pillar: An issue based, people centred, and accountable democratic system
   d) Enabling interventions: cross cutting issues including infrastructure, ICT, public sector reforms and macro-economic policies.

While Vision 2030 was prepared through an inclusive process the compendium notes that it paid limited attention to political development, including the shortfall on policies on inclusive politics not being robust enough to integrate recommendations by the first NEPAD’s African Peer Review Mechanism Report for Kenya in 2006. At the end of the first MTP in 2007, economic development had picked up and growth stood at 7.1 per cent. A violent post-election following a disputed election held in December 2007, however, slowed growth and resulted in the making of a new Constitution in 2010. The Second APRM report on Kenya acknowledges the progress made in
addressing some of the past challenges. It also identifies areas for greater attention in order to provide sustainable solutions to governance and development challenges.\textsuperscript{58}

In its brief analysis the compendium is of the that, overall, Kenya has experienced challenges in meeting the ambitious development goal. Economic growth has been about five per cent on average from 2008. Well as it observes that growth has often tended peaked in the electioneering period around, introduction of a devolved system of government has generally improved growth of local economies. Political divisions and organization of political competition along ethnic lines had continually constrained achievement of a just and a cohesive society. Absence of issue-based politics had, therefore, been a major challenge that inevitably impacted on governance and national development, in general. The analysis, however, goes further to recognize the new efforts to firm up a foundation for inclusive politics so as to prevent recurrence of conflicts prior, during and after the elections. This includes the initiative popularly referred to as the Building Bridges Initiative (BBI), under which several constitutional reforms have been fronted but yet to be debated and finalized.

MTP III which will be ending in 2022 identified the institutional and policy reforms required to transform various sectors of the economy in the period between 2018 and 2022. The identified four MTP priority areas, in terms of resource allocation and national and local level programming include:

1. Improving the manufacturing sector to contribute to the GDP and contribute to growth, job creation, and poverty alleviation. The government is, therefore, endeavouring to support the manufacturing sector so as to increase the sector’s share of GDP from the current 9.2% to at least 15%.
2. Improving agricultural sector to enhance nutrition and food security. This is being done through enhanced food production and supply as well supporting value addition in the food processing value chain.
3. Providing Universal Health coverage, which is being implanted by supporting access to affordable and quality health care for citizens.
4. Providing affordable housing for citizens in low income brackets and by that improve their living conditions.

Progress in review of the MTP III is underway. However, there has been several challenges that have constrained progress in achieving some of the milestones. First, Kenya experienced a protracted election dispute in 2017 and the conflict spilled over into 2018 at the beginning of implementation of MPT III. The conflict disrupted many economic activities. Although this was resolved in the first quarter of 2018, the consequences impacted on many sectors of the economy. Also, the COVID-19 pandemic has disrupted the implementation of several activities in all sectors including the transport and service industry in general; agriculture; trading; among others have been slowed by restrictions imposed to mitigate the spread of the disease and its consequences. This is expected to slow economic development and, importantly, reduce government revenue to support development programmes.

\textsuperscript{58} See Second Country Peer Review Report of Kenya, 2017
The compendium observes and concludes that, while several laws have been enacted and policies adopted, there remains significant matters to be addressed in order to fully align them with the spirit of devolution. The current scenario therefore, presents a clear disjuncture between the national development planning framework and a number of sectoral policies and plans. As such, the disconnect is mostly vivid at the practical level, which is ideally supposed to be guided by the sectoral plans and strategies.

1.2. Main findings from the analytical report

1.2.1 Purpose:

The analytical report was commissioned by UCLG Africa and it discusses a wide range of issues relating to the involvement of sub-national governments in national development and cooperation policy. The analysis done includes

- Assessing the national development policies and the extent to which county governments participate in identifying priorities and programmes in these policies
- Identification of Opportunities and challenges in implementation of devolution in Kenya and specifically whether the national government views county governments as important development actors
- Consideration of the feasibility of the national government working with the county governments to identify priorities and strategies for support under the EU programme

It thereafter provides recommendations on how to strengthen the implementation of devolution in Kenya, as one of the means that would similarly elevate the status of sub-national governments in national development and cooperation policy.

In light of its analysis and recommendations, the report identifies ways by which both the national and the county governments can work together to identify priorities for support by the EU. It thereby argues why the National and the County governments should jointly approach the European Delegation to Kenya to identify development programmes for support, a role which has always been a sole responsibility of national government, through the National Authorizing Officer (NAO).

1.2.2 Methods:

Discussion in the report is based on data collected using various methods. These include numerous reports and documents which were reviewed to provide insights on development programming in the context of devolution. The review also included assessment of various laws and those on devolution in particular. A compendium of devolution and development in Kenya was developed on basis of that review. The compendium highlights the key policies and laws that have been passed to support devolution. It also shows the laws passed by the county governments on their own in the absence of national policies and laws to support their efforts.

The report also benefited from interviews with different informants. Interviews were conducted with members of county governments including Governors and other members of the county executive, and officers representing county assemblies. Interviews were also held with national government officials including National Treasury; State Department of Planning; and Ministry of Devolution and ASALs. Discussions were also held with the Delegation of European Union in Kenya. In addition to
these interviews, a national webinar comprising many stakeholders in Kenya’s devolution space was held to discuss the preliminary findings of the report, whose input was also incorporated in the report.

1.2.3 Summary of the key findings:

As the report notes, Kenya’s governance system of devolution is well anchored and elaborated in the national Constitution, 2010. The Constitution positions the system of devolution as a major vehicle for service delivery and thereby provides for several support mechanisms including the revenue raising framework for the counties. The functions of the county government include delivery of services in the devolved areas of health, agriculture, pre-primary education and vocational training, and county infrastructure among others. Services carried out by the counties reflect many of the SDGs goals. This means that effective performance of county governments is expected to immensely contribute to achievement of SDGs. Costing of functions is yet to be finalized.

The County governments have County Integrated Development Plans (CIDPs) are a statutory requirement, in which the plans and implementation arrangements for a five-year period are spelt out, and routinely implemented through annual development plans, the annual county fiscal strategy papers, and the annual budget estimates. The CIDP contains the strategic midterm priorities of the county governments. These are usually the priorities for the county during the tenure of a county government. Each of the 47 county governments receives equitable share of revenue to support these development programmes.

The financing of county governments through equitable share is on increase in absolute terms but on decline as a share of national revenue. Some government ministries continue to hold on to functions that are the responsibility of the county governments. These are in addition to the challenges experienced in in financing development projects by the county governments. Disagreements on revenue sharing sometimes lead to delays in disbursing funds. In other instances, counties spend more on recurrent than on development. On the whole, slowed disbursement of funds to counties and failure of the national government to devolve all functions exposes gaps in the commitment of the national government to the objects of devolution.

The report observes that while inter-governmental relations is an important link in implementation of devolution in Kenya, county governments continue to face governance challenges that have constrained effective implementation of devolution. These include strained relations between the County Assemblies and the County Executives in some of the counties. Cases of lack of accountability in service delivery and use of funds continue to strain relations between the two organs of county governments. The emerging conflicts spill over to affect provision of services especially when the assemblies fail to approve county budgets.

It goes further to note that the national and the county governments widely recognize the important role the devolution has played— and continue to play – in service delivery. It is generally recognized that the counties add value to national and local development. This raises the need for the national and county governments to jointly develop a framework for political dialogue with the EU Delegation in Kenya. Both levels of government ought to develop a mechanism through which to identify the key priorities for support under the next EU programming phase.
1.2.4 Challenges and recommendations highlighted by the analytical report

Problem of financing and inter-governmental relations

Challenges impending effective of devolution include slow and late disbursement of funds to the counties. Weak cooperation and consultative arrangements between the two levels of government has also constrained implementation of devolution. The report thereby recommends that:

- The Council of Governors (CoG) should develop technical papers on how these challenges impact on service delivery and national development. The papers should be presented at the level of Summit for binding decisions. CoG should present evidence-led analysis of how these challenges impact on national development.

National development policy making

The extent to which county governments effectively contribute to the making of national development policies remain a matter of debate and concern. The report thereby recommends that:

- County governments, through CoG, be proactive in identifying county priorities and advocating for their integration into national development policies.
- The county governments, through CoG, should begin discussing priorities for Medium-Term Plan (MTP) IV and discuss with the State Department of Planning how these should be taken up.
- CoG should develop an advocacy and lobbying plan for the purpose of impacting on national development policies and programming.

Working together to identify EU programming priorities

It is evident that both levels of government are committed to working together to identify priorities for programming of EU cooperation. The mechanisms for working together, however, remain ad hoc in nature. The report thereby recommends that CoG and the National Government should:

- Establish a mechanism/structure for consultations and cooperation in identifying EU programme priorities for 2021-2027.
- Strengthen collaboration by inviting CoG to Co-Chair Development Effectiveness Group; Co-Chair Devolution Working Group; and Co-Chair Devolved Sectors Working Groups.
- Jointly consult with EU Delegation in Kenya and schedule meetings for political dialogue that will involve CoG.
- Jointly inform the relevant committees of the National Parliament (Senate and the National Assembly) and the County Assemblies of the growing role of sub-national units in identification of development priorities. This should be done with a view to anticipating making of relevant laws and policies.

EU Financing of county governments

It has in many cases been difficult for government ministries and departments to effectively absorb conditional grants extended to them by development partners, especially the large ones. It that light the report recommended that:
• EU Financing Agreement -and those by other development partners – should at the outset specify under County Revenue Allocation Act (CARA) with clarity how conditional grants will be disbursed to the counties.

• The financing agreement with the national government should specify whether it is the implementing agency (e.g. the relevant ministry or department) that should disburse the funds to the counties and then submit returns to the National Treasury; or whether the National Treasury should occasion disbursement upon request by the implementing Ministry or department.

• Inter-governmental Budget and Economic Council (IBEC) should resolve the challenges of budget ceilings by the ministries and ensure that this this is done in compliance with the law.

**EC Communication on importance of sub-national units**

This communication has not been given the attention it disserves for impact in development programming. It is from that respect the report recommends that:

- CoG should consult with the EU delegation to profile the EC 2013 communication on empowering of sub-national units.
- CoG should consult with the National Authorizing Officer (NAO) to convene a national forum with development partners. The discussions will provide opportunities on how to effectively engage the national and the county governments in development planning.
- The EU Delegation to Kenya and the CoG should convene regular consultations to discuss issues of mutual interest in local development. Where possible, the EU Delegation should invite other partners to join the discussions so that all can begin engaging with the CoG and the county governments as important actors in Kenya’s development.

**The Devolution framework in Kenya**

In the post-independence era, the history of devolution in Kenya is traced back to the 1963 independence constitution. The independence government rolled back the strong system of devolution, by dissolving the Senate, regional governments and regional assemblies. This effectively marked the end of devolution and decentralisation and the beginning of centralization, power and authority was consolidated under the presidency. That position was further strengthened by the 1967 constitution, which remained in force till 2010.

**The historical context**

Since her independence in 1963, Kenya has experimented with several forms of decentralization. The country ascended to independence with a semi-federal form of government (majimbo, Swahili for regions). These were dismantled a few years into independence. In the early 1980s, the government again introduced a decentralized reform programme (deconcentration) called the District Focus for Rural Development. This policy framework focused on the districts as the administrative unit for making decisions on development programmes at the local level. Local authorities functioned parallel to this new initiative. Use of political patronage in allocating resources to development programmes, among other political considerations that favoured
regions represented by politically powerful elites, diluted the significance of these reform measures.

In the 1990s and because of this experience, there were increased demands for comprehensive constitutional reforms to allow for inclusive development and politics. Efforts to make a new constitution and to provide a framework for inclusive development through decentralized reforms topped the list of priorities in these demands. Many of these efforts failed again owing to competing interests and competition over power by elites. The competition and divisions continued to cause conflicts until in 2007 when a dispute over presidential election led to violence that split the country. The violence ended when international mediation prevailed upon the disputing parties form a coalition government and to develop a road map for comprehensive constitutional reforms. The parties agreed to address grievances over development and feelings of exclusion by certain regions of the country. This led to development of a new Constitution which provides for transfer of power and resources to lower level semi-autonomous units, the County Governments.

The Devolution Policy and Structure

Policy on devolved system of government is aimed at guiding implementation of the devolved system of government. The policy is anchored in the Constitution 2010 and is expected to also guide both levels of government to align their policies with the devolved system of government. The policy document also contains an implementation matrix and identifies key actors and the responsibilities they would fulfil to achieve the objects of devolution.

The Legislative framework
Kenya promulgated a new Constitution in 2010. The need for a new Constitution arose from recurring conflicts and violence at election time. Much of this was the result of lack of inclusive politics and national development. The Constitution 2010 therefore sort to address this challenge by radically altering the structure of government and governance. First, it introduced two levels of government, national and county or sub-national units. It established 47 County Governments that are distinct but interdependent with the National Government. Secondly, the Constitution provided for resources to support delivery of services and development by the Counties. Thirdly, the Constitution delineated functions for both the National and County Governments. Finally, the Constitution identifies the objects and principles of devolution (see below). It provides that devolution of power and resources is a national value and a principle of governance (among others under Article 10). These values and principles guide all institutions and public agencies wherever they are conducting public affairs and/or interpreting the Constitution.

Chapter 11 of the Constitution provides for a devolved system of government. In particular, Article 174 provides the objects of devolution of government. These include promoting social and economic development and services throughout Kenya; ensure equitable sharing of resources throughout Kenya; and giving powers of self-governance and participation of people in public affairs and especially in matters that affect their lives. Article 175 identifies the principles to govern devolution of government. These include basing the County Governments on democratic
principles and separation of power; and having reliable sources of revenue to enable them deliver services effectively. It is also provided that no more than two thirds of the same gender shall comprise membership of representative bodies in the Counties.

**Principle Laws on Devolution**
Kenya has enacted laws to facilitate implementation of devolution. These include:

a) County Governments Act;
b) Intergovernmental Relations Act;
c) Public Finance Management Act;
d) County Allocation of Revenue Act, (Annual legislation);
e) Division of Revenue Act (Annual legislation); and
f) Urban Areas and Cities Act;

The **County Governments Act 2012** gives effect to the constitutional objects of devolution. This law provides for powers, functions and responsibilities of County Governments to deliver services. It also provides for operational definition of various terms concerning implementation and governance of devolution in the country. The law also provides for powers and functions of the County Assemblies; and the County Executives. It creates various governance and administrative organs at the County Assembly and the County Executive. The Act also enhances further decentralization in the Counties by providing for structures of administration and service delivery from the County headquarters to the local level – the villages.

**Intergovernmental Relations Act 2012** provides for organs to facilitate consultations and cooperation between the two levels of government. In particular, this law spells out the principles for inter-governmental relations. It also establishes critical organs for inter-governmental consultations: The National and County Government Co-Coordinating Summit; the Inter-Government Relations Technical Committee; the Council of Governors; and the intergovernmental sector forums. The Council acts as a forum for consultations and sharing information among the 47 Counties. The Council also resolves disputes and monitors implementation of agreements reached by the Council.

**Public Finance Management Act 2012** spells out the responsibilities of the National and the County Governments with respect to management and control of public finance. It also specifies the principles for effective management of public finances. In this regard, the law provides for finance management oversight responsibilities of Parliament and the County Assemblies, and other relevant bodies.

**The County Allocation of Review Act (CARA)** is enacted every financial year to guide equitable allocation of revenue raised nationally among the County Governments. It also identifies the responsibilities of both the National and the County Governments. This law also provides for allocation of additional resources as grants and loans by development partners; or conditional grants from the revenue raised nationally. With regard to funds by development partners, the CARA identifies the partners, the amount of funds and the specific projects on which the funds
shall be used. Nonetheless, before the allocation of revenue, Parliament has to receive and approve the formulae for allocation of revenue raised nationally.

**The Division of Revenue Act**, enacted each financial year, provides for equitable division of revenue raised nationally between the National Government and the County Governments. Enacted every year, this law shows how the revenue raised nationally shall be divided between the National Government and the County Governments. The law specifies the amounts allocated to both levels of government as well as the amount of funds meant for National Government projects in the Counties.

**Urban Areas and Cities Act 2011** gives effect to Article 184 of the Constitution, which requires a national law to provide for management and governance of urban areas and cities in the country. In line with the constitutional requirement, this law guides on classification, governance and management of urban areas. It also provides for participation of residents in the management and governance of their urban areas.

**The Institutional framework**

The Constitution of Kenya 2010 provides for making of laws to enhance implementation of devolution in the country. It also establishes the institutional framework for implementation.

**The National Parliament**: Implementation of devolution has meant increased importance of legislative bodies at both the national and the county level. The national Parliament (Senate and the National Assembly) make laws that have certain implications for implementation of devolution. The Senate is specifically responsible for the interests of the county governments at the national level. Both the Senate and the National Assembly have committees whose mandates include oversight of some of the devolved functions. However, there has not been a synergized approach to bring the legislative bodies into the devolution space. The CoG and the Senate, among others, do not have a structured approach to engaging one another to promote the interests of the counties and/or promote the objects of devolution. The Senate and the county assemblies also do not have a clear mechanism for engagement.

**The Senate**: At the national level, the Constitution provides for a bi-cameral Parliament comprising the Senate and the National Assembly. The Senate represents the Counties and protects their interests at the national level. The Senate also makes laws pertaining to the Counties and participates in making decisions on revenue allocation.

**County Assemblies** are the legislative arms of the County Governments. Members are elected in a general election alongside other elected officials at the national and the county level. The assemblies also comprise members nominated by political parties in the assembly to represent special interests. The County Assemblies also make laws for the County Governments and participate in overseeing the County Executive. They approve the County development plans and budgets.
**Commission on Revenue Allocation:** The Commission makes recommendations on sharing of revenue between the National Government and the County Governments. The Constitution provides for the Counties to receive not less than 15 per cent of the revenue in the last audited accounts. This on its own guarantees the Counties of access to resources for their functions. Nonetheless, there have been challenges in sharing of revenue. The allocation of revenue has become a protracted issue every year with each level of government seeking to get more at the expense of the other. The National Assemblies often aligns with the National Treasury to demand more resources for the national executive, but the Senate has not been similarly vocal in promoting the interests of the Counties.

**Intergovernmental bodies:** Summit and Council of Governors: As already noted above, the Inter-Governmental Relations Act establishes organs to facilitate consultations and cooperation between the two levels of government. The Summit is the apex body chaired by the President. The Chair of the Council of Governors is the Vice Chair. This law also spells out the circumstances under which either level of government may transfer functions to the other level of government. County intergovernmental forums: The County Governments Act also establishes several institutions at the County level to facilitate delivery of services. These include County intergovernmental forums comprising County heads of departments of the National Government ministries providing services in the Counties and County Executive Committee Members.

**Intergovernmental Budget and Economic Council (IBEC):** The Public Finance Management Act 2012 has established IBEC. This Council is a forum for consultation and cooperation between the two levels of government on matters relating to budgeting, the economy and financial management. The forum also consults on schedule of disbursement of available cash from the Consolidated Fund.

**County Public Service Boards (CPSBs):** CPSBs facilitate human resource planning and budgeting in the Counties, among other functions. The Board has powers to establish or abolish offices; and to recruit to office the staff to perform County Public service functions.

Findings of the analytical report raise the need to bring the legislative organs – parliament and the county assemblies – into the devolution space in a structured manner. The report thereby calls for the established of a mechanism to facilitate effective deliberation between county governments and the legislative organs over the important laws that should be passed or amended in order to support the strengthening of devolution.

**The National Association - Counties’ Forum: Council of Governors (CoG):** The Inter-Governmental Relations Act 2012 establishes a Council of Governors (CoG) comprising all the Governors of the 47 Counties. The CoG was established immediately after March 2013 general elections. During the elections, each of the 47 counties elected a governor and deputy governor. The governors, as the newly elected executives for the county governments, convened and elected the leadership of the CoG. They also constituted the sectoral committees.
The mandate of the Council of Governors (CoG) include providing a forum for consultations; sharing information on their performance; discussing matters of common interest; and resolving disputes among member counties. The Council also facilitates capacity building for governors; and monitors implementation of inter-county agreements. Finally, the Council also serves as the link between the 47 Counties and the National Government and is the link through which inter-governmental relations are conducted. This is in addition to facilitating inter-governmental consultations.

The Council is governed by an executive body comprising officials elected by the 47 governors: the Chair; Vice-Chairperson; and the whip. The Council has established sectoral committees to assist in delivery of the mandate. Each of the sectoral committee has clear ToR reflecting the particular mandate of the Council. There is a secretariat established to provide administrative support to the Council. The secretariat is responsible for day to day operations and administration of the Council’s affairs. It is headed by a Chief Executive officer and is accountable to the Council.

The Council has established sectoral working committees to promote dialogue on policy matters among the Counties as well as with the National Government. There are 12 Working Committees established for this purpose. The Committees are aligned with the devolved functions and other relevant functions and policy issues that promote effective performance of the Counties.

The Council has had achievements in several areas since 2013. Notably, the Council played a central role in transitioning the country to a devolved system of government and as per the provisions of the constitution. The Council in particular established linkages to foster relations with the National Government; ministries; Parliament; and other relevant actors. Secondly, the Council mobilized and continues to mobilize the 47 county governments to collectively articulate the concerns of the 47 governments with one voice. Through the Council, the County Governments have been able to articulate their concerns in a unified manner. Thirdly, the Council has continued to offer a forum for knowledge sharing; and building of partnerships to foster development in the counties.

The successes notwithstanding, CoG had several challenges. Lack of adequate and sufficient human and financial resources continues to constrain operations of the Secretariat of CoG. Importantly, the secretariat is not well legislated; it is not anchored in law. This alone constrains funding of operations especially by use of National Government funding. The Council is also dependent on development partners for operations. This is not sustainable and tends to weaken operations owing to lack of predictability on how much funds would be received, when, and for which operations.

The EU programming provides new opportunities for CoG. The Council has already convened the counties and sensitized them to begin impacting on development planning processes of the national government. The Council has enabled members to begin identifying priorities in line with the diverse needs among the 47 counties.
Regional Economic Blocs: In the recent past, County Governments in the same geographical region have shown interest in forming regional economic blocs. They have done so to optimize comparative advantages of their regions as one group as well as to take advantage of economies of scale. Although there is still no National policy instrument to guide the operations of the Regional Economic Blocs, the desire for County Governments in the same geographical region to work together has led to establishment of six regional economic blocs. The blocs are formed on basis of similarities in economies, sharing of similar natural resources, and those whose populations have similar languages, social identity, among others. The policy to guide their operations in terms of how they should cooperate; their powers; financing; and initiation of development projects is yet to be finalized. The Counties in these Regional Blocs, however, have been carrying out consultations on initiation of development projects in their regions.

Mandate of the Counties - Devolved functions (Schedule Four of the Constitution)

The Constitution has delineated functions for both the National Government and the County Governments. The responsibility for frontline service delivery falls under the County Governments. The National Government is responsible for making policies and standards for delivery of these functions. Schedule Four of the Constitution provides details on functions for both levels of government.

The functions and powers of the county governments-

1. Agriculture, including—
   (a) crop and animal husbandry; (b) livestock sale yards; (c) county abattoirs; (d) plant and animal disease control; and (e) fisheries.
2. County health services, including, in particular—
   (a) county health facilities and pharmacies; (b) ambulance services; (c) promotion of primary health care; (d) licensing and control of undertakings that sell food to the public; (e) veterinary services (excluding regulation of the profession); (f) cemeteries, funeral parlours and crematoria; and (g) refuse removal, refuse dumps and solid waste disposal.
3. Control of air pollution, noise pollution, other public nuisances and outdoor advertising.
4. Cultural activities, public entertainment and public amenities, including--
   (a) betting, casinos and other forms of gambling; (b) racing; (c) liquor licensing; (d) cinemas; (e) video shows and hiring; (f) libraries; (g) museums; (h) sports and cultural activities and facilities; and (i) county parks, beaches and recreation facilities.
5. County transport, including--
   (a) county roads; (b) street lighting; (c) traffic and parking; (d) public road transport; and (e) ferries and harbours, excluding the regulation of international and national shipping and matters related thereto.
6. Animal control and welfare, including--
   (a) licensing of dogs; and (b) facilities for the accommodation, care and burial of animals.
7. Trade development and regulation, including--
   (a) markets; (b) trade licenses (excluding regulation of professions); (c) fair trading practices; (d) local tourism; and (e) cooperative societies.
8. County planning and development, including—
   (a) statistics; (b) land survey and mapping; (c) boundaries and fencing; (d) housing; and (e) electricity and gas reticulation and energy regulation.
9. Pre-primary education, village polytechnics, home craft centres and childcare facilities.
10. Implementation of specific national government policies on natural resources and environmental conservation, including--
    (a) soil and water conservation; and (b) forestry.
11. County public works and services, including--
    (a) storm water management systems in built-up areas; and (b) water and sanitation services.
12. Firefighting services and disaster management.
13. Control of drugs and pornography.
14. Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.
These functions transferred to the Counties also require legal frameworks and regulations for operationalization. There are instances where County Governments have enacted pieces of legislation when there is none at the national level. The examples include:

Reproductive Health and Solid Waste Management: The Reproductive Healthcare Bill was only introduced in the National Assembly in 2019. However, Mombasa County had enacted its own several years earlier – the Mombasa County Reproductive Health Act in 2016. Even without the national law, several counties followed to enact County laws on solid waste management: Kilifi, Kisii, Kwale and Nairobi City County.

In 2018, the Outdoor Advertising Control Bill was introduced in Senate. However, several Counties have already enacted their outdoor advertising laws. Examples include Isiolo, Laikipia, Nakuru and Taita Taveta.

The function of betting, casinos and gambling has also witnessed Counties making their own laws as they await the national Parliament to do so. The Betting, Lotteries and Gaming Act is an old piece of national legislation that is yet to be repealed or reviewed to conform to the devolved system of governance. But several Counties have already legislated on this: Nairobi City County Betting Lotteries and Gaming Act 2014; Nakuru County Betting, Gaming and Lotteries Act, 2014; and Kilifi County Betting Gaming and Lotteries Act, 2016.

The national law on cooperatives, the Co-operative Societies Act, 1997 is yet to be amended to align with the Constitution and conform with the devolved functions. However, County Governments are already legislated on this function: Busia County Cooperative Development Fund Act, 2013; Kiambu County Cooperative Societies Act, 2018; Kilifi County Cooperative Societies Act, 2016; and Machakos County Co-operative Societies Act, 2015.

The County Early Childhood Education Bill was also introduced in Senate in 2018. By this time, several County Governments had already legislated on early childhood education and continue to do so. These include Mandera County Pre-Primary and Early Childhood Education Act, 2014; Embu County Early Childhood Development Act, 2015; Nyandarua County Early Childhood Development and Education Act, 2016; and the Tana River County Early Childhood Education Act, 2016.

Disaster management is a concurrent function but there is no national overarching law. County Governments have proceeded to enact their own laws to facilitate delivery of services in this area. Examples include West Pokot County Disaster Management Act, 2015; Wajir County Disaster Management Act, 2014; Siaya County Disaster Management Act, 2015; Meru County Disaster Management Act, 2016; and Kajiado County Disaster Management Act, 2016.

**County level policies: County Integrated Development Strategies (CIDPs)**

At the County level, each County Government has a responsibility of drafting their own development policies and strategies. The County Assemblies comprising elected leaders oversee the implementation of development programmes at this level. The County Executive
comprising an elected Governor and County Executive Committees appointed with the approval of the County Assemblies implement the policies and development programmes.

County level development is guided by a five-year County Integrated Development Plans (CIDPs). Counties are required to confine development projects to the approved plans. The Public Finance Management (PFM) Act disallows appropriation of public finances outside the approved plans. The CIDPs are developed to identify County development priorities. These priorities in turn inform the budget making process of the County. Annual development plans are also based on the CIDPs as is the County Fiscal Strategy Paper and Budget Estimates (Annex XVII below contains links to CIDPs for selected Counties).

**Identified County Development Priorities**

Following a process that involved discussions with the counties, the analytical study identified a number of development priorities being fronted by the counties. The report recognizes that the counties in Kenya have diverse needs and differ in many ways. Furthermore, the divide between rural and urban counties imply a need for specific solutions and priorities rather than a generalized approach. In addition, Urban Areas and Cities law is now in operation; many county governments have already constituted the management boards for governance of their urban areas. Priorities identified for EU programming, therefore, need to reflect this new development: identify priorities for support in urban areas. These may include support to urban planning, infrastructure development, and capacity building of the new urban bodies.

The county governments placed emphasis on the need to support improvement in governance arrangements. The expected support is to include the establishment of village councils and building their capacities to strengthen delivery of services and promotion of public participation in decision making at the local level. Second, is capacity building in planning and specifically support to collection and analysis of data. This was identified as a critical need because counties would want to use data to inform their interventions.

The county governments also identified the need for support to agricultural development, and this turned out to be an issue of interest in all counties. Many participants in the discussions are said to have noted that improvement of both the production and manufacturing sectors, by adding value to various regional products would significantly increase income of ordinary citizens. Interventions focused on increased manufacturing would impact on incomes of all – crop farmers, fisherfolks, and livestock keepers. Importantly, many argue that this should also be tied to development of trade and industry in emerging Regional Economic Blocs. In that regard, many felt that certain interventions – and proposals for support by the EU – should be focused on Regional Economic Blocs for broader and sustainable impact.

**Summary of priorities by county governments**

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<tr>
<th>Proposed interventions under Regional Economic Blocs</th>
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<tbody>
<tr>
<td>• Trade, and industrialization focused on manufacturing to create jobs</td>
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<tr>
<td>• Water and sanitation</td>
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<tr>
<td>• Green development</td>
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</tbody>
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- Improved access to health services

**Governance**
- Build capacity of village councils across the 47 Counties
- Develop participatory mechanisms for decision making at the local level
- Collection and analysis of data for decision making
- Digitalization of processes to promote efficiency in service delivery

**Agriculture**
- Promote agricultural marketing
- Support manufacturing for value addition in crops, fisheries and livestock

**Urban development**
- Support governance structures
- Capacity building for urban and municipality boards
- Urban planning
- Urban infrastructure
PART II

ENHANCING COUNTY GOVERNMENTS PARTICIPATION IN DEVELOPMENT AND COOPERATION POLICY: ACTIONS EXPECTED FROM DECISION-MAKERS AT NATIONAL GOVERNMENT LEVEL AND AT EU DELEGATION LEVEL

This part looks at what can be done on the side of the policy makers at national and EU levels to create an enabling environment for enhancing NALAs in participating in the definition and implementation of national development and cooperation policy, insisting on what added value this participation brings into the efficiency and impact of the aforementioned development and cooperation policy in the country. It addresses at the same time the priority goals of EU cooperation and identifies appropriate mechanisms for CGs to access funding to improve their delivery capacity.

It is in the interest of both the national government and the EU to actively support territorial approaches to local development spearheaded by CGs - as they can assist to unlock the potential of territories and create additional wealth and income. Development-friendly decentralization policies which enhance both the autonomy and accountability of CGs are key to promote place-based dynamics from the bottom-up. Policy makers can engage with EU and secure support at policy level which EU could easily agree on and fund:

1. **Priority Principles for Consideration as Foundational Outcomes of the Negotiation Process**

Prior to discussion of the status quo and presentation of the subsequent recommendation, it is deemed worthy to first outline the priority principles that ought to be focused on as the core outcomes of the negotiation process. Once achieved within reasonable limits, these principles are expected to be the bedrock for the establishment or strengthening of an enabling environment for democratic decentralised governance

**1.1 Recognition of local governments as public authorities**

Due to their legitimacy, mandate and set-up, local governments are ideally expected to be public authorities, especially when they are founded on democratic principles. Such recognition can, however, be more meaningful if well-defined and entrenched in the legal/policy framework, as well as implemented in practice. Outright recognition of the local governments as public authorities does not only make dependable allies of the central government in decision making process, but also serves the purpose enriching the quality of the decisions and their acceptance across the levels of governance.

**1.2 Application of the subsidiarity principle and building synergy within the public governance system**

The subsidiarity principle entails that central authority should have a subsidiary function, performing only those tasks which cannot be performed at a more local level. This does not,
Case, however, mean a disconnection between the two levels of government. Rather, each of them is expected to play distinctive roles albeit in a complementary and coordinated manner, thus reliance synergized mechanism often clearly spelt out in the legal/policy framework for public governance.

Entrenching the subsidiarity principle neither begins nor ends with the establishment of an institutional structure for decentralisation governance. It begins with a show of the level of commitment and confidence that informs and guides the decentralisation process, right from the policy formulation process. Nonetheless, since decentralisation is a process that is at times lengthy, entrenchment of the subsidiarity principle is equally a process. That notwithstanding, however, there are a number of basics that ought not to be left-out at the onset of implementing the decentralisation reforms. These include fortification of the decentralisation framework with the constitution; clear definition of the responsibilities and functions of local government in a manner that reasonably disperses power from the centre to the sub-national/local level; having democratically constituted and functioning County Governments/councils; empowering local government through implementation of fiscal decentralisation measures; creating an enabling environment for citizen participation with the local government system and; putting in place transparency and accountability mechanisms.

1.3 Mainstreaming/engagement of the Territorial Approach to Local Development (TALD)

Since the local level is the place where various forms of challenges are manifested especially on the population, development undertakings ought to not be initiated at the local level, but also with the involvement of the local communities. Therefore, an approach to development that is cognizant of territorial considerations is central in having grounded national economic development plans.

It is from that perspective that the concept of Territorial Approach to Local Development (TALD) is increasing gathering traction in national development perspectives. This modality is indeed, consistent with the priority given to the geographic approach prioritized for the 2021-27 cycle of the EU cooperation programming process that is undoubtedly aimed at guaranteeing efficacy, efficiency, and impact on people on the ground. This approach comes in the heels of the sectoral approach that has often been solely privileged by development partners.

It is highly recommended for the above listed three principles to be prioritized and put forward by the CGs, through their national association, to the national government and eventually to the EU delegation representatives, during the whole consultations and negotiation process. Against that background, presented below are highlights of the recommendations made within context of the current state of affairs and on-going decentralisation reforms in Kenya, as well as the soon anticipated developments in that respect.
2. Recommended Short Term Remedies and Long Term Perspectives for Effective Decentralisation: A Partnership between Central and Local Governments

Recent developments and commitment tend to point to the realization that Kenya is delving deeper into the path of its decentralisation reform process, which is anticipated to be peaked with the restoration of democratic district councils, by early 2021. It is important, therefore, for the country to take into account the following recommendations that would likely make a significant contribution towards decentralised governance.

2.1. Recognizing the County Governments and the National Association of County Governments as Public/State Actor: Which formalization?

Differentiation between state and non-state actors mainly lies in the source of authority from which an action or decision is derived. State actors represent a government entity, while non-state actors do not. Ideally state actors are therefore persons or institutions acting on behalf of a governmental or public body. Non-state actors are the influential organizations or even individuals having the potential to influence the actions of state actors, but not allied to a state.

To be an effective state actor, however, requires legal recognition. Well as National Associations for Subnational Governments (NASGs) are intended to serve the interests of governments at the subnational level, many of them are neither legally nor in practice, recognized as public/state actors by the respective national governments. In fact, many NASGs are registered as non-government associations and therefore, not recognized as state actors much as they are associations of public/government entities.

Non-recognition of COG as public/state actor disadvantages it not only at the national but also international levels. At the national level, for instance, NASGs that are not recognized as public/state actors have no claim of entitlement in the allocation of public resources. Any support extended to them is by way of courtesy or goodwill that may arise from rigorous negotiations or political pressure. At the international scene, it is extremely difficult if not impossible for NASGs not recognized as state actors to be directly involved in international development and cooperation engagements.

In order to enhance their legitimacy, mandate, opportunities and bargaining power, therefore, COG ought to be legally and in-practice recognized as public entity. Such recognition will, however, necessitate implementation of several legal and policy measures underpinned by strengthened and streamlined information sharing, consultations, structured dialogues and partnership mechanisms. This will not only call for commitment of political will but also resources on the part of both the CGs and national government.
2.2. Implementing the County Governments and the National Association of County Governments involvement mechanisms: information, consultations, dialogue, partnership measures

There are several factors contributing to the weak coordination of national and county governments on sector policies. These include initial disputes around interpretation of mandates, unresolved problem of costing of functions, and failure to transfer all functions that are the responsibility of the county governments. Furthermore, retaining county-relevant functions at the national level has meant increased allocation of budget to the national sector ministries at the expense of the county governments. These factors constrain smooth making of sector policies.

These challenges facing devolution are also reflected in how the national development priorities are identified and planned. That is, the problem of inadequate inter-governmental cooperation and consultations affect the making of national development policies. The challenges impact on the interlinkages between the national and county development planning processes in several ways.

First, identification of national development priorities and programmes suffer from inadequate inter-governmental consultations. Some of those interviewed observed that from the time of establishing devolved governments in 2013, the national government has adopted a ‘business as usual’ approach to national development planning. The planning process does not begin from the counties upwards; national development planning process does not evolve from the counties. To these respondents, national development planning has maintained a ‘top down’ approach. The county governments are required to align with national priorities. But to them, these priorities are these priorities are not shaped by the planning processes in the counties.

There is also the view that the national government consults the counties in making of national policies and plans but the approach of consultation is not institutionalized. Those who feel that the national government has been consulting the county governments in collecting both data and views on what should inform the national development priorities apparently are in national government ministries. In their view, the national government, through the State Department of Planning, organizes to collect data and other relevant information from the counties. These data are then analysed to inform development of national plan and priorities. They nonetheless observe that the consultations are not effectively structured and are at times left to the ministries/departments to drive the process. The county governments are, in this case, provide inputs to a process already initiated from ‘above’.

Secondly, blueprint for County governments development programme is a five-year County Integrated Development Plan (CIDP). This plan is also made every five years to align with the election of county governments. However, as pillars of development planning in the counties, the CIDPs are not synchronized with the national processes. The MTPs are not informed by CIDPs. MTP III, for instance, was finalized and cascaded to the county governments to inform the development of CIDPs.
Are things changing? Is the planning process likely to change to reflect first the needs and views of the county governments? These questions are central to EU TALD and constitutes the core of this discussion. The interviews with both national, the county governments, and EU delegation reveal growing interest to partner in identifying national priorities and programmes for support by the EU. All those interviewed underlined a need for both the county governments and national government to jointly develop development plans and identify priorities. Many are of the view that this is the best approach to sustainable development in Kenya. They point out that the EU approach is presenting both levels of government an opportunity to begin doing things differently. To strengthen this approach, many recommend that issues of planning from below; and jointly identifying programmes for support be a subject of discussion at the apex body of intergovernmental consultations – the Summit.

Notwithstanding the above challenges, after the establishment of the county governments, some sectors put in place mechanisms for coordination between the national and the county governments. In agriculture, for instance, there is Joint Agriculture Sector Consultation and Cooperation Mechanism (JASCOM). This comprises the leadership of both the national agriculture sector; and the county governments through the Council of Governors. This mechanism has the responsibility to ensure coherence in implementation of sector policy and strategies. There are other evolving initiatives in other devolved sectors. However, these are generally weak; they are yet to effectively and coherently coordinate sector policies.

2.3 Funding Arrangements for Devolution

The financing county governments is provided for under the constitution. The Public Finance Management Act (PFM Act) 2012 puts in place an arrangement through which public funds should be managed. Other key instruments that constitute the financial management framework also includes the Procurement Act 2005; PPP Regulations 2014; External Loans Act and; Internal Loans Act.

The sources of county government revenue are limited and broadly categorised into central government transfers, own resources, donor funding and loans. Raising revenue at county level is a function of fiscal decentralization. The financing mechanisms are anchored on a combination of policy, legislation, regulations, practices and constitutional provisions. The County Governments receive funding or impose taxes from the following sources as provided for under Chapter 12 of the Constitution, which provides for:

i) The equitable share under Article 202 of the Constitution;
ii) Imposition of county taxes under Article 209(3) on: -
    a) Property rates;
    b) Entertainment taxes; and by
    c) Any other tax that is authorized by an Act of Parliament.
iii) Imposition of charges of the services they provide (Article 209(5) of the Constitution; provided that such taxation and other revenue – raising powers of a County shall not be
exercised in a way that prejudices national economic policies, economic activities across County boundaries or the national mobility of goods, services, capital or labour.

The revenue sharing formula is in line with the equitable share principles set out in the Constitution. It consists of five weighted parameters applied in sharing a minimum of 15% of national revenue with the counties as follows:

1. Population – 45%: this ensures equal allocation to every Kenyan;
2. Equal share – 25%: This recognizes the fact that all county governments, irrespective of their size have fixed basic expenses such as running the county executive and county assembly;
3. Levels of poverty – 20%: This allocates equal amount of money to the county for every person classified as poor in that county;
4. Land area – 8%: Service delivery is more costly in those counties that have expansive land areas;
5. Fiscal discipline – 2%: This is aimed at promoting financial discipline and to encourage counties to focus more on raising their own revenues.

The central government also makes other targeted transfers to Youth, Enterprise Funds, Constituency Fund, Disabled Fund, Road Funds, Rural Electrification, etc. Collectively, central government transfer range between 15-45% in total to local/ subnational governments, accounting for up 55-95% of the county government budgets. On average county governments raise between 5-55% of their budgets. Nairobi County government raised the highest own resources in the regional accounting for up to 53% of its budget in 2015. The private sector and NGO contributions are not reported on under the county government achievements.

In the case of Kenya, the county governments can receive grants and donations from the private sector or development partners, except that the approval must be given by the County Executive member for finance. The county borrowing framework is being developed.

**2.3.1 Increasing budget allocations to County Governments and reducing conditional grants**

The county governments receive at least 15 per cent of the revenue raised nationally calculated on basis of the most recent audited and approved account. Since 2013/14, the absolute amount of equitable share allocated to the countries has increased from Kes 190 billion in 2013/14 to Kes 316 Billion in 2019/20. As a percent of ordinary revenue, however, the equitable share has declined from 21 per cent in 2013/14 to 19 per cent in 2019/20. In absolute terms, the share appears to be on increase (in nominal figures) but as a per cent of ordinary share, there is a decline. Additionally, the rate of growth in the equitable share has been lower than nominal GDP growth. While nominal GDP growth has averaged 13.8 percent since FY2014, the growth rate of equitable share transfers has been 3.1 percentage points lower, at an average of 10.7 percent over the same period.

Table 1: Source and growth of County Revenue in Ksh. Billions
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<tr>
<td>National ordinary revenue</td>
<td>919</td>
<td>1,032</td>
<td>1,153</td>
<td>1,307</td>
<td>1,365</td>
<td>1,496</td>
<td>1,640</td>
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<tr>
<td>Equitable share</td>
<td>190</td>
<td>227</td>
<td>260</td>
<td>280</td>
<td>302</td>
<td>314</td>
<td>316</td>
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<tr>
<td>% Equitable share</td>
<td>21</td>
<td>22</td>
<td>23</td>
<td>21</td>
<td>22</td>
<td>21</td>
<td>19</td>
</tr>
<tr>
<td>% Growth in equitable share</td>
<td>19</td>
<td>14</td>
<td>7.9</td>
<td>7.7</td>
<td>3.9</td>
<td>0.8</td>
<td></td>
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<tr>
<td>(transfer to counties)</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>County Own Source revenue</td>
<td>26.3</td>
<td>33.85</td>
<td>35</td>
<td>32.52</td>
<td>32.49</td>
<td>40.3</td>
<td>53</td>
</tr>
<tr>
<td>Conditional grants</td>
<td>20</td>
<td>16</td>
<td>27</td>
<td>22</td>
<td>41</td>
<td>59</td>
<td>62</td>
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Source: Computed using County Budget Implementation Reports, Various issues

A computation from various County Budget Implementation Reports reveals that the of conditional grants to county governments, funds tied to spending on specific items, tripled in the last seven years. These grants include the inter-governmental transfers ear-marked for national government initiated projects. The grants also include funds received from development partners to implement specific projects in the counties.

A commensurate decline in transfers to the counties implies reduced resources for service delivery in the counties. Some counties have been spending less than the statutory requirement for allocation to development services. For both levels of government, the per cent share of development expenditure has been on decline compared to recurrent expenditure. Between 2013/14 to 2018/19, there has been low spending on development. According to various County Budget Implementation Reports, the counties’ development and recurrent expenditure shares have been below the Public Finance Management (PFM) requirement of 30 per cent for the last three years in a roll, 2017/18 (22% and 78%) and 2018/19 (28.5% and 71.5%).

A similar pattern of spending more recurrent relative to development expenditure, is reflected in the National Government spending during these years. The National government recurrent expenditure was 73% in 2017/18 and 2018/19 and thus, only 27% was spent on development items during that period. The National Government spending had met the legal threshold of 30% for development expenditure, in the previous years but the trend has since 2017/18 been on the decline.

### 2.3.2 Improvement in timely disbursement of funds to county governments

Article 219 of the Constitution provides that an equitable share of revenue to County Government shall be disbursed without undue delay. Section 17(6) of the PFM provides that the National Treasury shall, at the beginning of every quarter, and in any event not later than the fifteenth day from the commencement of the quarter, disburse monies to county governments in line with a disbursement schedule (7) approved by Senate. The flow of resources from central government to the counties, however, continues to face challenges of timeliness.
Findings of the analytical report show that, in the FY 2019/20, disbursement to county governments met this legal dateline only twice: November 2019 and May 2020. Disbursement for the months of January and February 2020 delayed by more than two months.

Many factors are said to account for delays in disbursing funds to the counties, where challenges in meeting revenue targets at the national level constitutes the overarching factor. Inability to meet quarterly revenue targets result in shortage of funds.

Other factors that constrain timely disbursements to the counties cases of disagreement between the National Assembly and the Senate over vertical division of revenue. Such protracted disagreements lead delay in the flow of funds to the counties, especially where the disputes are not expeditiously resolved or end up in the courts of law. At the county level also, there are instances of disagreements between county assemblies and the county executive over budgetary matters. Where the assembly fails to approve the county budget, it is difficult for the county executive to receive funds because receipt of funds is based on an approved budget. Another factor, especially with regard to the FY 2019/20, the Controller of Budget delayed approval for county governments that had not settled pending bills. Even though the legal basis of this intervention is a matter of debate, it took several months for the county governments with pending bills to receive the funds. Furthermore, there have been instances where counties with unspent balances in the Central Bank accounts have further disbursement withheld and thus delayed.

Delays in disbursement affect absorption/use of funds by county governments. Relatedly, poor absorption of funds owing to late disbursement creates the impression of counties being unable to effectively utilize the funds. Whatever the case may be, however, delays in disbursing funds impacts negatively on implementation of development projects by the county governments. It is therefore imperative that scenarios that lead to disbursement of funds to county governments be addressed at both the county and central government level.

It is therefore, recommended that county governments and the Council of Governors continues engage with government and other stakeholders, with a purpose of working towards modalities for increased budget discretion and allocations to the county government.

2.3.3 Strengthening Local Economic Development

Entrepreneurship based on circular local economy, is a fairly recent policy area in Kenya, but the country has been progressively scaling up support for its development, and among the possible catalysts for that process is Local Economic Development (LED). Entrepreneurship will be instrumental in addressing some of the country’s development and is undoubtedly the main reason Government has stepped up efforts to strengthen the domestic private sector. Establishment of new businesses not only generates value added products, fiscal revenues, employment and innovation, but is also essential for the economic transformation foreseen in the national medium-term plans. Furthermore, it has the potential to contribute to specific
sustainable development and inclusiveness objectives, such as the employment of women, the youth or other disadvantaged groups.

Local Economic Development is defined as a process or development model that entails a tripartite partnership between Sub-National Governments, the private sector and the community, where all are jointly and collectively engaged in the identification, mobilization, management and initialization of resources for investment at the local level for the good benefit of the local population. The ultimate aim of LED is, therefore, to stimulate a conducive environment for investment, job creation, increased household incomes and higher revenues for Local Governments, a move that eventually translates into improved livelihoods for the people through poverty reduction and improved service delivery.

Notwithstanding the strong correlation between LED and PPP, the former often tends to be more contextualized within the ambits of decentralised governance and, therefore, more elaborate and explicit as to the roles and intended benefits of each party, from a local perspective.

Although the country is yet to come up with a strong, well-coordinated and deliberately driven and enforced LED policy framework, various programmes that promote local economic development have been under implementation, through successive policy frameworks, development plans and strategies supported by requisite legal frameworks. Among the most recent being the County Integrated Development Plans, which are closely aligned to the United Cities and local Governments (UCLG) LED thematic areas of Economic Governance (EC), Enterprise Development (ED), Livelihood Development (LID), Locality Development (LOD) and Workforce Development (WD). In that regard, the main players in the LED field have been the government (national and county governments), donors, NGOs, faith organisations and private sector investors.

As Kenya gears up to deepen its devolution trajectory, therefore, it is important for the country to prioritise the formulation and adoption of a National and County Local Economic Development Policies.

The national and county LED Policies have to be formulated taking into account existing policies and legal instruments so as to craft their relevance and consistency to the holistic national development aspirations and the legal/policy regime that governs it. Principle among them, in the Kenya case, would be the national constitution and policies and laws relating to subnational governments, public finance and procurement, investment, private-public partnerships, tourism and climate change, among others. The policy ought to focus on several pertaining and anticipated challenges including:

1. The absence of strategies to stimulate local and community enterprise development.
2. Inadequate infrastructure development, which makes it difficult for entrepreneurs to access business development services and markets.
3. The narrow revenue base envisaged in the county financing framework, which still manifests dependence on inter-governmental transfers.
4. Continued orientation of County Government structures to serve as instruments of service delivery, as well as catalysts for wealth creation and economic development.
5. Limited capacity of some CGs to attract and retain competent staff.
6. The need to drum up effective participation and coordination of stakeholders within the LED environment.

Worth noting is the fact that LED policies are not designed to supplant the power and roles of other players within the national investment and development framework. Rather, it assists in sprucing up the local investment climate, as being part and parcel of the national development goal.

Diversification of LED activities creates opportunities to raise revenues at the local level resources to support LED activities. This will reduce the continued heavy reliance of devolved units on central government transfers currently funding up to 90% of the county governments activities. It will also reduce exposure to the dominant donor funded of the development agenda. The operational systems are still weak creating avenues for governance related risks. Thus the need to strengthen the governance mechanisms and institutions consistent with the provisions of the constitution. Besides, steps should be taken to establish the clarity on the relationship of national and county governments limits the exploitation of available potentials to meet citizen expectations.

Since a number of development activities at the local level constitute business opportunities, the private sector should be encouraged and where possible facilitated, to invest in the available opportunities. Towards this end the national government is advised to prioritise the maintenance of a conducive business environment to attract local, regional and international investors. The strategic priority interventions consist of value addition and diversification of economic activities through select flagship projects with a view to creating employment, expanding income potentials with consequent elimination of poverty. Further, there is need to build requisite capacities of the critical competences for LED programmes. These include skills, institutions, support infrastructure, facilitation mechanisms and diversifications of economic activities to create the much needed job opportunities and incomes.

**2.3.4 Support Private Financing of Public Infrastructure**

Kenya’ Vision 2030 and the subsequent development plans to-date, variously provide for strong enabling environment for private financing of public infrastructure though Public Private Partnerships. For various reasons including capitalization and governance issues, however, such venture remains very limited.

County Government need to embrace or be accessed to private financing of public infrastructure in order to overcome the pressures of fiscal stress, that is likely to be heightened in the post-COVID era. However, unless a concurrent review is undertaken to align and harmonise several laws towards the spirit of devolution, the aspirations for private financing of public Infrastructure will continue to be hindered, especially in view of the legal framework limitations. It is, therefore,
important for several policies and laws to be reviewed and harmonized within a spirit of
decentralised governance. otherwise, local government financing and public infrastructure
development that is devoid of private investment negates opportunities for fast, entrepreneur
supported and market driven development.

2.5 **Conflicts over delineation of functions**
The Constitution clearly delineated functions for both the national and county governments.
However, during the transition to the county governments, the Transition Authority, the body
established to oversee the transition, did not finalize the costing of functions meant for
implementation by the county governments. Furthermore, the National government did not
effectively implement the National Capacity Building Framework envisaged at the beginning of
the transition and yet county governments began operations with different capacities and
challenges.

In addition to the above challenges, some of the national government ministries continued to
perform functions delineated for the county governments. For instance, the Ministries of water
and agriculture have continued to carry out functions meant for the counties under Schedule
Four of the Constitution. Regional Authorities also continue to perform functions that should be
carried out by the county governments. This has meant that budget for these functions is
retained by the national government ministries. Although county governments have sought
intervention of the courts on some of these issues, the problem has political dimensions
especially because it would mean reduction of powers – and resources – of the national
government ministries.

It is noteworthy that the reason for these conflicts include control over the budgets for these
functions. Resources certainly follow functions that are performed by either level of government.
Retaining and continuing to carry out functions that should be carried by county governments
ensures that the resources for these functions are provided to the agency performing the task

2.6 **Strengthening transparency and accountability measures**
Undoubtedly the issues of transparency and accountability are widely expected to be among core
values that give credence to any system of public governance. It is not only necessary but also a
right for citizens to know how public resources are utilized, and that bestows unto the public
official the unfettered obligation to be transparent and accountable to the population.

2.6.1 **Mechanisms of accountability**
Democratic local governance requires accountability in a number of directions:

- Horizontally- of the executive to the elected representatives
- Downwards- of the elected representatives to the citizens
- Upwards- of local governments to central government
Using the principal-agent analysis, the principals (citizens) must be able to hold their agents (the elected representatives) to account for what has been done, and the elected representatives (principals) have to hold the executive/paid officials (agents) to account. All this requires information and transparency, since the typical problem in the principal-agent relationship is often concern access to information, in an understandable, accurate and timely manner. The following measure are, therefore, important in achieving local accountability:

- Proper mechanisms for reporting by the executive to the elected council;
- Publication of information about local government performance to citizens, in an understandable form;
- Preparation, approval and publication of budgets, showing the proposed use of resources;
- Preparation, approval and publication of accounts in a timely manner, showing the actual use of money;
- Auditing of accounts and publication of auditors’ reports.

2.6.2 Strengthening Audit and Inspection

Audit and inspection offer complementary roles in improving service delivery by local governments. Traditionally in most countries, inspectors of government services are concerned with enforcing professional standards, where they are more focused with costs, financial regularity and probity. There has been a shift, where in addition to the traditional areas of focus, auditors are increasingly also being concerned with issues of performance and appropriate management structures.

2.6.3 Enhancing the Performance Auditing function

For it to be proper, auditing needs to be concerned not just with probity, but also with performance in the use of public funds: It entails whether resources effectively been put to use in order to achieve agreed objectives and efficiently or making the best use of resources, a scenario that is at times referred to as ‘value for money’. Three key performance areas commonly known as the ‘three Es’, for its analyses include:

- **Economy**: minimizing the costs of inputs (for a given outputs)
- **Effectiveness**: maximizing outcomes (for a given input)
- **Efficiency**: the appropriate mix of inputs and outputs (or outcomes)

Strengthening the auditing function would therefore necessitate a proper structure and mechanism for performance auditing, where the auditor would perform the following roles that are crucially important to local governments.

- Conducting national studies on best practice
• Publishing papers on performance management
• Collating national data on best value performance indicators
• Verifying performance indicators at the local level
• Auditing the best value performance plans of local governments
• Checking the adequacy of local governments’ management capacity and plan to track the aspects of economy, efficiency, effectiveness in service delivery and checking whether best practice recommendations are being followed.

2.6.4 Facilitation of Members of the County Assemblies to Monitor Service Delivery

One of the important pillars for effective local governance is performance monitoring. This entails monitoring the performance of local government councils and providing information about their performance to the electorate. From the downward perspective, the expectation is that citizens should demand for accountability from their local elected officials. While at the horizontal level, the supervision and monitoring of the performance of duty bearers, by elected leaders, is essential to improved service delivery. However, it is not strange to come across systems with poor or dysfunctional service delivery monitoring mechanism for the elected leaders. This can be a result of insufficient funds or lack of proper prioritization by the local councils. Unless well facilitated, elected leaders would not have the resources to undertake one of their cardinal roles of monitoring and reporting.

In order to undertake that role requires not only time but also continuous acquisition of knowledge and skills, on the part of the councilors. It may therefore, be worth for government to reconsider the engagement status of District Councilors, since the current arrangement entrust them on a part-time basis

2.6.5 Strengthening systems of civic engagement in local accountability

It is important for the central and county governments to invests more resources in creating civic awareness of citizens in order to hold elected leaders and the technical staff accountable. Although Kenya moved strides towards restoring democratic subnational government, the issue of strengthening civic engagement should be emphasizing among front running core values of devolution. To strengthen accountability at the subnational level, it is necessary to have a civically competent citizenry equipped with the knowledge and tools of civic engagement. On the other hand, the local government officials will need to have the resources needed to engage with their constituents.

2.7 Strengthening Citizen Participation in Local Governance

Stakeholder engagement mechanisms are framed to respond to the development challenges that occur at local levels and bring together national and local governments, business, community groups, international development partners to work in partnership and to counteract and reverse some of these negative development trends; which include the growing incidence of absolute
and relative poverty, poor access to infrastructure and services, growing informalisation of urban economies and the decline and disappearance of existing industries. Stakeholder at the two levels of government are institutionalised through committees and management boards. During planning processes in the counties, members of the public/community at ward level through appropriate sectors are involved in planning, budgeting and monitoring. County staff are involved in implementation. Different stakeholders organise themselves into groups aligned to their specific needs in the different committees established for purposes of identifying and monitoring development needs. The private sector works through associations, NGOs in interest groups and communities through representation at different levels. Communities leverage member professional expertise in nominating individuals to represent them in the various committees

The traditional view of local government is that citizens elect their representatives, who make decisions about local services and levy local taxes to pay for those services. In that respect, the envisaged role for citizens is to routinely vote in elections and pay their local taxes. This view is being increasingly challenged. Citizens expect to have a greater say in the running of services that affect them. They must hold those that they accountable for their decisions and action in respect to the utilization of public resources.

Elections are, of course, a key mechanism of accountability for subnational governments. But elections are very basic instrument of choice. Manifestos, if they offer anything at all clearly, offer a package of generalized policies. Elections are often fought on the basis of personalities or other considerations that may be of an economic, social or political nature. More so, electoral practices are often not inclusive (first-past-the-post elections tend to marginalize women and minority groups as well as the poor) and open to abuse. Once elected, the representatives may make decisions in an environment that offers limited opportunities for the participation of others. At times, local level political processes are often dominated by local elites, who may be able to rely on patronage networks to ensure their re-election. Worst still, there might be little or no information to judge the performance of the elected.

Thus, the range of choice is highly constrained, occurs only infrequently (typically, once every after two-five years) and with little information available. Consequently, for decisions on more specific issues, other mechanisms of participation are needed.

2.7.1 Strengthening Participatory mechanisms for community engagement and role of civil society

For purposes of better understanding the place and importance of local participation in governance systems, it is prudent to first appreciate the relationship between the terms ‘local government’ and ‘local governance’, which are at times used interchangeably.

Local government differs from local governance in that, the latter which is broader, refers to:
“...the processes through which public choice is determined, policies formulated and decisions are made and executed at the local level, and to the roles and relationships between the various stakeholders that make up the society.”

The definition rightly points to the fact that subnational governance embodies processes and institutions of both the state and non-state actors. Key among the roles of non-state actors is to participate in decision making processes and, on the other hand, hold the duty bears accountable for the decisions and actions. It is against that background that the need for representative democracy emanates, against the thinking that locally elected leaders will always present the views of their constituents or stand by them.

In view of the limitations of representative democracy, however, more direct participation of citizens remains a crucial necessity. This particularly is the case when dealing with local issues in greater detail, something that cannot be ably without the participation of those that are directly concerned. Strengthening participatory mechanisms calls for a number of measures, most of which have to be bonded together by the core values of trust, confidence, timeliness, knowledge sharing and, reasonable access to accurate information. Key among the core values is the institution of democratic local governance and as such, local democracy needs to be open to and responsive to civil society interaction.

Democratic local governance is not only manifested through local official and elected leaders executing their role, but also the active participation of non-state actors, often lumped together under the umbrella of civil society. The Civil Society is often constituted of CBOs (Community Based Organizations) or GROs (grassroots organizations); NGOs (Non-Government Organisations -national, local and international); Private businesses and business organizations (e.g. Manufacturers Association and National Chamber of Commerce); Trade Unions (although these often represent only those in formal employment) and trade associations of the informal sector; Co-operative Societies (unless they are part of the state structure); Religious organizations/Faith Based Organisations (FBOs); Traditional/cultural leaders (Kings, chiefs, elders, etc.); The media – local and national press and broadcasting media.

Well as the district councils are yet to be established, the civil society has always been in existence. The most crucial factor, therefore, is to work toward the strengthening and most particularly, as to its role in the new local governance dispensation. As such, deliberate efforts will have to be concerted towards ensuring the establishment and thriving of a structured dialoguing mechanism for productive interaction between state and non-state actors in the local governance space.

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3.0 The European Union as a Partner in the National Development and Cooperation Process

The European Commission has concluded a new financing instrument, the Neighborhood Development and International Cooperation Instrument (NDICI) that will guide its next programming of the next 6 years (2021 to 2027). The NDICI has given room to a rich debate between the EU institutions and the EU member states; within the EU institutions; between the EU institutions and the EU partner countries and; between the EU institutions and the representatives of the different stakeholders. The relations between the European Union and the EU partner countries in Africa are organized into two separated groups: North Africa countries coming under the EU neighboring countries instrument; and the Sub-Sahara Africa countries coming under the European Development Fund (EDF) negotiated in the framework of the Cotonou Agreement concluded between the EU and the ACP countries in 2000 and coming to an end in December 2020.

The historic opportunity to genuinely participate in the EU programming process should not be missed by CGs and their Associations. However, this requires an agreement on what kind of “demands” CGs will put on the table across the board. Experience suggests that actors with a credible political agenda (beyond merely “asking for money” or specific projects to the EU) are most likely to be heard during programming negotiations.

3.1 Foundational Principles for Engagement in Development Cooperation

As is the case with many development partners, the EU has continuously changed its development cooperation strategy and priorities. Well as such changes are often driven by global trends, some of them have particularly been shaped with pertaining situations in individual countries. Nonetheless, it is noted that the core operating principles for EU engagement in development cooperation largely remain same across partner states. It is against that background that the following approaches to thinking and engagement are being emphasized and recommended as foundational elements for development cooperation.

3.1.1 Strategic and coherent aligned of decisions and actions to new global realities.

This perspective has indeed been acknowledged by the incoming EU Commission President Ursula von Leyen, who seeks to put in place a “Geopolitical Commission” in order to “better align the internal and external aspects of our work”. Other ambitions include developing “a new comprehensive strategy towards Africa” and to foster “partnerships of equals” with regions and countries aimed at strengthening the role of the EU as a regional actor in world governance.

3.1.2 Fostering a more integrated approach that transcends traditionally targeted sectors for development

The European Council’s new strategic agenda 2019-2024 observes that in today’s world, the EU “must address internal and external challenges in an integrated manner”. As such the EU institutions and Commission ae key partners in implementing the universal 2030. In the external sphere, the task at hand is to further ensure linkages between foreign, security, development and economic policy while not losing sight of the values agenda.
3.1.3 Promoting a more inclusive approach.
Experience has shown the limits of top-down, technocratic approaches. Ensuring relevance and impact requires more inclusive bottom-up approaches that mobilize the full potential of all relevant actors, such as businesses, cities and LRGs, organized civil society, social and environmental movements, etc.

3.1.4 Enhancement of a more cooperative / interactive approach between spheres of governance in accordance to the principle of subsidiarity
The scale of the challenges at stake means they cannot be addressed by a single sphere of government. Effective action requires co-design, and co-production and building synergies between all spheres of government (global, regional, national, local) to ensure coherence and impact. This is indeed in alignment to the partnership principles of SDG 17, which is cognizant of the fact that each individual SDG calls for concerted and coordinated efforts among key players.

3.1.5 Adoption of a more diversified approach to funding.
The resources required to address global challenges exceeds available public spending in both developed and developing countries. While efforts are done to leverage private sector funding, the potential to mobilize additional resources at sub-national level to promote the ownership of the local developmental agenda, is still to be largely tapped

3.2 Highlights of EU Policy Frameworks and Initiatives for External Support
Over the last decade, the EU and Member States have shown a growing interest in working with cities and LRGs. This is reflected in:

a) The EU Lisbon Treaty which recognizes the principle of subsidiarity and the Union’s own Cohesion Policies
b) The 2019 EU Council decisions which emphasize that implementing the 2030 Agenda represents a shared responsibility and partnership involving the EU and its Member States, local and regional authorities and other stakeholders.
c) An increasingly sophisticated set of policy frameworks (e.g. recognition of LRG as “state actor” under the Cotonou Agreement, which was further strengthened in the landmark Communication of 2013 on Empowering County Governments or the European Consensus on Development) acknowledge the distinct role and added value of cities, LGRs and their associations. A wide range of EU Council Conclusions also call on engaging strategically with LRGs to address pressing challenges (e.g. stability in the Sahel or migration).
d) A growing number of EU initiatives and successful programmes (such as the Covenant of Mayors) targeting the local level or seeking to capacitate cities and LRGs (using various financing instruments).
e) Several EU Delegations are engaging in more integrated territorial approaches to local development (TALD).
f) New opportunities for structured dialogue between the EU and cities/LRGs and their associations at various levels.

g) The conclusion of a first generation of “Framework Partnership Agreements” (FPAs) between EU and leading international and regional Associations of County Governments. This includes the Framework Partnership Agreement between the EU and UCLG Africa, 2014-2020.

h) Growing interest of the EU to support partnerships between cities/LRGs from Europe and from partner countries across developing regions. An example being the Partnership for Sustainable Cities Programme being funded by the EU.

3.3 Major gaps between EU policy commitments and actual implementation:

Despite the highlighted strides in EU policy commitments and actions, there remain several major gaps in actual implementation of the commitments and the desired results.

a) The local level is generally not seen as a strategic level of intervention (in line with the principles of subsidiarity and multi-level governance). Centralized and top-down sectoral approaches continue to dominate.

b) The role of cities and LRGs remains largely confined to “implementing agencies” or passive recipients of goals, policies and programmes conceived elsewhere. There is limited recognition of their “general mandate” to develop their own local public policies to unlock the potential of their territories. Few capacity programmes have a transformative agenda aimed at empowering LRGs.

c) The participation of cities and LRGs and their associations in political dialogue with partner countries or in EU programming is still limited.

d) As a result, EU interventions are seldom integrated in a strategic coherent vision on the place and role of cities and LRGs in the overall development process (as reflected in the limited LRG participation in sector budget support programmes).

e) Direct access to smart funding for the own plans of cities and LRGs is problematic. Even if growing funds are dedicated to the local level, they generally are controlled by central level or managed by (external) implementing agencies.

f) The potential role of Associations of LGRs -which was explicitly recognized in the EU’s 2013 Communication, in terms of capacity building, advocacy or strategic interlocutor of the EU- remains under-utilized.

3.4 Building a deeper and mutually beneficial political partnership between the EU and Cities / Subnational Governments

There is a convergence of key processes and dynamics that are likely to provide a unique window of opportunity to upscale the overall EU engagement approach towards cities and LRGs: These include;

a) Promoting effective implementation of the 2030 Agenda: The 2017 European Consensus on Development underlines the EU’s commitment to the 2030 Agenda and gives
recognition to the role of LRG and cities in its implementation. Likewise, LRGs throughout the EU and in partner countries are actively engaged in the localization of the SDGs and collaborating with central governments, civil society and other stakeholders towards this end.

b) The negotiation of a Post Cotonou Agreement: the current treaty has a number of provisions on cities and LRGs. Yet they are limited in scope, lack an underlying political vision on the role of local level actors (in a multi-level governance system) and have not facilitated the effective participation of LGRs. The future agreement post-2020 should align to and incorporate the political orientations of the EU 2013 Communication regarding LRGs.

c) Towards a new comprehensive partnership with Africa. This is formal commitment of the incoming Commission. It offers a strategic opportunity to revitalize the global vision of the 2007 Joint Africa-Europe Strategy (JAES) and put in place a truly balanced political partnership which includes all relevant
d) resistance of central governments and ineffective procedures. Innovative approaches to ensuring continued direct and enhanced LRG access to EU funds -without antagonizing central governments- are therefore required.

e) The Multi-Financial Framework of the EU for the period 2021-2027. The current MFF included a (small) dedicated budget line for County Governments. The proposed new architecture of financing instruments does not foresee a continuation of this thematic line but opts for partnering with LRGs through the various geographic windows. While the latter mobilize very substantial funding and needs to be pursued, access for LGRs can be problematic due to resistance of central governments and ineffective procedures. Innovative approaches to ensuring continued direct and enhanced LRG access to EU funds -without antagonizing central governments- are therefore required.

f) New forms of development finance. The growing focus on leveraging private sector funding and investments (e.g. through the European External Investment Plan) is another opportunity not to be missed in terms of associating cities and LRGs. Many of them are keen to develop their territories by connecting to national, regional and global markets and attracting investments.

g) Responding to the EU’s own interests. The new geopolitics of the European agenda will further blur the lines between internal and external priorities and policies. The task at hand will be to explore how cities and LRGs can contribute to addressing these legitimate European concerns (e.g. on migration) while upholding values, integrating the development dimensions and keeping a long-term perspective.

h) Growing evidence that stronger collaboration between the EU and cities/LRGs delivers results. Despite multiple constraints, EU actors have been experimenting innovative
forms of support to cities/LRGs. Initial lessons learnt from these pilots shows an important “return on investment”.

Although it is evident that EU’s policy framework policy commitment has continued to be aligned towards creating an enabling environment that calls for partnership in national development cooperation, there remain gaps as to the extent of LRG involvement in the requisite processes. The emerging new regime in the EU development cooperation framework, nonetheless, continues to bring forth perspectives that offer more opportunities for partnership between national governments and LRGs. Such partnerships will, however, only be possible and actually effective through well guided and intended negotiations between those different levels of government. In that case, it will be incumbent on the LRGs and their national associations to initiate the negotiations. To effectively do so, the LRGs have to be adequately be prepared and coordinated as a unified voice, with a clear, unified and well documented message that puts across their priorities within the national development framework. In other words, the LRGs should be aiming at being on the same side with their national governments in the negotiations with the EU.

3.5 Overview of European Union Cooperation in Kenya

The European Union (EU) is the leading donor of development aid in Kenya. Through the EU Delegation to Kenya, the EU supports Kenya government to implement policies in a wide range of areas. The implementation of the current National Indicative Programme ends at the end of 2020. The programme is aligned to Kenya’s policy blueprint Vision 2030. It focuses on the following areas:

   a. Food security and resilience to climate change
   b. Sustainable infrastructure
   c. Accountability of public institutions
   d. Support measures to the National Authorizing Officer.

Additional support is carried out through other EU initiatives in the country. Some of these include support to democratic governance, gender equity and environmental sustainability. There are also programmes supporting implementation of devolution and others supporting provision of health services.

These programmes are based on Kenya’s priorities under MTP III as well as EU Agenda for Change and Division of Labour among donors. Indeed, EU member states have their own programmes but work together with the EU. They have developed principles for joint programming and have agreed generally to use the country systems. They are also keen to carry out joint analysis and monitoring and evaluation of programmes. These nonetheless remain points of discussion and general consultations.

Discussions for the next National Indicative Programme (2021-2027) are yet to begin. Key to note, nonetheless, the sector priorities in the current NIP were not identified in consultation with the
County Governments; the National Government drove the agenda. EU Delegation is keen to have priorities identified in consultation jointly with the National and the County Governments.

3.6 Main ideas deriving from consultations between the Council of Governors and EU delegation

The Council of Governors has held 4 meetings with the EU on the new Development Cooperation framework 2021-2027, as listed below.

1. Meeting between the Council of Governors and the EU Country office on the inclusion of County priorities in the new EU development cooperation framework. This was the initial meeting, held 6th July 2020, and included the Kenyan Consultant Prof. Karuti with the aim of pushing for the operationalization of the 2013 communication on local and regional governments as entities in their own rights in programming and not as CSOs.
2. Webinar between EU and 47 County governments on presentation on County priorities for inclusion in the EU Development Cooperation. The meeting was to present the County Governments’ identified priorities for consideration in the new EU programming framework.
3. Meeting between County Governors and the ambassadors from EU member Counties. This meeting was to present and discuss County priority areas for consideration by each of the EU member states while programming and also for inclusion of the County priority areas in the new EU development cooperation 2021-2027.
4. Consultative meeting between the EU and Governors on the EU Multi Annual indicative programme 2021-2027 held on 14th December 2027.

In view of engagements with EU, it has been agreed that EU would engage the Council of Governors as a key stakeholder under the new strategy. The EU Delegation has shared with COG the programming guidelines for the Multi-Annual Indicative Programme (MIP) 2021-2027 and has indicated interest of engaging with the CoG as a key stakeholder.

By that time of the first meeting held 6th July 2020, it was established that the EU was preparing for the programming cycle, which was anticipated to effectively start in September 2020. It was reported that the programming cycle had been interrupted by the impact of Covid-19 pandemic and, therefore, the EU had not yet developed a road map for the new development cooperation framework.

It was noted that the current European Development Framework (11th EDF) was about to end and therefore the necessity of developing another development cooperation strategy. EU has had huge investment in agriculture in Kenya and has, therefore, been working with Counties because agriculture is a devolved function, even though the project was designed with National Government. Nonetheless, the EU engaged with CoG in selection of the 15 Counties that are currently benefiting from the EUR 32 million EU Instruments for Devolution Advice and Support.
(EU IDEAS) project. The current development Cooperation framework is thus a huge opportunity for inclusion of County governments from the beginning.

Since the EU has always been working with the National Authorizing Officer to identify priorities and the projects, it would be pleased a broader consultative framework that involves the participation of County Governments and their umbrella body, the Council of Governors. In that light, the need to structure engagement with Counties was raised, in order to avoid each County advancing their own priority. CoG was also advised to be proactive in engaging with the National Treasury resource mobilization department with the purpose of working towards a consolidated priority list for Kenya. Having a consolidated priority list for the Central and County Governments is considered to be better, since the current arrangement that allows counties and council of government to lobby the EU directly, gives no assurance for consideration.

In order to streamline the development cooperation financing framework, CoG had already started engaging the National Government to address challenge of Counties receiving funds from development partners in the middle of financial years as such funds would require re-programming through the financial year by review of PFM Act 2012. The other issue to being forwarded for review are the budget ceilings for Ministries departments at National government, which has limited development partner’s support to County Governments.

An audit for Kenya EU programme did raise some questions and how the questions will be answered could impact on future EU investment. In the current development programming there are discussions on whether focus should be on marginalized areas or in areas where there is high return on investments, this will influence resource allocation.

The focus for EU programming in the past has been on poverty alleviation but the current development programming is moving towards development priorities including

1. Climate change
2. Transition to green energy/economy
3. Digital agenda
4. Migration and creation of jobs
5. Peace, security and governance

The new EU programme will have a budget of about 100million Euros every year in the coming years. In case the preferred option of directly funding counties works out, each County will have to undergo an assessment to establish the financial management systems and other capacities. The approach could however, be susceptible to accountability challenges and the need for assurance of robust control measures, therefore, remains paramount and a duty of the counties and the Council of Governor. Besides, there is a need for CoG to engage with National Government at the highest level agree on a modality of direct transfer to Counties.
The approach of direct funding is seen an option because, channeling money through the National Government has at time had delays of up to one year, a situation that always impacting on project implementation, heavily.

On the other hand, the EU expressed it is keenness in working with Regional Economic Blocs and is indeed, already working with the Frontier Counties Development Council Economic Bloc. However, there remains a concern on the legal status of the regional economics blocs, which needs to be addressed in order to strengthen their working relationship with development partners.
PART III

3. Enhancing County Governments’ Meaningful Involvement in Development and Cooperation Policy: Actions Expected from the County Governments and the National Association

Recent strong socio-political demand, among many African countries, to establish strong local and sub-national governments triggered sweeping reforms leading to the adoption of institutional and legal frameworks that have served as a basis for deepening decentralization which in the case of Kenya took the form of devolution. This institutional reform combined with strong commitment to political, administrative and to some extent, fiscal decentralization, underscores the political will to give local governments direct and transparent power in the management of local affairs. Among others, the goal was to create and strengthen the role of subnational governments so as to ensure better people’s participation in the management of public affairs and greater democracy in decisions on the decentralized provision of public services.

However, meaningful involvement of CGs in development and cooperation policy requires a concerted effort of action from two sides. That is the policy and decision-makers at national level and development partners on the one hand and; County Governments and their representative national associations on the other. CGs and NASGs should, therefore, be ready and able to fulfill a proactive and leading role in this process. Working towards ensuring meaningful involvement of the CGs in the development and cooperation decision making framework entails a number of issues and processes, a number of which are explored in the following sections.

3.1 Organizing a meaningful and competent voice of County Governments: The critical political and institutional role of the Council of Governors (COG)

Due to the adoption and implementation of decentralisation (shift of responsibilities from the national to the sub national and local governments) in most African countries, sub-national Governments have become more important, in that they are increasingly bearing a more direct impact on the living conditions of the local people. As such the County Governments in Kenya and their national association, the Council of Governors, need to have varying knowledge and capacities. This includes, the capacity and resources to communicate with national policy makers and other stakeholders, especially development partners, including the EU and; also be able to formulate policy messages, as well as implementable actions plans. In this part, attention in placed on the key issues identified in the SWOT analysis of COG.

In comparison to many African countries with relatively under-developed systems of sub-national government, Kenya now has reasonable experience with the devolution framework and processes. Similar to the experience of many national-wide associations, COG susceptible challenges that may impact on its critical political and institutional roles. Going by the experience
of similar associations, therefore, CoG may require to pay attention to the following common inhibitors.

1. Limited power of lobbying and advocacy on national policy dialogues,
2. Working environment: inadequate institutional infrastructure (office, office facilities, materials etc.);
3. Inadequate management of information system;
4. Insufficient manpower to commensurately delivery to expectations, as per its mandate
5. Limited access to cooperation and lines of communication with development partners;
6. Limited access to continental and international linkages;
7. Lack of enhanced resource mobilization capacity; and
8. Inadequate resources to implement desired plans.

3.1.1 Institutional Strengthening - Developing Capacity of CGs and CoG, their NASG

For sub national governments to be effective, they must have the capacity to support themselves in order to undertake the activities and services that define their mandate. This means that in addition to being facilitated by central government and development partners, they must, on the other hand, be able to play their own roles in the institutional strengthening process. This includes enlarging their resource envelop by generating own revenue; being responsive to capacity building needs of their members; putting to good and accountable use the support extended and; engaging all key stakeholders in the institutional strengthening process.

In consideration of their mandate and mode of operation, County Governments are expected to be demanding in terms of institutional strengthening. Conducting a Capacity Needs Assessment each County Governments would, therefore, be crucial in informing the National Subnational Governments Capacity Building Plan, which would detail the form, extent and pace of the institutional strengthening to be undertaken across the board.

On the other hand, it is also important to extend institutional strengthening to CoG, the national association that brings together the County Governments in the country. Because national associations often participate in the institutional strengthening processes of their members, it is necessary for their capacity to be enhanced, as well. Besides operational capacity, the national association needs to have the legitimacy, ability and skills to be enable it articulate matters of concern or interest to their members. The association should be able to engage the national government, development partner and civil society on behalf of its members.

In the case of Kenya, it is noted that the Council of Governors (COG) brings together the 47 counties of the country. Well as the COG framework has, overtime, been utilized even for the benefit of other stakeholders in county governance, including the County Assemblies and Urban Authorities, it is important to start thinking of ways in which such relationships can be structured.
3.1.2 Role of County Governments in the implementation of the SDGs.

As indeed observed by the UCLG report of 2017 on the Way Towards the Localization of SDGs by National and Sub-National Governments,\(^6\) it will not be possible to achieve the Sustainable Development Goals without their full ownership at local level and by civil society. For that reason, city, local and regional government networks are working hard to contribute to awareness raising, alignment of work plans, learning exchange and local monitoring and reporting by developing global, regional and national systems of ‘localization’.

Such efforts will, however, be more fruitful and decisive with a clearer recognition of the role of sub-national governments in policy making and change. Sub-national governments need to be better integrated in the institutional mechanisms responsible for SDG up implementation, including coordination and follow-up, at all levels.

An integrated approach towards the achievement of SDGs offers an opportunity to explore innovative strategies and relationships that would reinforce dialogue and collaborative mechanisms across all levels of government. This is not only indispensable for the achievement of the SDGs but also provides an unprecedented opportunity to update governance mechanisms and enhance them and thereby make local communities more resilient and thus, able to face future challenges with minimal stress.

National governments should, therefore, consider to put in place or strengthen an ambitious legal and administrative framework that facilitates multilevel governance, deepen sub-national governments’ capacities and thus, reduce on any existing institutional gaps in the aspects of administrative, fiscal, and political capacity. Indeed, progressive and effective devolution should be at the core of the creation of an ‘enabling environment’ for sub-national governments, and for the localization of the SDGs. Specific attention ought to, among others, be drawn to the financing of the SDG localization process, where intergovernmental frameworks will inevitably be crucial in ensuring that subnational governments are adequately empowered, funded and incentivized.

3.1.3 The Role of County Governments in the implementation of the SDGs: The case of Kenya

County Governments play an important role in promoting territorialization of national policies and global programmes. As sub-national units, the County Governments implement programmes that reflect the aspirations of the residents and therefore respond to the felt needs of the people at the local level. They nonetheless interlink the local needs to national policies through two important ways.

First, they develop County Integrated Development Plans (CIDPs) through participatory approaches. Many county governments have put in place an institutional framework through which people contribute to decisions on planning for their development. These participatory approaches lead to development of projects that reflect people’s needs. Second, it is through the

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\(^6\) UCLG, National and Sub-National Governments on the Way Towards the Localization of SDGs report, 2017
County Governments that the National Government policies get translated into development projects to respond to local needs. The National Government presents, through CoG, guidelines for development of CIDPs every five years. The guidelines aim at ensuring that the CIDPs present projects that are in line with the local needs and that these are not disconnected from the national policies.

The CIDPs provide an important entry point for mainstreaming SDGs in the counties. The devolved functions generally correspond to the various SDGs as shown in the table below (interventions in MTP III are aligned to the SDGs). Implementation of CIDPs by the County Governments, therefore, is on its own the first important step in institutionalizing progress toward achievement of SDGs. The same is true of the national government MTP III.

Table 3: Devolved functions and localization of SDGs

<table>
<thead>
<tr>
<th>The 2010 Constitution – Schedule Four: Devolved Functions and alignment</th>
<th>Corresponding SDGs</th>
</tr>
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<tbody>
<tr>
<td>1. Agriculture</td>
<td>Goals 1 – No Poverty</td>
</tr>
<tr>
<td>2. County health services</td>
<td>Goal 3 – Good Health</td>
</tr>
<tr>
<td>3. Control of air pollution, noise pollution, other public nuisances</td>
<td>Goals 3 – Good Health</td>
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<tr>
<td>4. Cultural activities, public entertainment and public amenities</td>
<td>Goals 4 – Quality of life</td>
</tr>
<tr>
<td>5. County Transport</td>
<td>Goals 9 - Industry and innovation</td>
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<tr>
<td>6. Animal control and welfare</td>
<td>Goal 1 – No Hunger</td>
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<tr>
<td>7. Trade development and regulation</td>
<td>Goals 2 – Industry and innovation</td>
</tr>
<tr>
<td>8. County planning and development</td>
<td>Goal 11: Sustainable cities</td>
</tr>
<tr>
<td>9. Pre-primary education, village polytechnics, home-craft centres and childcare facilities</td>
<td>Goal 4 – Industry, and innovation</td>
</tr>
<tr>
<td>10. Implementation of specific national government policies on natural resources and environmental conservation</td>
<td>Goals 1 – No poverty</td>
</tr>
<tr>
<td>11. County public works and services</td>
<td>Goals 9 – Industry and innovation</td>
</tr>
<tr>
<td>12. Firefighting services and disaster management</td>
<td>Goals 13 – Climate action</td>
</tr>
<tr>
<td>13. Control of drugs and pornography</td>
<td>Goal 3 – Good health</td>
</tr>
<tr>
<td>14. Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.</td>
<td>Goal 17 – Partnership for Goals</td>
</tr>
</tbody>
</table>
Aside from CIDPs integrating SDGs, the 2010 constitution also makes provisions for the government to make efforts in promoting economic and social rights. Chapter Four on the Bill of Rights in particular emphasis the need for the government to ensure that everyone has right to highest standards of education, and health. The constitution also provides that everyone should have access to adequate food and decent livelihood among other rights.

There are other important developments relating to localization of SDGs. CoG has established a unit for coordinating mainstreaming of SDGs by the county governments. The county governments are also gradually establishing a framework through which SDGs are effectively mainstreamed in their projects in a structured manner.

A number of challenges, however, have prevented effective localization of SDGs. Notable among these is the ad hoc manner in which SDGs are mainstreamed in the development planning processes. Champions for SDGs are not every in the country; neither are they in each of the devolved sectors. This has meant gaps in creation of awareness among the counties on what should be done. Additionally, SDGs are usually seen as a global agenda disconnected from local realities. Although there is a direct relationship between SDGs and the local realities, the fact that SDGs were first prioritized at the global level implies that they are perceived as global and not local. Creating awareness on significance and policy relevance of SDGs is yet to be effectively done.

3.2 Capacity building requirements for NALAs

In order to play its roles, including those listed above, NASGs need to have sufficient and continuously enhanced Leadership; Management and; Technical capacity.

3.2.1 Leadership Capacity: The leadership capacity requirements spectrum includes formulation and propagation of an authentic political vision and mission, based on the knowledge, expertise and close relationship to members; cooperation with and relation to relevant stakeholders, including national policy-makers CSOs, the private sector, development partners, etc.; inspiration and motivation of relevant stakeholders; development of a strong reputation as a reliable and knowledgeable partner. Leadership capacity is particularly important for the leaders that take on extra duties to leader their colleagues at the national association level. In order to effectively play their roles, local leaders elected at the NASG level require advocacy and organizational capacities, since a significant part of their work entails lobbying, advocacy and institutional strengthening of the association. Therefore, the NASGs, should not only focus on training of councilors at the local government level, but also their own political leadership structures.

3.2.2 Management Capacity: It entails support to the NASGs governing structures; managing and enhancing their staff and; developing their standards of operation. In order to meet their obligations and mandate as the overarching voice for their members, NASGs require to have sufficient management capacity. They need to have in place not only governance structures and
staff to advise and implement their decisions and aspirations, but also the facilitating requirements in the form of tools, equipment and documentation.

3.2.3 Technical Capacity: This entails training staff of the NASGs on Policy and political frameworks (understand how the policy system works and how policies are developed); understanding Policy cycles (know the relevant policy cycles on local and national level in order to understand when advocacy activities need to be organized to create impact); Strategic partnerships: be aware of the relevant stakeholders in the field and know their role and position; know which stakeholders might support (allies) or oppose (adversaries); motivate, inspire and stimulate potential allies to support specific advocacy activities. It is therefore very necessary for the NASGs to not only acquire technical capacity but also maintain it through training and continuous mechanisms that promote staff motivation and, thus organizational morale. The recruitment and staff development policies and practices of the NASGs should, therefore, not only focus on the ‘quality at the gate’ principle but also emphasize motivation schemes. As is the case with the first two form of capacity needs, however, the resource envelop of CoG must be significantly enhanced.

Considering their roles, responsibilities and aspirations, it is practically difficult and not feasible for the NASGs to recruit, in one go, and thereafter maintain a staff model that is significantly responsive to their broad mandate. The gaps could, however, be ably addressed by adopting the practice of out-sourcing as need arises. The other option of internal resourcing from within the staff of their members, would be rather expensive because of travel costs and unreliability that could arise from extra load and conflict in the chain of command between the NASG and parent employer.

3.3 Setting the Objectives of the County Governments and the National Association of County Governments

To obtain results, the County Governments and CoG need to articulate the outcomes they desire. Objectives are the specific measurable results of the initiative. They specify how much of what will be accomplished by when. In the case of this roadmap, however, the aspect of contextualizing set objectives within time frames may not feasible at this point in time. This is because there are many players whose role remains instrumental in the process of deepening decentralisation. On the other hand, this roadmap forms part of a negotiation process that will require the input of other stakeholders. Broadly, it is recommended for the objective of the GGs and CoG to be aligned towards the deepening of devolution in the country by, among others;

1. Promoting and advocating for further upscaling of downward and horizontal devolution of power, in order to enhance County Governments and their implementation capacities,
2. Ensuring good governance at local government level by enhancing accountability, transparency and responsiveness to local community interests and demands.
3. Sensitizing and empowering County Governments towards the adoption of the Territorial Approach to Local Development and thereby, enhance participatory planning and decision making processes.

4. Enhancing local economic development, by creating an environment that creates wealth, attracts and facilities investments and, protects markets, in conjunction with the private sector, civil society organizations and the local community.

5. Providing awareness on global issues of interest to CGs and encouraging and supporting local participation in global agenda initiatives, including the achievement of SDGs.

As a national association of County Governments in the country, COG will need to have an added responsibility of serving as a platform for research, policy dialogue, cooperation, knowledge, experience and practice exchange of County Governments. In particular, the national association ought to capacitate itself and be able to play the following specific roles;

1. Support members (LGs) in appreciation, understanding, utilization and compliance with the National Development Framework and its guidelines, in order to ensure that local plans and budgets are in line with the SDGs and national planning targets.

2. Assist in the design of a performance assessment/ peer review mechanism for county governments.

3. Advocate on behalf of the CGs, for the central government (CG) to address the key issues highlighted part II of this roadmap. This could be achieved by preparing and presenting issue papers/briefs

4. Engage in raising awareness of their members on SDGs and assist them to localize SDGs with a reflection on inclusion of their targets in local development plans. CGs should be supported to develop the SDG databank detailing the status of CGs in achieving SDG targets.

5. Facilitate down ward accountability through networking with relevant government agencies to organize effective community accountability platforms in which the leaders provide social accountability to their electorates.

6. Participate in the formulation of manuals and working guides of the County Governments, such as the Standard Rules of Procedure and operations

7. Participate in the induction of new political office bearers and staff

8. Assist with the Organisation of Needs Assessment exercises and the development of plans to address the identified gaps

9. Provide technical support to the County Governments in the execution of their duties, including the mobilisation of resources.

10. Encourage and assist the new leaders to develop action points that are achievable within the 1st year, as a social contract with their electorates. These commitments should be disseminated to the communities

11. Lobby for increased resource allocations to CGs to enable them effectively meet their mandate;
12. Lobby for the establishment or strengthening of a structured negotiation platform between central and county governments
13. Promote Local Economic Development and generally, the Territorial Approach to Local Development.
14. Provide County Governments with the necessary legal advice, whenever need arises
15. Ensure that county governments are aware and participate in global development agenda
16. Link the association and its members to global networks with interest or stakeholders in local governance and development

3.4 Sector level priorities agreed upon by the County Governments

1. Green Transition: Environmental Sustainability & Resilience Building

Landscape management and support to position agriculture and spatial planning as important sectors for County Governments. This is crucial for the counties to revive the nature based economic sectors, e.g. eco/tourism, alternative livelihoods and blue economy and sustainable fisheries for marine ecosystems

2. Renewable Energy Generation

Despite an already high share of renewable energy in its electricity mix, Kenya has still a huge potential for the development of renewable energy and intends to import significant amount of cheap hydro-electricity from Ethiopia. Intermittency of the recently increased wind and solar energy production and injection of the geothermal production into a single point of the grid constitute a challenge for the stability of the power system, which lacks small/medium stable (hydro or biomass) decentralized generation units.

This can only be addressed through joint programming with both National and County Governments commitment to support the private sector in the indicative areas of: solar home systems, green mini-grids, clean cooking and productive use of energy (through potential top-up of Kenya ElectriFI country window or similar instruments), with focus on environmental and socio-economic aspects including gender, development of marginalized areas and job creation.

Investment in Climate-smart and sustainable agriculture and fisheries value and supply chains, including agro-processing with support to economic recovery while improving livelihoods.

3. Human Development & Inclusive Growth

Whereas Kenya is growing into a tech hub, there are major digital gaps that need attention. Remote counties and villages, and in particular social services, do not have access to internet. Large groups of youth (women, refugees, remote areas) miss access and skills to take part of the digital benefits.

The last mile digital connectivity for hospitals and schools and associated services and TVET for the promotion of digital skills for youth require promotion of synergies between roads and fibre infrastructure and support creation of smart Villages
4. **Empowering women and youth**

Kenya has firm commitment on Gender equality and GBV, which remain major challenges, exacerbated by Covid-19. We need to consider population growth as a factor to consider in Kenya's development goals. Fundamental rights remain insufficiently addressed while Covid-19 creates serious risks of retrogression.

Youth (18-35) make up a third of the population and remain largely marginalized in terms of access to resources opportunities, representation and participation. There is need to build qualified and competent youth workforce (skills; training) and create decent opportunities for youth (participation in decision-making process, political empowerment, youth as actors of change). Investment into the VTCs will provide opportunities for skills development especially in the technical skill, which the country is now slowly loosing.

5. **Enabling businesses to thrive sustainably**

Opportunity to create new job creating segments of the economy by providing conditions for entrepreneurs to grow. Holistic but targeted support to strategic, export-oriented value chains and innovation in logistics.

Trade corridor infrastructure, such as integration of transport networks, cold chain (green) economic zones eg. The Lake Region Bloc would benefit from the installation of a cooling system at the Kisumu International Airport thus opening up the region to horticultural agriculture for export.

6. **Governance, Peace & Stability**

Potential to improve public service delivery with digitalization. "Culture of open government". Kenya is a member of Open Government Partnership and has recently appointed a Data Protection Commissioner. With Covid-19 experiences, all county Government need support for digitization of county operations.

Embracing Open Government by County Governments will mean that there will be; digital solutions for improved public service delivery and enhanced civic engagement, including data protection. Further this will enhance public accountability and the fight against corruption. Therefore, e-procurement and proper application of public finance management rules will lend support to anti-corruption bodies and CSOs.

**Conclusion**

Meaningful involvement of CGs in development and cooperation policy requires input and action from two sides. That is the policy and decision-makers at national level and development partners on the one hand; and CGs and their representative national associations on the other hand. CGs and NASGs should therefore be ready and able to fulfil a proactive and leading role in this process. Different aspects are key when it comes to the development of meaningful CGs involvement.
In order to effectively lead their members through the engagement process, NALAs must be well equipped in terms of leadership, technical and managerial capacity. Elevating their capacity does however require proper planning and mobilisation of human and financial resources. Nonetheless, it is possible and important for the capacity enhancement undertaking to start within the framework of existing structures and resource envelop. Such re-organization will be critical is setting stage for the mobilisation of external support.
**ANNEX I:**

Actions/Tasks to be undertaken towards the integration of COG and CGs in the 2021-2027 programming process of the European Union *(Dates and Responsible centres to be filled by the NALA)*

<table>
<thead>
<tr>
<th>Action/Task</th>
<th>Timeframe/ Date(s)</th>
<th>Responsible centre</th>
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<tbody>
<tr>
<td><strong>1</strong> Get prepared for the political dialogue through developing a strategic partnership between the national government and the LRGs through their national association or representatives of County Governments</td>
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<tr>
<td>a Get informed on the priorities established by the EU during the preprogramming phase. This information shall be collected in the services of the ministry serving as the national authorizing officer of EU cooperation and/or at the EU delegation upon demand by the national association;</td>
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<td>b Finalize the roadmap and negotiate its approval and integration among the priorities of EU cooperation with the national authorities and notably the ministry of local governments and the ministry serving as the national authorizing officer of EU cooperation (NAO);</td>
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<tr>
<td>c Conclude an agreement with the national government recognizing the national association of LRGs among the implementing agents of EU cooperation</td>
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<tr>
<td><strong>2</strong> Be proactive in LRGs participation in the programming consultation process so that it leads towards an innovative process of political dialogue in the definition and implementation of EU cooperation</td>
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<tr>
<td>a Engage the national government to reach an agreement that they will participate together in the consultations and dialogue processes together as public authorities.</td>
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<tr>
<td>b Sensitize the EU delegation on the new dimension of future cooperation (with the assistance of UCLG Africa secretariat and regional offices as appropriate in case of difficulties of dialogue on this matter with EU delegations).</td>
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<tr>
<td>c Make contact with the EU delegation to be aware of the calendar of the consultations process to be launched</td>
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3) Advocate for the mainstreaming, integration and engagement of LRGs in the full spectrum of the new cooperation priorities
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<tbody>
<tr>
<td><strong>a</strong></td>
<td>Organize a national meeting or webinar to mobilize the members for them to be fully informed of, and take active part in the programming process of EU cooperation</td>
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<tr>
<td><strong>b</strong></td>
<td>Encourage members to own the CGs roadmap, keep them regularly informed of progress made in the consultations and dialogue with the national government and the EU delegation, and insure that they bring inputs in the conversation</td>
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<td><strong>c</strong></td>
<td>Support members to become familiar with the notions of territorialization of public policies and territorial approach to local development, and be exposed to methods, tools and experiences showing the practicability of these approaches, with the support and assistance of UCLG Africa and other partners, as appropriate</td>
</tr>
<tr>
<td><strong>4</strong></td>
<td><strong>Engage lobbying and advocacy actions to conclude a Framework Partnership Agreement (FPA) between the National Association of LRGs and the EU delegation for the implementation of the County Governments Roadmap during the 2021-2027 European Cooperation Round</strong></td>
</tr>
<tr>
<td><strong>a</strong></td>
<td>Prepare a plan for the development of institutional capacities of the national association of LRGs with the support of UCLG Africa</td>
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<td><strong>b</strong></td>
<td>Work with UCLG Africa/ALGA to develop and deliver training modules on structuring and capacity-building of the LRGs and their national associations</td>
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<tr>
<td><strong>c</strong></td>
<td>Develop with the support of UCLG Africa systems of exchange of experiences, methods and tools on existing and innovative funding mechanisms, allowing the European cooperation funds to reach the LRGs budgets and projects (special funds, budget support, unconditional and conditional grants, etc.)</td>
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ANNEX II

SWOT Analysis of the Council of Governors (CoG)

CoG SWOT Analysis: An Overview

<table>
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<tr>
<th>Strengths</th>
<th>Weaknesses</th>
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<tbody>
<tr>
<td>• Collective and unified voice on matters of interest to County Governments</td>
<td>• Secretariat of CoG not anchored in law</td>
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<tr>
<td>• Unified and coherent leadership on matters devolution</td>
<td>• Inadequate financial and human resources</td>
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<tr>
<td>• Strong platform for consideration of devolution-related policies and legislative frameworks</td>
<td>• Increased dependence on development partners</td>
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<td>• Strong partnership with bi-lateral and multilateral development partners</td>
<td>• Organizational structure not well developed; structure is not reflecting the reality of roles and responsibilities at CoG</td>
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<td>• Strong political commitment to objects and principles of devolution</td>
<td>• Absence of a strong advocacy and lobbying strategy to counter those against devolution</td>
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<td>• Platform for learning on best-practices; and sharing information and experiences</td>
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<td>• Strong achievements in local development – and touching all parts of the country.</td>
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<tr>
<td>• A functional secretariat is in place</td>
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<td>• International visibility, especially at the continental level</td>
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<table>
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<tr>
<th>Opportunities</th>
<th>Threats</th>
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<tr>
<td>• Increased public confidence in and support for devolution</td>
<td>• Continued centralization attitude by National Government and Parliament</td>
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<td>• The Constitutional grounding of devolution</td>
<td>• Limited budgets and funding for devolved functions</td>
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<tr>
<td>• Leaders at national and county level show interest in devolution</td>
<td>• Parastatals absorbing budgets for devolved functions (existence of State corporations and agencies and Regional</td>
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<td>High citizen’s expectations</td>
<td>Development Authorities that continue to perform County functions</td>
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<td>Entrenchment of Intergovernmental sector forums in the law</td>
<td>Divisions along party lines and after general elections affect cohesion</td>
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<td></td>
<td>Inability to show quick results/development because of limited funds</td>
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<td>Growing cases of corruption tainting the County Governments</td>
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<td></td>
<td>National Government view of Counties/CoG as competitors rather than complementary entities</td>
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<td></td>
<td>Anti-devolution policies and laws</td>
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<td></td>
<td>The rise of County Regional Economic Blocs</td>
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</table>
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