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Elections in Kenya

2017 Rerun Presidential Elections

Frequently Asked Questions

Africa

International Foundation for Electoral Systems

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Frequently Asked Questions

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Disclosure:

These FAQs reflect decisions made by the Kenyan elections authorities as of October 25, 2017, to the best of our knowledge. This document does not represent any IFES policy or technical recommendations.

Acronym list

Acronym	Name / Title
AU	African Union
AUEOM	African Union Election Observation Mission
BVR	Biometric Voter Registration
CSO	Civil Society Organization
CRMS	Candidate registration system
ELOG	Kenyan Electoral Observation Group
EMB	Electoral Management Body
EU	European Union
EVI	Biometric voter identification
ICT	Information and Communications Technology
IEBC	Independent Electoral and Boundaries Commission
IFES	International Foundation for Electoral Systems
KEAP	Kenya Electoral Assistance Program
KIEMS	Kenya Integrated Elections Management Systems
LTO	Long-Term Observer
M&E	Monitoring and Evaluation
NASA	National Super Alliance
RTS	Electronic Results Transmission
UNDP	United Nations Develop Programme
USAID	United States Agency for International Development

Why is Kenya holding a second presidential election?

On August 11, 2017, the Independent Boundaries and Electoral Commission (IEBC) of Kenya announced official results for the August 8 presidential elections. The results of this election, as declared by the IEBC, showed incumbent president Uhuru Kenyatta re-elected with 54.3 percent of the vote, ahead of opposition leader Raila Odinga with 44.7 percent.¹ Odinga filed a petition with the Supreme Court of Kenya contesting these results on a number of grounds. On September 1, the Supreme Court of Kenya issued a decision annulling the original presidential results on the grounds of what it identified as a number of “irregularities and illegalities,” primarily in results transmission, documentation and declaration – the first time in Africa in which a court nullified the re-election of an incumbent president.² In its full, written judgment published on September 20, the majority of the Supreme Court stated that the nature of these issues – and their determination that the IEBC did not adequately address them before the court – meant that the conduct of the presidential election did not meet the requirement of Article 86 of the constitution to be “accurate, verifiable and transparent.”³

The Supreme Court ordered the IEBC to conduct a fresh election within 60 days of the September 1 ruling. The IEBC scheduled the repeat poll on October 17 with only Kenyatta and Odinga on the ballot, a decision contested in the High Court of Kenya by a third candidate from the original presidential race, Ekuru Aukot.⁴ On October 11, the High Court ruled that Aukot be included in the fresh election, and the IEBC subsequently announced the inclusion of all original candidates on the rerun ballot. In response to details released in the full judgment, the IEBC postponed the rerun to October 26 to allow additional time for procedural improvements, and in particular, to deploy the election technology that had to be reconfigured for the fresh poll. The French firm OT-Morpho, which supplied the electronic results transmission system for the August 8 elections, said the systems would have to be reinstalled, and the work could not be secured by the original October 17 rerun date. To address concerns regarding the transmission of results, OT-Morpho reconfigured the system to ensure that no poll results are transmitted except a scanned image of the 34A results forms.⁵

For the full Supreme Court judgement on the 2017 presidential election petition, see:

- [Majority Full Supreme Court Judgment](#)
- [Dissenting Opinion of Justice J.B. Ojwang, SCJ](#)

¹ Staff writer. “Kenya election: Uhuru Kenyatta defeats Raila Odinga,” (2017, August 11). *BBC*. Retrieved from http://www.bbc.com/news/world-africa-40905379?intlink_from_url=http://www.bbc.com/news/topics/c4b75bba-56ca-4db4-80c8-7ef25a77ec64/kenya-general-election-2017&link_location=live-reporting-story

² De Freytas-Tamura K. “Kenya Supreme Court Nullifies Presidential Election,” (2017, September 1). *New York Times*. Retrieved from <https://www.nytimes.com/2017/09/01/world/africa/kenya-election-kenyatta-odinga.html>

³ For the full Supreme Court judgement on 2017 Presidential Election Petition, see: [Majority Full Supreme Court Judgement](#), [Dissenting Opinion of Justice J.B. Ojwang, SCJ](#), [Dissenting Opinion – Justice Njoki Ndungu, SCJ](#)

⁴ Staff Writer, “Kenya election: Date set for Kenyatta-Odinga re-run,” (2017, September 4). *BBC*. Retrieved from http://www.bbc.com/news/world-africa-41146213?intlink_from_url=http://www.bbc.com/news/topics/c4b75bba-56ca-4db4-80c8-7ef25a77ec64/kenya-general-election-2017&link_location=live-reporting-story

⁵ Oruko I. “IEBC Promises Transparent and Accountable Poll,” (2017, September 25). *Daily Nation*. Retrieved from <http://www.nation.co.ke/news/IEBC-promises-transparent-and-accountable-poll/1056-4111882-gugqfmz/index.html>

- [Dissenting Opinion of Justice Njoki Ndungu, SCJ](#)

What challenges does the Independent Electoral and Boundaries Commission face in organizing the rerun election?

Ahead of the presidential election rerun, the Independent Electoral and Boundaries Commission (IEBC) faces a continued polarized political environment.

The opposition coalition National Super Alliance (NASA) has declared a boycott of the rerun election if demands termed “[irreducible minimums](#)” are not met.⁶ The IEBC has taken some of these demands into consideration when making procedural changes, but not to the satisfaction of the opposition party.⁷ At the same time, the Jubilee Alliance (which holds a majority in Parliament) proposed a series of [amendments to the election laws](#) just weeks ahead of the fresh election.⁸ As of October 24, these amendments are awaiting presidential signature after passing through the National Assembly and Senate.⁹ These respective developments have been heavily contested by the opposing parties, proven controversial with various domestic and international stakeholders, and contributed to an escalating conflict between the leading candidates and their supporters.

This political impasse between the major presidential candidates culminated on October 10 when Odinga announced his withdrawal from the repeat election.¹⁰ As expressed in the opposition’s statement, the withdrawal is intended to prompt the cancellation of the October 26 election, followed by fresh nominations and elections, which NASA contends will provide additional time for necessary reforms.¹¹ The IEBC does not consider this withdrawal official, however, as Odinga did not submit the required from 24A that would officially prompt removal of his name from the ballot.¹²

In addition, IEBC Commissioner Roselyn Akombe resigned on October 18, expressing security concerns and citing her perspective that the IEBC is not in a position to deliver a credible election on October 26.¹³ Subsequently, IEBC Chairperson Wafula Chebukati issued a statement raising concerns about the political conditions in Kenya, stating that “it is difficult to guarantee free fair and credible

⁶ Staff Writer. “NASA Position paper on irreducible minimums before the fresh elections are held.” Retrieved from <https://nasacoalition.com/blogs/nasa-position-paper-irreducible-minimums-fresh-elections-held/>

⁷ IEBC Twitter Official Account (2017, October 10). <https://twitter.com/IEBCKenya/status/917761313182486528>

⁸ Owino, S. “Parliament passes bill to amend election law,” (2017, October 11). *Daily Nation*. Retrieved from <http://www.nation.co.ke/news/politics/MPs-set-to-pass-election-laws/1064-4134458-bm3hh8/index.html>

⁹ Ayega, D. “Election Laws await Uhuru assent after Senate approval.” (2017, October 17). *Capital Media*. Retrieved from <https://www.capitalfm.co.ke/news/2017/10/election-laws-await-uhuru-assent-senate-approval/>

¹⁰ Lang’at, P. “Raila Odinga pulls out of repeat presidential election.” (2017, October 10). *Daily Nation*. Retrieved from <http://www.nation.co.ke/news/politics/Raila-withdraws-repeat-polls/1064-4133516-mb9am3z/index.html>

¹¹ Raila Odinga Official Twitter. (2017, October 10). Retrieved from <https://twitter.com/RailaOdinga/status/917746943492685824>

¹² IEBC Twitter Official Account. (2017, October 11). Retrieved from <https://twitter.com/IEBCKenya/status/918181299361406976>

¹³ Staff Writer. “Dr. Roselyn Akombe Resigns; Here’s Her Full Statement,” (2017, October 18). *Business Today*. Retrieved from <https://businesstoday.co.ke/dr-roselyn-akombe-resigns-heres-full-statement/>

elections” under the current circumstances.¹⁴ Furthermore, communication allegedly coming from within the Commission and leaked to the public has created confusion on electoral information.

Finally, the IEBC has experienced logistical challenges especially linked to the procurement process to obtain equipment necessary for the fresh poll. The opposition party demanded that the IEBC should change the firms procured to conduct ballot printing and to provide electoral results transmission technology for the general elections, as requirements for agreeing to participate in the fresh elections.^{15,16} The United Nations Development Programme offered assistance to the IEBC in supporting neutral procurement of strategic electoral materials, but multiple stakeholders and institutions objected to this change. In light of this, the IEBC announced that ballots would again be printed by Al Ghurair.¹⁷

Will voters use any form of electronic voting?

No. Voters will cast their vote using paper ballots just as they did in the August 8 general elections. Once the voter has marked the ballot, the voter will then put the ballot into the ballot box.

What technology will be used during the October presidential election?

Technical experts from the United Nations will provide technical assistance to the Independent Electoral and Boundaries Commission (IEBC) Electoral Information and Communications Technology team. OT-Morpho will again provide the results transmission system for October’s presidential election. To address concerns regarding the transmission of results that occurred in the August 8 elections, the IEBC maintains that the system has been reconfigured to ensure that no poll results are transmitted other than a scanned image of the Forms 34A.¹⁸ This will require officials in low connectivity areas to move to areas with 3G coverage or satellite connectivity to send their results. Additionally, the transmission of forms will be conducted through “scanning the result forms and sending the scanned documents through a safe IP address, where they will be secured as hashed and/or password, protected.”¹⁹

The system also allows presiding officers at polling stations to transmit results to both the constituency tallying center and the national tallying center.

The use of technology in the 2017 Kenya electoral processes is guided by Section 44 of the Elections

¹⁴ IEBC Twitter Official Account. (2017, October 23). Retrieved from <https://twitter.com/IEBCKenya/status/920933681371414530>

¹⁵ Owino, S. “Parliament passes bill to amend election law,” (2017, October 11). *Daily Nation*. Retrieved from <http://www.nation.co.ke/news/politics/MPs-set-to-pass-election-laws/1064-4134458-bm3hh8/index.html>

¹⁶ Burke, J. “Kenya set to hold controversial election rerun as ballot papers arrive, (2017, October 23).” *The Guardian* Retrieved from <https://www.theguardian.com/world/2017/oct/23/kenyas-rerun-election-looks-set-to-go-ahead-as-ballot-papers-arrive>

¹⁷ Ngetich, J. “NASA rejects new Sh2.4 billion IEBC tender to French IT firm OT Morpho,” (2017, October 01). *Standard Media*. Retrieved from <https://www.standardmedia.co.ke/article/2001256117/nasa-rejects-new-sh2-4-billion-iebc-tender-to-french-it-firm-ot-morpho>

¹⁸ Oruko, I. “IEBC Promises Transparent and Accountable Poll,” (2017, September 25). *Daily Nation*. Retrieved from <http://www.nation.co.ke/news/IEBC-promises-transparent-and-accountable-poll/1056-4111882-gugafmz/index.html>

¹⁹ Ibid.

Act of 2011 (as amended in 2016 and 2017). Pursuant to Section 44 (1) of the act, the IEBC acquired “an integrated electronic electoral system,” referred to as the Kenya Integrated Elections Management System (KIEMS). KIEMS is designed to integrate the existing biometric voter registration (BVR); the biometric voter identification (EVI); the electronic results transmission (RTS); and the candidate registration systems (CRMS). Three sub-systems (CRMS, EVI and RTS) were part of the 2017 procurement, while the BVR system is what the IEBC used during the 2013 electoral process. The bio-data information of all the registered voters will be loaded onto the integrated system, with biometric details of specific voters restricted to polling stations in which they are registered.

As in the 2017 general elections, the IEBC has 45,000 KIEMS tablets that will be distributed among the 40,883 polling stations.

What are areas of concern regarding potential electoral violence?

An Independent Electoral and Boundaries Commission (IEBC) 2016 electoral risk mapping exercise identified 17 counties as “hot spots” for potential electoral violence: Tana River, Lamu, Kwale, Garissa, Wajir, Mandera, Marsabit and Isiolo, Meru, Narok, Nakuru, Baringo, Nandi, Kisumu, Siaya, Homa Bay, and Migori. At the drafting of this FAQ, no updated electoral risk data identifying new “hot spot” areas for the October 26 rerun election was currently available.

Potential conflict that could affect elections included cattle rustling, terror attacks, protests and riots, ethnic clashes, robberies and agro-pastoralist disputes.

Violent non-state actors such as the militant organization al-Shabaab also present a serious threat to public safety. Al-Shabaab conducted attacks in advance of the August general elections and continues to be a concern for the upcoming October 26 elections, particularly in Kenya’s coastal and northeastern communities.^{20,21} The U.S. Agency for International Development supports rapid response mechanisms through the “Kenya Electoral Assistance Program” (KEAP) and other programs that facilitate local conflict mitigation efforts to preempt or de-escalate electoral violence where possible.

After the annulment of the August 8 presidential election, new drivers of conflict have arisen in Kenya, in addition to pre-existing tensions that include perceptions of historical injustices and marginalization, oftentimes based on ethnicity, the unequal distribution of and competition for resources – including land – among various regions of Kenya, urbanization and social exclusion, as well as unfulfilled promises around poverty reduction and youth unemployment. Grievances about the conduct of the general elections, the actions taken by leading stakeholders, the perception from many perspectives that the will of the people is being undermined in some respect by this process, and

²⁰ Gari, A. “Al-Shabaab shot PS El-Maawy in chest, fractured her hand – police report.” (2017, July 14). *The Star*. Retrieved October 24, 2017. Retrieved from https://www.the-star.co.ke/news/2017/07/14/al-shabaab-shot-ps-el-maawy-in-chest-fractured-her-hand-police-report_c1596860

²¹ World Watch Monitor, “Coastal and north-east Kenyans have more to fear than most, as Al-Shabaab threatens elections.” (2017, August 7). *World Watch Monitor*. Retrieved from <https://www.worldwatchmonitor.org/2017/08/coastal-north-east-kenyans-fear-al-shabaab-threatens-elections/>

alleged violence by both protestors and security forces have exacerbated these existing tensions. Significant violence has occurred in relation to sites of major protests – with each party holding different actors responsible for casualties and damage – and several IEBC trainings have been attacked. The potential for post-election violence is therefore high, with the simultaneous conduct and boycott of the election – and subsequent announcement of results – likely to cause escalating tension whatever the outcome.

Who is eligible to run as a candidate in this election?

Originally, the Independent Electoral and Boundaries Commission (IEBC) announced the rerun election for president with only the two main political opponents, incumbent President Uhuru Kenyatta and the main opposition leader, Raila Odinga. In response to this announcement, Ekuru Aukot, one of the original aspirants for president who ran in the August 8 election, filed a suit with the High Court of Kenya to have his name included on the ballot. The High Court of Kenya ruled in his favor that all candidates who participated in the August 8 election were entitled to participate as candidates in the rerun election. As such, on October 11, the IEBC announced that all eight candidates who ran in the August 8 presidential election would be included on the October 26 ballot. No new candidates in addition to the original eight are eligible to run in this election. On October 13, the IEBC public announcement (gazette) to officially state the individuals whose names would be included on the ballot paper did not include the name of Cyrus Jirongo of the United Democratic Party, as he has recently been declared bankrupt and Article 137 of the constitution bars those who have been declared bankrupt from running for president.²² However, Jirongo challenged this bankruptcy in court and it is the judgement of the High Court of Kenya to suspend the bankruptcy order. In light of this, the IEBC has officially published his name and he is included as a candidate on the ballot as of October 24, 2017.²³ The eight candidates who will be listed on the ballot in the October 26 election are, in alphabetical order:

- Ekuru Aukot – Thirdway Alliance Kenya
- Abduba Dida – Alliance for Real Change
- Cyrus Jirongo – United Democratic Party
- Japheth Kaluyu - Independent
- Uhuru Kenyatta – Jubilee Party of Kenya
- Michael Mwaura – Independent
- Joseph Nyagah – Independent
- Raila Odinga – National Super Alliance (NASA)

The IEBC also stated that Raila Odinga’s name will still be included on the ballot, as the candidate has announced his withdrawal via letter but has not yet submitted the statutory form 24A. The IEBC maintains that per the Elections (General) Regulations, a duly completed form 24A is to be submitted

²² Staff Writer. “Election Countdown: What to Expect,” (2017, October 21). *Daily Nation*. Retrieved from <http://allafrica.com/stories/201710210072.html>

²³ Staff Writer. “IEBC Official Gazettes Cyrus Jirongo as candidate in repeat poll,” (2017, October 24). *The Star*. Retrieved from https://www.the-star.co.ke/news/2017/10/24/iebc-gazettes-cyrus-jirongo-as-candidate-for-repeat-poll_c1658341

to the Commission in the event that a presidential candidate seeks to officially withdraw his or her candidacy from an election.

What type of electoral system will be used to elect the president?

The 2010 constitution introduced significant reforms to the country's electoral system. For the presidency, a candidate will be elected if he or she receives more than half of the valid votes cast in the election, and at least 25 percent of the valid votes cast in 24 of the 47 counties. This qualified majority system was introduced to ensure that the winning candidate retains support across a number of different regions and groups. According to Article 138 of the constitution, "the poll shall be taken by secret ballot on the day specified in Article 101 (1) at the time, in the places and in the manner prescribed under an Act of Parliament; and (c) after counting the votes in the polling stations, the Independent Electoral and Boundaries Commission shall tally and verify the count and declare the result."²⁴ If no candidate is elected in the October 26 election, a run-off election between the top two candidates will be held no later than 30 days after the previous election. In the run-off, the candidate who receives the most votes will be declared the winner.²⁵

Will members of the diaspora be able to vote in this election?

The Independent Electoral and Boundaries Commission (IEBC) requires that there be at least 3,000 Kenyan citizens in a particular country for a polling station to be established. Eligible members of the Kenyan diaspora vote only for the president. For the 2017 elections, the IEBC conducted voter registration in Burundi, Tanzania, Uganda, South Africa and Rwanda.²⁶

Will prisoners be able to cast a ballot?

Yes. Registered prisoners will be able to participate in the October 2017 presidential election. In accordance with the law, the Independent Electoral and Boundaries Commission conducted voter registration prior to the August 2017 general election in 118 prisons nationwide to allow eligible prisoners to exercise their right to vote.²⁷ A prisoner who is registered as a voter will only vote for a presidential candidate of his or her choice. Eligible prisoners must be a Kenyan citizen, 18 years of age and above, and have an original Kenyan identification card or valid passport.

²⁴ The Government of Kenya. (2010). The Constitution of Kenya, 2010. Chapter 9, Article 138.

²⁵ Ibid.

²⁶ Independent Electoral and Boundaries Commission (2017). 2017 Register. Retrieved from <https://www.iebc.or.ke/iebcreports/>.

²⁷ Mati M. "Let's Have That Prison Vote Talk," (2017, March 01). *The Star*. Retrieved from http://www.the-star.co.ke/news/2017/03/01/lets-have-that-prison-vote-talk_c1515471.

How many polling stations will there be? How did the Independent Electoral and Boundaries Commission delimit constituency boundaries and determine the placement of the polling centers?

The constitution stipulates under Article 88 that the Independent Electoral and Boundaries Commission (IEBC) must delimit boundaries in such a way as to ensure that, as nearly as possible, a similar number of Kenyans reside in each of the 290 constituencies.

In doing so, the constitution allows the IEBC to take into consideration geographical features and urban centers; communities with historical, economic and cultural ties; and communication. After undertaking a massive, nationwide delimitation exercise, the IEBC submitted the new constituency boundaries to Parliament in early 2012. After the High Court's review, all of the 290 constituency boundaries delimited by the IEBC were kept unchanged and the process by which the boundaries were created was declared transparent and in line with the rules governing the IEBC.²⁵ Boundary delimitation was not substantively revised for the 2017 electoral cycle.

Published budget requests by the IEBC cite a total of more than 40,800 polling stations nationwide for the October 26 election.²⁸

What efforts have been made to ensure the physical safety of Kenyans who want to vote?

According to acting Interior Cabinet Secretary Fred Matiang'i, security officers will be deployed in each polling station to ensure no one disrupts voting processes.²⁹

What are the steps for voting?

The first step entails a polling station clerk checking to ensure that voters have brought the identification documents they used to register and then directing the individual to their polling area. The second step requires the voter identification clerk to verify the voter's registration status using either the Kenya Integrated Elections Management System (KIEMS), or, if the KIEMS device fails, a hard copy of the voter list. Once the voter is cleared and in the correct polling station, the voter will be issued a corresponding ballot paper. A voter will then mark the ballot paper and place his or her vote into the ballot box, which will correspond to the presidential race. The voter will then dip his or her left small finger into indelible ink and leave the polling area.

²⁸ Mwere, David. "Cost of Repeat Election Soars to Sh13.8 Billion," (2017, October 23). *Daily Nation*. Retrieved from <http://allafrica.com/stories/201710060075.html>

²⁹ Mbula, R. "Govt Assures Voters of Security on Poll Day," (2017, October 23), *Daily Nation*. Retrieved from <http://www.nation.co.ke/news/How-Matiang-i-will-counter-Nasa-s-no-election-call/1056-4149730-m0y81d/index.html>

Who will monitor the October 2017 rerun election?

The European Union has announced that it will observe the October 2017 elections with 24 long-term observers serving in different parts of the country and 40 short-term observers.³⁰ In addition, the African Union Election Observation Mission (AUEOM) will monitor the October rerun. The AUEOM will deploy in two phases: 1) five election experts will be in Kenya from September 24 through November 9 to ensure that the mission conducts a comprehensive observation and analysis of the electoral process, including preparation, voting, and the results management process³¹; and 2) 80 short-term observers will be in the country during from October 19-31.

The Elections Observation Group (ELOG) is conducting a domestic monitoring effort with approximately 1,500 observers. ELOG is a group of Kenyan civil society organizations that have joined together to coordinate their observation efforts. Political parties are again anticipated to have polling station agents located at stations throughout the country. Kenyan media are also expected to cover the announcement of results in the 290 constituency tallying centers.

What time do polling stations open and close on October 26?

Polling stations will open for voting at 6:00 a.m. and close at 5:00 p.m.³² Voters who are in line by 5:00 p.m. will be allowed to vote. Those who arrive after the closing time of the polling station will not be eligible to vote.

³⁰ Staff Writer. "Kenya: EU Lauds IEBC's Plans for Repeat Presidential Election," *Daily Nation*. Retrieved October 20, 2017, from <http://allafrica.com/stories/201710160820.html>

³¹ African Union deploys Long Term Experts and Short Term Election Observers to the Republic of Kenya's fresh presidential election on 26 October 2017. (2017, October 3). Retrieved from <https://au.int/en/pressreleases/20171003/african-union-deploys-long-term-experts-and-short-term-election-observers>

³² IEBC Official Facebook. "Now You Know." Retrieved from <https://www.facebook.com/IEBCKenya/videos/vb.297270380344107/1662590940478704/?type=2&theater>

Resources

- [Constitution of Kenya, 2010](#)
- [IFES Kenya](#)
- Independent Electoral and Boundaries Commission
 - [Website](#)
 - [Facebook](#)
 - [Twitter](#)
 - [YouTube](#)