



**BUSINESS
IRELAND
KENYA**

Guide to Doing Business in Kenya 2021





This guide to doing business in Kenya and Ireland is dedicated to the memory of Joe O'Brien, a proud Irishman who devoted immense time and effort to fostering bonds of friendship, trust and connection between his homeland and his beloved Kenya. Over the course of two decades as Ireland's Honorary Consul, Joe assisted thousands of Irish citizens and worked to build two-way trade and development, freely giving of time, knowledge and insight. The vibrant business community who now trade successfully between our two friendly nations owe Joe a great debt of gratitude.

Ar dheis Dé go raibh a anam

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Mr. Darren Gillen,
Chair, Business Ireland Kenya.

Foreword from the Chair of Business Ireland Kenya

On behalf of the Steering Committee of Business Ireland Kenya, can I welcome you to our third edition of the “*Doing Business in Kenya Guide*”. The guide was developed to present key information about the general economic and business context in Kenya and to present an overview of the business and investment opportunities available.

The Guide seeks to outline the key information that an

investor would need when considering Kenya as an option to do business, the information we have chosen to include are areas around taxation, labour, immigration requirements and the legal frameworks which are important to consider.

Since our last edition in 2018 Business Ireland Kenya has continued to thrive and become a key player in the harnessing of business relations between Ireland and Kenya. We are proud to have been able to host numerous business events, virtual business hours and attend key trade functions and these have been well supported by our members and those guests who chose to join us.

It is my belief that Business Ireland Kenya has positioned itself amongst one of the top and most respected trade/ business Associations in Kenya and the region. In the last couple of years, we have forged partnerships with other Irish Associations in South Africa, Tanzania, Uganda, United Arab Emirates and Ireland. We appreciate the support of the Embassy of Ireland in Nairobi under Ambassador Quinlan and her team; we are also grateful to the support from Enterprise Ireland, and we look forward to greater collaboration with the Embassy of the Republic of Kenya in Dublin.

The content and publication of this book would not have been possible without the input and insight of some key members and partners, on behalf of the Steering committee I would like to thank most sincerely, The Embassy of Ireland in Kenya, Anjarwalla & Khanna, Viva Africa Consulting, Intertek and Emma’s Knoll Logistics & Supplies Limited. I would also like to thank Mahvish Malik, Stephen Fagan and Joy Gitaka from the Steering Committee who have overseen the completion of this guide.

Finally, it is our honor to dedicate this guide to the memory of Mr. Joe O Brien, who served as Kenya’s Honorary Consul for over twenty years. Joe was a great friend to Business Ireland Kenya and was a key integral part of the Irish community here and will be sadly missed.

We hope that you find this guide useful, and we look forward to welcoming you and your business very soon.

Mr. Darren Gillen,
Chair, Business Ireland Kenya.

FOREWORD FROM AMBASSADOR OF IRELAND



Fionnuala Quinlan
Ambassador, Embassy of Ireland

It is my great pleasure to welcome you to Business Ireland Kenya's *Doing Business in Kenya Guide*, an indispensable resource for Irish companies seeking to gain a foothold in Kenya or extend their engagement in this dynamic country. It also provides useful information to Kenyan companies interested in investing in Ireland or expanding existing operations.

The Embassy of Ireland works to deepen Ireland's political, trade and people-to-people ties with Kenya, building on the long and fruitful relationships forged by missionaries, entrepreneurs and others over many decades.

Together with Enterprise Ireland and Business Ireland Kenya, we support Irish companies trading with or investing in Kenya, one of Africa's most dynamic, diversified and resilient economies.

We are witnessing a growing interest among Irish entrepreneurs and business leaders in investing in Kenya, particularly in the fields of agri-business, construction, fintech, digital technology and life-sciences. In November 2019, 42 companies took part in the Enterprise Ireland trade mission led by Minister Heather Humphreys, signing approximately €38 million in deals with Kenyan companies. The Embassy also works to strengthen the private sector environment in Kenya and foster sustainable economic growth and job creation as part of our development assistance programme. This benefits the people of Kenya, first and foremost, but also provides an enabling environment for Irish companies seeking to invest and expand.

The Embassy

We have provided support to the Kenya Investment Authority for the development of a one stop service centre providing information to investors seeking information on business service registration, taxation and necessary permits in Kenya, along with a host of other useful information. (www.invest.go.ke/one-stop-center/). This is designed to improve the business environment, increasing foreign direct investment and strengthening the private sector environment.

In line with our national priorities for international assistance, we place a particular focus on supporting women business-owners to expand their enterprises and overcome the particular

barriers which they face, while also supporting climate-smart practices. Examples of our development support in the trade and investment sector include:

- Funding to the Kenya Private Sector Alliance (KEPSA) to support women-led SMEs to expand their business and mitigate against the effects of COVID-19
- Funding to Trade Mark East Africa (TMEA) to create safe trade zones for 160 women traders on the Kenyan-Ugandan border whose businesses had been devastated by COVID19. Our 2nd phase of funding focuses on TMEA's on-going Women in Trade in Kenya (WIT) project, which will increase the number of women trading within the agricultural sector through enhancing capacity, strengthening access to agri-markets and improving regulatory/policy environment

- The Embassy also provides catalytic funding to high-potential dairy cooperatives, which supports thousands of small holder farmers in the dairy value chain. The project aims to bridge funding and technical gaps, with a specific focus on women's empowerment and climate action.

We are proud to support Business Ireland Kenya to facilitate business to business linkages between Irish and Kenyan companies. As a signal of the value and reach of BIK, the organisation has received funding from the Government of Ireland's Emigrant Support Programme (ESP), to expand its activities and profile in Kenya.

In responding to the challenges posed by COVID-19, Business Ireland Kenya quickly innovated, pivoting to online webinars featuring top-class speakers who offered support to members in adapting to the pandemic and identifying and seizing business opportunities.

This Doing Business Guide is further evidence of BIK's innovative and service-focused approach to increasing two-way trade and investment. I have no doubt that businesses will find it a useful and insightful Guide to the investor landscape in Kenya.

Let me end by expressing my thanks to the team at BIK, the Embassy, Enterprise Ireland, the IDA, Anjarwalla & Khanna (ALN), Kenya Investment Authority (KenInvest) and Viva Africa LLP for producing this resource.

Fionnuala Quinlan

Ambassador, Embassy of Ireland

FOREWORD FROM AMBASSADOR OF THE REPUBLIC OF KENYA TO IRELAND



Michael Mubea, EBS
Ambassador of the Republic of Kenya to Ireland

I begin by warmly congratulating the BIK family for coming up with such an informative document that will greatly assist potential investors and visitors to both Kenya and Ireland.

Kenya and Ireland share a long history which predates our independence. Since the opening of the Kenyan Embassy in

Dublin in 2007, we have witnessed exponential growth of business and movement of people. The relationship between the two countries has deepened over the period and several institutions established to ease doing business in Kenya.

Although trade and investments between the two countries has admittedly grown over time, there remains huge potential areas that remain untapped in many sectors. These sectors include inter alia, mining, petroleum, tourism and the blue economy. Kenya is a reservoir of young educated population which will provide the critical labour requirements to the investors. The judiciary is independent and dynamic to expeditiously adjudicate potential commercial disputes that may arise. The country is a middle economy with a population that has disposable income. ***The Doing Business in Kenya Guide*** has useful information which will enable both Kenyans and the Irish explore the great opportunities that exist in Kenya.

Kenyan foreign policy rests on five pillars and top among them is the economic pillar. This demonstrates the government's commitment to support trade and investment. The Kenyan Embassy in Ireland is fully committed and will engage BIK to the greatest extent possible to support trade, investment and movement of people between Kenya and Ireland. We look forward to partnering with BIK to host joint trade exhibitions and events that promote business between the two countries. Congratulations BIK and count on our support.

Michael Mubea, EBS

Ambassador of the Republic of Kenya to Ireland

ABOUT BIK:

Business Ireland Kenya (BIK) is an initiative of the Embassy of Ireland in Kenya which started the association to deepen relations between both countries and has grown to include over 100 members as of 2021. BIK supports trade and investment between Kenya and Ireland through creating a networking platform for members, enhancing access for members through leveraging cross sectional networks, sharing information and providing business matching opportunities for companies in the network.

ABOUT BIK:

VISION

To act as a conduit to other networks, service providers and linkages to potential local business partners for new Irish entrants to the Kenyan market.

VISION

MISSION

To enhance facilitation of mutually beneficial relationships with Kenyan and Irish entities promoting interests in Kenya and between Kenya and Ireland; and promote linkages to Irish business networks in African Countries.

MISSION

BIK Membership tiers include – Individual, Corporate and Overseas Membership with some benefits listed below:

- Access to BIK business breakfast events, themed virtual webinars and networking forums
- A wide network
- Trade and economic insights
- Marketing and promotion opportunities

For more information, contact BIK below:

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Services and Benefits

Networking



BIK hosts breakfast meetings, webinars and social events with specific sectoral focus such as Agribusiness, Fintech, Tourism, Manufacturing, Business, Security and ICT with attendance from industry experts, Government and private sector. These provide an ideal opportunity for networking and the formation of partnerships throughout the year.

Marketing



BIK provides marketing opportunities for members through connection to relevant agencies, companies and market experts. It also implements marketing campaigns and creates space for effective networking to aid possibilities for the formation of partnerships and joint ventures.

Security Briefings



Access to security briefings organised by BIK during breakfast and virtual meetings.

Health and Safety Briefings



Access to health briefings organised by BIK during breakfast and virtual meetings.

Information Resources



Briefings on topical issues including market & sectoral overviews and up – to – date information on the Kenyan business environment

www.businessireland.co.ke

KENYA SUMMARY (2020)

Kenya has a population of 53.7 million(2020)

By 2019, Population growth rate 2.3%

Annual GDP Growth: 1.5 % (2020)

Average GDP per capita \$ 1,090 (2020)

Inflation Rate: 5.69 % (2020) (Average)

Capital: Nairobi
Population: 4.73M in 2020

Other major Cities:

Mombasa (1.29 million)
Kisumu (355,000)
Nakuru (383,000)

Language: Kiswahili & English

Currency: Kenya Shilling(KES)

S&P 2020 Credit Rating: B+ with negative outlook

Political System: Devolved state with multiparty democracy

Number of Counties: 47 counties

Economic growth: forecast at 2.6% in 2020

Unemployment Rate: 7.2% (Q3 2020)

World Bank Doing Business rank: 56 out of 190 economies (2020)

COVID 19 AND THE EFFECT ON THE ECONOMY OF KENYA

COVID-19 has affected all sectors of Kenya's economy with growth in performance of services and manufacturing in the country being among the industries estimated to have been critically impacted.

BUSINESS GUIDELINES

In 2020, The Ministry of Industrialization, Trade and Enterprise Development (MoITED) produced Guidelines to offer direction to different players on how to minimise the risk of infection with Corona Virus leading to COVID-19 disease. These Guidelines are meant to help businesses operate safely during the pandemic and reduce the rate of COVID-19 spread across different work spaces.

Measures proposed herein entail ensuring:

- Designation of staff or teams responsible for in-facility enforcement of compliance with the Guidelines (committee or single staff depending on the establishment)
- Social distancing amongst members of staff and as well as customers/clients; maintain a physical distance of at least 2 meters (6 feet)
- Regular hand washing using running water and soap. This is a sure way of minimising many other communicable diseases besides COVID-19. In the absence of hand washing facilities, use alcohol based hand sanitisers. Use of gloves does not replace hand washing
- Disinfection of surfaces such as tables, chairs, counters, tools and other equipment regularly
- Donning of masks whenever in public places including work places
- No handshaking / hugging as a means of exchanging greetings
- Proper management of waste arising Personal Protective Equipment (PPEs) such as used masks and gloves

THE BIG FOUR AGENDA

The pillars of the Big Four Agenda are: *Food security, Universal Healthcare Coverage, Housing and Manufacturing*. The Government continues to prioritise its spending towards the implementation of its “Big Four” agenda.

As the Government continues on its quest to achieve this agenda, funds have been set aside to enhance service delivery and servicing of Government projects, healthcare stability, affordable housing, manufacturing and local industry production, agriculture and food security and various infrastructure programmes.

ANALYSIS OF THE MAJOR SECTORS

Agriculture

Agriculture is the backbone of Kenya's economy employing over 40 per cent of the total population and 70 per cent of Kenya's rural population. Measures taken to remove barriers to start-up capital allow young people to innovate but also, assist in the expansion of existing agribusinesses. In this sector, there is a huge opportunity for employment creation to absorb the youth and improve their livelihoods. In 2020, a number of factors such as the locust attack and adverse weather conditions affected the growth of this sector. The development of farming techniques through mechanisation such as Climate - Smart Agriculture will boost youth attractive commercial farming.

Finance

The National Treasury is in the process of operationalising the Nairobi International Financial Centre (NIFC) to create more opportunities for domestic and international savings and investments that drive sustained growth both in Kenya and across the region. This will serve to attract more foreign direct investment into Kenya's financial services sector and promote the export of international financial services from Kenya to the rest of Africa.

Technology

Kenya's future growth will be determined largely by the country's ability to take full advantage of rapid technological advances. There are around 40 million internet subscribers in the country, according to data from the Communications Authority of Kenya, constituting a potentially huge market for producers. Investment in technology to improve digital literacy, skills and access to affordable broadband connectivity through an expanded digital infrastructure is of high priority.

Infrastructure

The economic stimulus programme has also taken into consideration the importance of roads and bridges in the actualisation of the Big Four Agenda. In a bid to attain universal access to electricity by 2022, the Government is in the process of implementing the fourth phase of the Last Mile Connectivity Project which aims to bring 280,000 more Kenyans to the national grid. A lack of adequate transmission and distribution infrastructure has been one of the main challenges facing the energy sector, suppressing latent demand. Increased investment in this infrastructure will help enhance consumption and spur production.

Healthcare

The healthcare sector is sustaining the following healthcare programmes:

- Linda Mama is amongst the highest services sought after. It is a free maternity programme accessed by all the targeted population on the basis of need and not their ability to pay comprising subsidies for the poor, elderly and vulnerable groups, persons with mental illness, secondary school children and the informal sector.
- The Government is also working to improve health infrastructure in the country through the expansion of specialised medical equipment and establishment of centres of excellence in health, health commodity storage centres, new specialised health facilities and laboratories throughout the country.

E-COMMERCE OPPORTUNITIES

Agriculture

Kenya has a conducive climate, affordable labour, agricultural land and well established export markets. There are a number of value addition opportunities and high prospects for growth in: manufacturing & production, greenfield and brownfield set up of poultry processing facilities as well as processing facilities for dairy.

Financial Services

Kenya's agile mobile banking system has created new market opportunities for digital entrepreneurs and its technology ecosystem is significantly developed providing a solid avenue for business and socio-economic development. It is important to note that as the demand for mobile money transfer, online banking and Pesapal increases, opportunities for partnership with local financial institutions to provide effective mobile money transfer and payments (which has been aided by the CBK's decision to lift the ceiling of mobile money balances) continue to emerge. Banks are being encouraged to open up their mobile and online platforms. With this backdrop, there is space for partnerships in the cyber security sector with focus on innovative solutions. As the banking sector witnesses more mergers, opportunities now exist in investing in safer, better systems and innovation in research and development.

Healthcare

Over the last year, Kenya has seen a surge of investment and awareness in healthcare, many manufacturing industries have had to re-position themselves to produce locally manufactured personal protective equipment (PPE) .

Opportunities exist in:

- Scaling up local manufacturing, access to resources and technologies - this includes the production of PPEs and setting up manufacturing plants for finished pharmaceutical products
- Investment in research, development and innovation to promote vaccine manufacturing in Kenya
- Offering support in talent, technology transfer and technical know how by investing in capacity building and training to foster the development of local expertise needed to boost research
- Development and innovation of finished medical devices, digital health and diagnostics

Information And Communications Technology (Ict)

The technology sector is one of the most diverse in East Africa with increased current investments in conference, eco and leisure tourism. Kenya is actively trying to establish itself as a key ICT hub in the East African region. Kenya has a sophisticated ICT ecosystem with over 70% internet penetration rate, access to both regional and international markets, strong human

capital and a vibrant start up and innovative ecosystem.

Several opportunities for high growth exist in:

- **Capacity Development** - investments to upgrade ICT networks, increase internet affordability and improve infrastructure in institutions of learning to create qualified professionals
- **Agriculture** - technology that will connect farmers with expertise, market information and intelligence. There is growing demand for agri-tech tools that can support this sector and a growing pool of young innovators are already tapping into this market.
- **Retail** - Kenya's middle class represents almost a fifth of the population. Widespread mobile and internet networks have created a big market for e-commerce services.
- **Education** - new digital tools have the potential to deliver rapid gains in access to education. Opportunities exist in the development and deployment of tools, training and capacity development.
- **Infrastructure** - the Government has invested heavily in ICT infrastructure spanning the entire nation. The objective is to spur investment and growth in the sector. Opportunities exist in provision of last mile infrastructure services.
- **Regional Business** - Kenya has a decentralised Government with 47 regional/ County Governments. Major public services are provided by these Governments. opportunities exist in provisioning of technology enabled services.

Infrastructure

According to an analysis from Frost & Sullivan's African Infrastructure Tracker, Kenya is part of the Financial Benchmarking in the Infrastructure Industry subscription, which will highlight planned logistics, transport, energy, ICT, water, health and education projects for Kenya and the East Africa region.

Construction

Kenya has a large market for construction material in the East African region with heavy Government investment in the sector and a conducive regulatory environment with a rising demand for commercial and residential buildings.

There are high prospects of growth in:

- **Commercial Property Development** - opportunities exist in the development of commercial property to meet the rising demand in major urban centres
- **Low cost housing** - Government has prioritised low cost housing to meet the rising demand and cover the current and anticipated shortfall
- **Public Infrastructure** - investors can take advantage of the opportunities that exist in the infrastructure projects that are planned or currently in progress



AFRICA'S DATA PROTECTION LANDSCAPE

Compliance with data protection legislation and standards has become imperative, given the progression of technological innovation and the rise in cross-border trade. In Africa, as of June 2021, there are 25 out of 54 countries that have enacted data protection laws, even as the rest of the countries take steps to introduce data protection bills. Despite the regional efforts, however, the overall legislative framework is yet to be harmonised. ALN Kenya | Anjarwalla & Khanna Partner Anne Kiunuhe analyses the data protection landscape across Africa, including key measures being taken to encourage and support the enactment of such laws, as well as common trends for crucial aspects of doing business.

1. Do African countries have specific data protection laws?

Yes, some of them do. It is reported that currently, 25 out of 54 African countries have specific data protection laws. Out of these 25, only Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gabon, Ghana, Kenya, Mali, Mauritius, Morocco, Nigeria, Senegal, South Africa, Togo, Tunisia and Uganda have operational data protection enforcement agencies. The other countries that have specific data protection laws (that is, Angola, Botswana, Egypt, Lesotho, Madagascar, Mozambique, Niger, Seychelles and Zimbabwe) are yet to set up and operationalise such enforcement mechanisms.

2. Are these data protection laws harmonised within the continent of Africa?

Currently, the data protection laws that have been adopted by African countries are not harmonised. However, a number of the national data protection laws in Africa are modelled on the 2016 European Union (EU) General Data Protection Regulation (GDPR). In addition, it is important to note that in 2014, the African Union (AU) adopted the AU Convention on Cyber Security and Personal Data Protection (the Malabo Protocol), a convention that deals with the regulation of personal data protection in the broader context of Africa. The Malabo Protocol requires national protection authorities in various African states to ensure that the processing of personal data is consistent with the Convention to harmonise data protection regulation and enforcement in Africa. The Convention outlines the duties and powers of national protection authorities and the basic principles governing the processing of personal data etc. However, this Convention has so far been ratified by only 8 African states and is yet to come into force. Once this Convention comes into force and is implemented by member

states, it is expected to create more harmonisation among the various data protection regimes across the continent. However, given the inertia towards its ratification by African countries, there may be a need to carry out an analysis of whether this Convention meets the needs of African countries and if it is up to date when it comes to international best practice in data protection.

In the African context as well, the Agreement establishing the African Continental Free Trade Area (the AfCFTA Agreement), currently ratified by 38 African countries as of June 2021, intends to create a single continental market for goods and services. On 1 January 2021, trading under the AfCFTA Agreement began and this brings with it the potential to increase intra-African trade in the region. Notably, Article 15 of the AfCFTA Agreement provides that laws and regulations relating to data protection may be enacted by member countries if their enactment does not result in the arbitrary or unjustifiable discrimination between member countries where there are similar provisions in their laws and regulations or result in a disguised restriction on trade in services. Although this encourages home-grown approaches to data protection regulation in Africa, it fails to promote data protection harmonization in the Continent.

3. Who is a data subject, a data controller and a data processor according to the various data protection laws?

The definition of these terms vary across the various regimes in Africa and may not necessarily be consistent. Generally, however, a data subject is defined as an identified or identifiable natural person who is the subject of personal data. The personal data can be a name, an identification number, location data among other specifications that make it possible to identify who the data subject is. A data controller is generally defined as the person or entity that determines the purpose and means of processing personal data. A data processor on the other hand, is the person or entity that processes personal data on behalf of a data controller.

4. Are there common trends between the various data protection laws enacted by the various African countries?

Yes, there are general trends that are common in several data protection laws that have been enacted by various African countries. These generally include:

- The requirement for the provision of consent of the data subject as a ground for the lawful processing of personal data;
- An obligation on data controllers to notify data protection authorities of data breaches; and
- Provisions for the establishment of specialised data protection authorities that independently oversee the implementation and enforcement of data protection law. For example, Kenya's Data Protection Act provides for the establishment of the Office of the Data Protection Commissioner, although, the same is yet to be set up. Notably, Nigeria and Uganda have a different approach when it comes to this as the national ICT regulatory body, the National Information Technology Development Agency, in the case of Nigeria, and the National Information Technology Authority, in the case of Uganda, are directly in charge of the implementation and enforcement of their data protection laws.

5. How is the GDPR applicable to corporations set up in African countries?

The GDPR has extraterritorial application and provides that in certain circumstances, it applies to the processing of personal data relating to data subjects who are in the EU by a data controller or data processor not established in the EU (including controllers and processors established in Africa). The GDPR applies to African established entities where their processing activities relate to:

- a) The offering of goods or services to persons (data subjects) in the EU; or
- b) The monitoring of the behaviour of data subjects in so far as this behaviour takes place in the EU.

6. Are data protection regulations in Africa applicable to countries outside Africa?

A number of African countries have data protection laws that provide for the application of their provisions to controllers and processors located outside their territories but who process personal data relating to data subjects who are either citizens/nationals of such countries or who are located or ordinarily resident within their territories.

Kenya's Data Protection Act for example, applies to the processing of personal data by controllers and processors who are not established or ordinarily resident in Kenya but who process personal data of data subjects located in Kenya. Uganda's Data Protection and Privacy Act, 2019 on the other hand extra territorially applies to persons, institutions or public bodies outside Uganda who process personal data belonging to Ugandan citizens. Similarly, the data protection laws of Nigeria, South Africa and Mauritius have extraterritorial application.

As such, where any foreign controllers or processors process personal data that is somehow connected to Africa, it would be important to specifically check and confirm the position on whether the laws of any particular African country(ies) apply to such processing activities.

7. In the context of data protection, if an entity not based in Africa is interested in investing in Africa, how should they approach being compliant with the various data protection laws in the continent?

First, it should be noted that data protection laws in Africa are jurisdictional and not necessarily harmonised. It would, therefore, be important to check if the relevant African country has data protection laws in place. In order to do this, it would be advisable to contact data protection lawyers who have on the ground experience in advising on compliance requirements and who also understand the sources from which their national laws have been crafted. An organisation such as ALN which has a physical presence in 15 African Countries and best friend law firms in most of the other African countries is able to provide a one-stop-shop offering in advising on the applicable data protection laws across the continent.

8. What are the hot topics in Africa when considering data protection in the context of the Fintech revolution?

The use of mobile technology and digital lending applications to advance unsecured, short-term credit to individuals has emerged as a thriving sector in several countries in Africa. The way personal data (and in particular, personal data on creditworthiness, credit rating and default etc.) is handled and in some instances disclosed to credit reference bureaus has been a hot topic.

The use of new technologies that are leveraged by financial institutions to spread their footprint into the telecommunications and mobile money transfer space has also been the cause of some debate. In Kenya, the question as to whether thin SIM technologies, for example, can enable the interception of information between the main SIM that is in use in a mobile phone on one hand and the cell phone device of a mobile phone user on the other and whether the same can lead to privacy rights infringements has come up.

This question has even been litigated upon in the courts where it was held in *Bernard Murage v Finserve Africa Limited and 3 Others* (2015 (eKLR)) that where such financial or ICT technologies are safe and data subjects consent to their usage, there can be no valid claim to the infringement of their privacy rights.

9. Which industries would be required to comply with the data protection laws enacted in Africa?

Generally, all industries that in one way or another process personal data relating to their employees, their customers, clients, suppliers etc. would need to comply with the data protection laws enacted in Africa. Where sensitive personal data (such as health data) is processed, an even higher standard of obligations is placed on controllers and processors. As such, all entities intending to operate in Africa or to operate outside of Africa but their operations would entail the handling or processing of personal data of subjects located in Africa or who are African citizens should first carry out an assessment as to the various types of personal data they may process to ensure that this personal data is processed in accordance with applicable data protection laws of the relevant African jurisdictions.

10. How have African countries addressed the data protection concerns that have been brought about by contact tracing and surveillance applications?

A number of African countries that have passed data protection laws have been fairly vigilant when it comes to ensuring that surveillance and contact tracing activities are carried out in line with the right to privacy and in compliance with applicable data protection requirements. Some African countries have enacted specific regulations to address contact tracing following the outbreak of COVID-19. A good example would be South Africa which amended its existing Disaster Management Regulations in April 2020 to provide for contact tracing. Although Kenya has no specific regulations in place to regulate contact tracing, the Kenyan Ministry of Health published interim Guidelines on management of COVID-19 in March 2020. These Guidelines mention contact tracing as an action item once someone has tested positive for COVID-19. The Kenyan Data Protection Act would be applicable to the personal data processed pursuant to the contact tracing efforts.

As far as privacy in the context of surveillance regulation is concerned, the collection of personal data through methods such as surveillance cameras and audio devices would generally be subject to data protection law. For example, in Kenya, the collection of personal data in this manner would be permissible if it is done with a data subject's consent or where there is a legitimate interest that forms the basis of such surveillance and even where such surveillance is carried out as part of the mandate of a public authority.

The content of this article is intended to be of general use only and should not be relied upon without seeking specific legal advice on any matter.

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Anne Kiunuhe is a Partner in A&K's Corporate Commercial Department and co-heads the firm's Competition Group and Data Protection Group. With over ten years of experience as a corporate lawyer, Anne specialises in mergers and acquisitions, data protection, IT & telecommunications law, fintech and competition law.

Having been involved in a number of prominent corporate transactions in Kenya, Anne has represented multinational corporations including Telkom Kenya and Vivo Energy. She is a regular speaker at corporate law conferences, the Editor of Legal Notes, a quarterly newsletter published by ALN and has authored various published articles on topical legal subjects.

Anne has advised various national and multinational clients on data protection compliance under the Kenyan Data Protection Act and the European Union's General Data Protection Regulation (GDPR).

Anne is recognised as a leading lawyer by leading international legal directories, including Chambers Global, IFLR1000 and Legal 500. She was also voted as one of Kenya's "Top 40 Under 40 Women".

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Jade is a Trainee Lawyer at ALN Kenya, Anjarwalla & Khanna (A&K), one of the leading law firms in Kenya.

East African Community (EAC)

The East African Community (EAC) is the regional interGovernmental organisation of the Republics of Kenya, Uganda, the United Republic of Tanzania, Republic of Burundi and Republic of Rwanda with its headquarters in Arusha, Tanzania. H.E. Uhuru Kenyatta is the current Chairperson of the Summit of EAC Heads of State and Hon. Dr. Peter Mathuki is Secretary General.

The Treaty for Establishment of the East African Community was signed on 30th November 1999 and entered into force on 7th July 2000 following its ratification by the Original 3 Partner States – Kenya, Uganda and Tanzania. The Republic of Rwanda and the Republic of Burundi acceded to the EAC Treaty on 18th June 2007 and became full Members of the Community with effect from 1st July 2007.

The organisation aims at widening and deepening co-operation among the partner states and other regional economic communities in, among others, political, economic and social fields for their mutual benefit.

There are four integration pillars under the EAC:

- **Common Market** - the EAC Guides the free movement of goods, people, labour, services and capital from one Partner State to another as well as the rights of establishment and residence without restrictions.
- **Customs Union** - through the Customs Union Protocol, trade within the EAC region has been enhanced significantly. Additionally, the East African Community has been an attractive foreign direct investment hub.
- **Monetary Union** - the East African Monetary Union Protocol provides for the attainment of a single currency for daily transactions within the Common Market.
- **Political Federation** - the EAC Partner States envisage coming together to form a super-state under a single political authority / Government.

<https://www.eac.int/>

EUROPEAN BUSINESS COUNCIL

The European Business Council of Kenya (EBC Kenya) is an umbrella organisation that gathers all business associations, chambers of commerce and embassies trade services from various parts of Europe. The main objective of EBC Kenya is to have a broader networking platform and most importantly to lobby in one stronger voice all major issues that member companies are experiencing.

EBC Kenya offers its members the opportunity to not only share information on the market and business environment with other players in various sectors but also liaise with the Kenyan Government and various regulatory agencies from a neutral position behind the banner of the EBC Kenya and promote European businesses in Kenya.

Current Members of the Board:

- Darren Gillen, Business Ireland Kenya
- Maren Diale Schellschmidt, Delegation of German Industry and Commerce for Eastern Africa
- Farida Abbas, British Chamber of Commerce Kenya
- Jose Garcia, Portuguese Business Council Kenya
- Laure Paugam, French Chamber of Commerce Kenya

<https://www.ebckkenya.org/>

KENYA PORTS AUTHORITY

The Kenya Ports Authority (KPA) is tasked with the mandate to maintain, operate, improve and regulate all sea and inland waterway ports in Kenya. Other ports in the region include Lamu, Malindi, Kilifi, Mtwapa, Kiunga, Shimoni, Funzi and Vanga. The ports at Mombasa and Lamu are fully developed with modern equipment making them focal ports in the region.

<https://www.kpa.co.ke/>

KENYA REVENUE AUTHORITY

KRA is an agency of the Government of Kenya that is responsible for the assessment, collection and accounting for all revenues that are due to Government, in accordance with the laws of Kenya.

<https://kra.go.ke/>

KENYA'S PRIVATE SECTOR

The private sector is vibrant and it benefits from a well-educated and entrepreneurial workforce. Kenya is a promising place to do business, with growing markets and good opportunities. It is also important to mention that it includes a number of foreign investors.

Key players within the private sector include the following bodies:

Kenya Private Sector Alliance (KEPSA)

The Kenya Private Sector Alliance (KEPSA) mandate is to be the voice of the Private Sector, the alliance was formed in 2003 and works to ensure year – on – year improvements in the overall business environment of Kenya by working together with the Government and other stakeholders. Its main strategic focus is to bring together the business community in a single voice to engage and influence public policy for an enabling business environment.

<https://kepsa.or.ke/>

The Kenya Association of Manufacturers (KAM)

The Kenya Association of Manufacturers (KAM) is the leading representative of industrialists in Kenya constituted in 1959 to promote trade and investment, uphold standards, encourage the formulation, enactment and administration of policies that strengthen economic development and reduce the cost of doing business.

<https://kam.co.ke/>

Kenya Investment Authority

The Kenya Investment Authority (KenInvest) was established in 2004 with the main aim of promoting investments in Kenya. KenInvest is responsible for facilitation of the implementation of new investment projects, providing after care services for new and existing investments, as well as organising investment promotion activities both locally and internationally.

<http://www.invest.go.ke/>

The East African Business Council (EABC)

The East African Business Council (EABC) is an apex body of association of the Private Sector and Corporates from the 6 East African Countries. It was established in 1997 to foster the interests of the Private Sector in the integration process of the East African Community (EAC). The overarching objective of the EABC is to be an effective change agent for fostering an

enabling business environment and to promote the private sector's regional and global competitiveness in trade and investment.

<https://eabc-online.com/>

PROCEDURES FOR INVESTING IN KENYA

The Kenya Investment Authority is the key organisation that facilitates the acquisition of Work permits, VAT Waivers and other licenses required for investing purposes.

- Company Registration - done through e-citizen portal (<https://www.ecitizen.go.ke/>)
- Tax Pin Registration – Facilitated through the KenInvest One Stop Centre
- Complete Investment Application Form from Kenya Investment Authority for the issuance of an Investment Certificate to permit implementation and operation. The application will be submitted with copies of the Certificate of Incorporation, CR1, CR2, CR8, CR 12.
- Land Acquisition/site location. (depending on the sector) - an investor can acquire land by leasing and obtaining a lease grant or by purchasing and obtaining a title of ownership. It will be necessary to contact the ministry of lands to ascertain the ownership of the land. This will be registered in the Ministry of lands upon payment of stamp duty which is at a rate of 2-4% depending on the value.
- Acquisition of business license
- Registration with the National Social Security Fund (NSSF)
- Registration with the National Hospital Insurance Fund (NHIF)
- Work permit application done online through www.immigration.go.ke
- Once the documents are uploaded and payment done, the hard copies of the same is submitted to KenInvest for facilitation and follow up

NOTE: The minimum threshold for foreign investors is 100,000 US\$ - this is as per the Investment Promotion Act, 2004.

KenInvest provides a wide range of pre-investment facilitation services in collaboration with relevant regulatory/licensing institutions under the One Stop Center (OSC)

<http://www.invest.go.ke/> one-stop-center .

The center has streamlined the overly complex processes and some of the key functions currently facilitated by the OSC include continuous liaison with other stakeholders who interface with investors in their day-to-day operations with an ultimate aim of improving the investment environment and to make it easier to do business.

<http://www.invest.go.ke/>

EMPLOYMENT IN KENYA

According to the Kenya National Bureau of Statistics quarter 3 labour force report, Kenya's employment rate stood at approximately 17.6 million in 2020. At the moment, Kenya's freelance economy is set for growth as demand for online work intensifies due to the impact of the COVID-19 pandemic. Many companies have shifted their focus and developed new digital products in a bid to stay afloat.

Employment contracts

Within two months of starting any job, an employee should be given a contract, or a written employer-employee agreement, listing the terms of his or her engagement. The four main types of contracts under which an employer can employ an individual include:

- A contract for a specified duration of time
- A contract for an unspecified period of time that can be terminated by notice of either side
- A contract for a specific task that ends when the employee completes the task
- A contract for casual employment paid at the end of every day

The contract or employee-employer agreement should include:

- Employee's name, age, sex and permanent address
- Employer's name
- Date the employment starts
- Employee's Terms of Reference including their specific duties and responsibilities
- Contract duration and whether it is fulltime or part-time, and permanent or temporary
- Place and hours of work
- Remuneration and other benefits (e.g. National Health Insurance Fund – www.nhif.or.ke period of leave, and other entitlements)
- The respective rights and obligations of both the employer and employee

Employee rights and benefits

- A minimum of 21 working days per year of leave with full pay
- At least one rest day in every period of seven days
- Termination of employment after a notice minimum one month
- Pay of 1.75 days of leave for each completed month of service
- Paid three months of maternity leave for women
- Paid two weeks' paternity leave for male employees
- Paid sick leave up to 14 days per year
- Housing allowance
- Overtime allowance for some industries
- Safe working conditions
- Redundancy pay equivalent to 15 days' pay for every year worked, plus one month's wages in lieu of notice, accrued leave payments, and all other benefits due





TAXATION IN KENYA

The Kenyan tax system has various taxes both direct and indirect, which are all collected by the Kenya Revenue Authority (KRA). Direct taxes include Corporation Tax, Withholding tax, Digital Service Tax and PAYE while indirect tax includes Value Added Tax (VAT), Customs and Excise Duty. More details on the taxes are discussed below:

Corporation Tax

Companies in Kenya are subject to corporation tax under the Income Tax Act. The corporation tax rate for resident companies in the country is 30% (the corporation tax rate in Kenya was increased from 25% to 30% through the Tax Laws (Amendment) (No.2) Act 2020 (Tax Act (No.2) 2020), that became effective on 1 January 2021). This essentially resulted in the corporation tax rate being reverted back to the pre-COVID19 rate of 30%.

Resident companies listed at the Nairobi Stock Exchange were subject to a reduced corporation tax rate. However, the Tax Laws Amendment Act (Tax Act 2020) which was assented on 25 April 2020 did away with the reduced rates, and now resident companies irrespective of whether they are listed in the NSE are subject to corporation tax at the rate of 30%.

A non-resident company with a permanent establishment in Kenya (such as a branch) is taxed on Kenyan sourced income only at the non-resident tax rate of 37.5% on profits generated in Kenya.

Pay As You Earn

Employment income in Kenya is taxed under the PAYE tax deduction system. The scope of employment income on which tax is applicable is as stated herein below:

- With respect to resident persons, on any employment or services rendered by them in Kenya or outside Kenya
- With respect to non-resident persons, in respect of any employment with, or services rendered to, an employer who is resident in Kenya or the permanent establishment in Kenya of an employer who is not resident

Taxable income from employment includes wages, salary, bonuses, commission, allowances and directors' fees.

Tax certification regulations require employers to submit the following documents annually at the end of the tax year, which in Kenya falls on June 30:

- Employer's Certificate indicating total monthly PAYE tax deducted for year (Form P10)
- Supporting list to End of Year Certificate (Form P10A in duplicate)
- Fringe benefits tax return (Form P10B)
- Tax deduction cards for all employees taxed during the year (Form P9A, P9A (HOSP), P9B)
- A list of all employees who received lump sum payments during year indicating their full names, gross amounts received, the relevant years and amounts of deducted tax
- Copies of All pay-in-credit slips (P11s) for year

Below are the new tax bands as per the Income Tax Act as amended by the Tax Act (No.2) 2020 (the rates are effective 1st January 2021):

Annual Bands of Taxable Income (KES)	Monthly Bands of Taxable Income (KES)	Tax Rate
On the first 288,000	On the first 24,000	10%
On the next 100,000	On the next 8,333	25%
Over 388,000	Over 32,333	30%
Personal Relief: KES 28,800 per year (2,400.00 per month)		
Insurance Relief: 15% of the amount of premiums but shall not exceed 60,000.00 per year		
Minimum Taxable Income: KES 24,000.00 per month		

Withholding Tax

Withholding tax is chargeable on payments to resident and non-resident persons. Payments that qualify for withholding tax include dividends, interest, commission, royalties, management or professional fees, pension or retirement annuity, rent, appearance or performance fees for entertaining, sporting or diverting an audience, insurance and reinsurance premium, sale promotion, marketing, advertising services and transportation of goods.

Below are the withholding tax rates:

Income Source	Residents	Non-residents (a)
	%	%
Dividends	5%/Exempt (b)	15%
Interest-Housing Bonds	10%	15%
- Other Source	15%/Exempt (c)	15%
Insurance & Reinsurance Premium	-	5%
Payments of commissions or fees by an Insurance Company		
-Brokers	5%	20%
-Others	10%	20%
Royalties	5%	20%
Management or professional fees or training fees	5% (d)	20% (e)
Contractual Fee	3% (d)	20% (e)
Sporting & Entertainment Income	-	20%
Rent, premium or similar consideration for the use or occupation of immovable property	10%	30%
Rent, premium or similar consideration for the use of movable property	-	15%
Pension or retirement annuity	10%-30%	5%
Sales promotion, marketing, advertising services, and transportation of goods (excluding air and shipping transport services)		
Winnings	20% (h)	20%

a = The rates of withholding tax to non-residents are subject to the existence of a double tax treaty between Kenya and the jurisdiction of the non-resident. Currently, there exists no double tax treaty between Kenya and the Republic of Ireland.
b = Exempt if the recipient is a resident company owning 12.5% or more of the voting power of the payer.
c = Exempt if the recipient is a bank or other financial institution licensed under the Banking Act.
d = Withholding tax is only applicable where the aggregate value is twenty-four thousand shillings in a month or more
e = Where the non-resident is a citizen of the East African Community Partner States, the rate shall be 15%
f = The services may be classified as management or professional fees subject to which the resident rate of 5% will apply
g = The rate shall not be applicable to East African Community citizens.
h = The withholding tax is final

Preferential Tax Regimes

Special Economic Zone (SEZ)

The SEZ concept is relatively new in Kenya with the legislation governing it, the Special Economic Zones (SEZ) Act, 2015 having been assented to on 11th September 2015 and the regulations, Special Economic Zone Regulations, 2016 issued on 5th August 2016 via Legal Notice 147.

The move by the Government of Kenya to provide for the establishment of SEZ designated areas is geared towards the promotion and facilitation of investments by global and local investors, by creating an enabling environment in which to do business. The SEZ regime provides incentives touching on ease of setting up, investment and investor protection, simplified tax regime, and favourable labour regulations among others.

The key stakeholders in a SEZ are:

- **SEZ developer** - a corporate body which is engaged in or plans on developing an SEZ; a developer can, but need not be, the operator.
- **SEZ operator** - a corporate body engaged in the management of a special economic zone and licenced as such under the provisions of the SEZ Act.
- **SEZ enterprise** - a corporate body which has been licensed under the SEZ Act. Ideally, these are the various businesses within an SEZ operating in different industries.

SEZ entities are subject to corporation tax at the rate of 10% for the first 10 years, 15% for the next 10 years and 30% thereafter. Payments to non-resident persons are subject to withholding tax at the following reduced rates:

Type of income	WHT Rate
Dividend (following the enactment of the Tax Act 2020; prior to this, dividend payments to non-residents were exempt)	15%
Interest	5%
Management, professional or training fees	5%
Royalties	5%

B. Export Processing Zones (EPZ)

The EPZ regime offers a range of attractive fiscal, physical and procedural incentives to ensure low-cost operations, fast set up and smooth operations for export-oriented businesses.

Similar to an SEZ, the key stakeholders in an EPZ are:

- **EPZ developer** - a corporate body established to develop and administer an export processing zone under the Act.
- **EPZ operator** - corporate body engaged in the management of an export processing zone.
- **EPZ enterprise** - a corporate body, including a developer or an export processing zone operator which has been granted a licence under the Act.

Currently there are 40 gazetted zones in Nairobi, Voi, Athi River, Kerio Valley, Mombasa and Kilifi in various stages of development by both private and public zone operators. These zones are managed and promoted by the Export Processing Zones Authority.

EPZ enterprises are exempt from corporation tax for the first 10 years and 25% for the years following the expiry of the 10 year exemption period. The 10-year corporation tax exemption shall not apply in respect of commercial activities of an export processing zone entity. Commercial activities include trading in, breaking bulk, grading, repacking or relabelling of goods and industrial raw material.

Payments to non-resident persons are not subject to withholding tax.

Value-added tax (VAT)

- VAT is applicable at the standard rate of 16%. Legal Notice No. 206 dated 2 December 2020 amended the VAT rate back to the pre-COVID19 rate of 16% from 14% with effect from 1 January 2021.
- VAT on local supply of fuel is subject to VAT rate of 8%.
- In accordance with the First Schedule of the VAT Act, some supplies are exempt. These include vaccines for human medicine and taxable goods imported or purchased for direct and exclusive use in the implementation of official aid funded projects.
- In accordance with the Second Schedule of the VAT Act, VAT is 0% for zero rated supplies. These include goods and services that are exported or supplied to privileged persons/ organisations (such as projects in EPZs, SEZs or international organisations). There is also a list of zero-rated goods linked to basic foodstuffs and machinery.
- Registration for VAT is compulsory where turnover is or is expected to be KES 5 million or more in a 12 month period.

Shannon Free Zone in Ireland

The Shannon Free Zone is a 2.43 square kilometres (600 acres), international business park adjacent to Shannon Airport, County Clare, in Ireland. It is 18 km from Ennis and 20 km from Limerick. It was established in 1959, as the world's first Free Trade Zone, and businesses based on the site enjoyed special tax incentives on staff and profits until 2003. This attracted a large number of multinational companies to the area. The zone holds key lessons for Kenya on the establishment, operation and developments of EPZs and SEZs being set up in the country.

The Shannon Free Zone was intended to attract investment in exchange for tax incentives and tariff reductions. While many of these incentives have since ceased, as of 2019, there were reportedly over 100 international firms employing over 8,000 people based at the Shannon Free Zone. Companies who have invested at Shannon have included Avocent, DeBeers Industrial Diamonds (Now Element Six), Kraus & Naimer, GE Capital, Precision Castparts Corp., Genworth, Ingersoll Rand, Intel, John Crane, Lufthansa Technik, Mentor Graphics, Molex, Illinois Tool Works, RSA Security, Schwarz Pharma, Zimmer and Jaguar Land Rover.



IMPORTING INTO KENYA

When planning to import, it is important that you contact a certified customs agent to guide you on the import documentation requirements, the import process and how best to plan for it so that the process can proceed in a cost effective and timely manner. The standard documents required for importation into Kenya are:

- **Import declaration form** - a clearing agent can facilitate the processing. A proforma invoice is required for this purpose
- **Certificate of Conformity** - Issued prior to shipment by a Kenya Bureau of Standards approved partner. This is required for goods that fall under the Pre-Verification of Conformity to Standards (PVoC) program
- **Original Bills of Lading/seaway bill / Airway bill**
- **Valid commercial invoice** - the INCOTERMS, full description of the goods, quantity, the unit and total price must be declared. If importing plant and equipment, it's prudent to indicate if they are assembled or in complete knock down state.
- **Detailed packing list**
- **Certificate of Origin** - this is particularly important where there exists a Preferential Trade Agreement as the goods could be subject to reduced duty tariffs
- **Certificate of Analysis** - this is required for chemical compositions
- **Material Safety Data Sheet** - this is required for chemical compositions
- **Freight invoice for sea cargo** - where the cost of freight is not declared in the commercial invoice
- **Marine Insurance Debit Note** - all imports must be locally insured. This is issued by your local underwriter.
- **Permits and Licences for controlled and restricted goods** - this covers goods such as pharmaceutical products, dairy and meat products, wood and wood products and many others. Consult your customs agent to be guided on whether your goods shall require permits/licence.
- **Letter of Exemption** - this is for goods that are exempt from paying taxes but require a ministerial authority to qualify.
- **Certificate of Ownership and its translation** - if it is not in English. This is required for motor vehicles
- **Certificate of Roadworthiness** - this is for Motor Vehicles
- **Personal or Taxpayer Identification Number (PIN certificate)**

Other supporting documents:

- **Purchase Orders/ sales Contracts** – this is required upon demand where customs wishes to determine the value of the goods under import for the purposes of levying ad valorem duty.
- **Letter of Credit** – required upon demand and on a need basis by customs for the same purposes as above.
- **Proof of payment** – required on a need basis and upon demand by the Kenya Revenue Authority for the purposes of levying ad valorem duty.



EXPORTING FROM KENYA

Introduction to export means to take or cause to be taken out of the Partner State. The goods declared shall be exported within thirty days from the date of entry.

Export Documentation

The following documents are required for a typical export transaction:

- Commercial invoice
- Bill of lading/Airway bill
- Packing list
- Certificate of origin
- All necessary permits/ License for restricted goods
- Personal or Taxpayer Identification Number (PIN certificate)
- Purchase Orders/Contracts

It is important to verify the import documentation required at destination. This is to ensure compliance with the requirements at destination. Always engage the services of a licenced customs agent to process the export documentation on your behalf.



TRAVELLING TO KENYA

Visas

Most foreigners need a visa to visit Kenya. Effective 1 January 2021, Kenyan entry visas are exclusively issued electronically, with travellers required to obtain their e-visas before departure on the e-visas website. Business visas are issued as 'Single Entry Visa' valid for travel with 3 (months) from the date of issue with the possibility of extension for a further 90 days through.

Business Visits Visa requirements

- Invitation Letters from the host company
- Copies of registration of the host company
- Return air ticket
- Clear Passport biodata page.
- A clear photograph
- Valid travel document not less than six months.

Immigration - Work Permits

Work/Residence Permits are issued to any Non-Kenyan wishing to engage in employment in Kenya whether in gainful employment or voluntary service issued by the Department are classified from A to M inclusive. They are issued under Kenya Citizenship and Immigration Act 2011 of Laws of Kenya.

- **Class A** - issued to persons who intend to engage in prospecting for minerals or mining
- **Class B** - work permit issued to persons wishing to invest in Agriculture and Animal Husbandry
- **Class C** - this permit is issued to a person who is a member of a prescribed profession who intends to practice that profession, whether alone or in partnership, in Kenya
- **Class D** - this issued to a person who is offered specific employment by a specific employer who is qualified to undertake that employment
- **Class F** - this permit is issued to a person who intends to engage, whether alone or in partnership, in a specific manufacture in Kenya
- **Class G** - work permit issued to investors in specific trade, business or consultancy
- **Class I** - work/Residence permit issued to a member of missionary society approved by the Government of Kenya and whose presence is beneficial to the country
- **Class K** - residence permit issued to persons who have an assured income derived from sources outside and undertakes not to accept paid employment of any kind
- **Class M** - work permit issued to Conventional Refugees



info@kenyaembassyireland.net, www.kenyaembassyireland.net
<https://www.immigration.go.ke/departments-of-immigration-services/>
<https://fns.immigration.go.ke/infopack/fns/>

LIVING IN KENYA

Kenya offers many advantages that make it a good choice for settlement and investment. There is the spectacular and diverse nature with landscapes ranging from mountains to beautiful beaches.

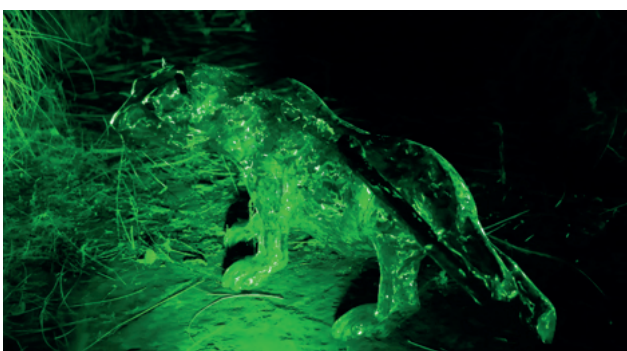
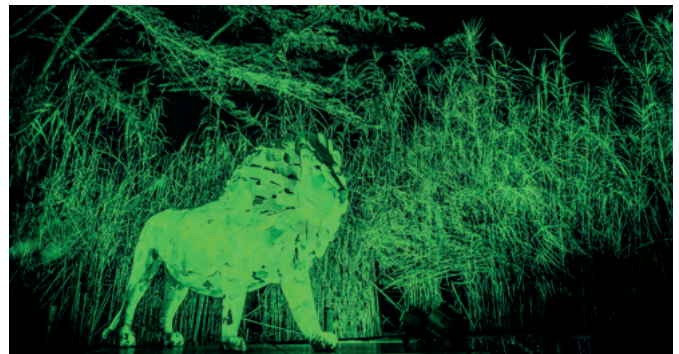
The climate of Kenya is equatorial and essentially depends on three major factors: temperature, rainfall and humidity. These three factors are controlled by altitude and generally the higher you go the cooler it becomes. With such a constructive climate; sunny, only moderately wet, not too hot and a great variety of scenery, wildlife, game parks, and good quality communications, Kenya has many attractions enjoyable for both locals and tourists.

Kenya is a world attraction for its rich abundance of wildlife, most of which can be found in its national parks and reserves. Popular Kenyan animals include the lion, leopard, elephant, buffalo and rhino. These are collectively referred to as the "Big Five". With nature scenes like the Maasai Mara one of the most popular tourism destination in Kenya and Tsavo national

parks, which draw thousands of visitors every year and perfect beaches as well as hotel infrastructure located on the east coast, near Mombasa, suppliers of tourist have a large and expanding market.

Global Greening Initiative

To mark St. Patrick's Day, Ireland's Ministry of Tourism in 2009 launched an Annual Global Greening initiative. The global campaign sees some of the world's most famous attractions and iconic images going 'Green' on 17th March during Ireland's National Day celebrations. The Embassy of Ireland in Nairobi has participated in the 'Greening' initiative since 2016 focusing on Africa's famous Big Five animals (lion, leopard, rhinoceros, elephant, and cape buffalo) working in partnership with stakeholders to highlight conservation efforts being employed to protect these species here in Kenya.



Business culture:

- **Greetings** - there is strong preference for handshakes and use of surnames or honorifics in conversations.
- **Dress code** - formal or business attire for all meetings.
- **Venue for meetings** - most official meetings are held in offices. Meetings are also held in hotels and coffee lounges which offer good ambience for business talks.
- **Arranging meetings** - most business people prefer to give tentative time and venue for appointments which is later formally confirmed.
- **Business relationship building** - building relationships and networking is key to securing business deals because most business deals are awarded through merit and lobbying.
- **Communication in meetings** - english is the formal language of business but foreigners practicing a little Kiswahili will be welcomed warmly.
- **Negotiation skills** - Kenyans are price sensitive and they like negotiating for discounts of 10 per cent to 25 per cent of the selling price depending on the quantity purchased.
- **Gifting** - Kenyans often like to give visitors small items representing the country's national heritage.
- **Ethnic consideration** - Kenyans are generally warm people with diverse cultural background and very helpful and open to foreigners.
- **Reliability of promises, timelines and realisation** - while most people will make promises on what they can deliver, there is need for constant and consistent follow-up for actualising the promises.
- **Meeting time and traffic situation** - always try to be on time, but do not be surprised if the person you are meeting is delayed. Senior executives and Government officials prefer morning meetings and punctuality must be obeyed. Appointment slots may be given to many people at the same time, and you are expected to wait to be seen in turn. There is little harm in arriving early. In cities, especially Nairobi, allow one hour to reach your next meeting, even if map apps suggest it is only a few kilometres away.

ENTERPRISE IRELAND TRADE MISSION TO SOUTH AFRICA AND KENYA

NOVEMBER 2019

Over 42 Enterprise Ireland supported companies participated in the Ministerial-led Trade Mission which took place in November 2019. The major export opportunities highlighted were in digital technologies, telecoms, fintech, education, agri and life sciences. The trade mission focused on strengthening trade links between Ireland, South Africa and Kenya and raising awareness of Ireland as a source of world class products, services, and technologies. The visit also supported participating Irish companies enhance their relationships with local partners and customers.

Several meetings were held with Government representatives, agencies and local business groups interested in doing business with Ireland.

Highlights of the Mission

- Designer Group opened their offices in Kenya and Uganda providing a platform for projects valued at up to €40m in the East African region. Designer Group partnered with a number of East African companies to engineer, procure & construct projects ranging from utility, infrastructure, industrial and sustainable energy
- Financial services firm PiPiT announced a €2 million partnership with Cellulant, digital payments platform and Tawakal bank
- Animal nutrition manufacturer Nutribio announced an agreement worth €1.3 million per annum for the next 3 years with Norbrook East Africa. Nutribio is owned by Co-Op Animal Health Group (CAHG)
- Anam Technologies Limited opened its Anam Africa Headquarters in Nairobi, Kenya.
- Under the educational partnerships agreed between Irish and African Third Level Institutions; Trinity College Dublin signed a partnership agreement with the International Livestock Research Institute in Kenya
- An Irish-Kenyan consortium focusing on the roles of genetics and fodder in sustainable dairy farming was Granted €1m in funding by the Irish Government via its Embassy in Kenya and centred at KALRO's Dairy Research Institute in Naivasha, the key focus of the 2project was dairy production at farm level. The project support is provided by Self Help Africa, Sustainable Food Systems Ireland (SFSI) and Greenfield International



EMBASSY OF IRELAND

The Embassy was opened in October 2014, bringing to 10 the number of Embassies Ireland now has in sub Saharan Africa. The work of the Embassy relates to the three key pillars of Ireland's new Foreign Policy - serving people, enhancing prosperity and promoting the values of the Irish people.

The Embassy works to enhance the political and economic relationship between Ireland and Kenya that will deliver economic growth and jobs; maintain and strengthen links with the Irish diaspora; and promote Ireland and Irish Culture.

While all State Agencies (Board Bia, IDA Ireland and Tourism Ireland) are not represented in Kenya, the Embassy acts as a liaison, to promote trade, tourism and inward investment to Ireland.

Contact details:

Telephone: +254 (0)775 353 003

Email: nairobiem@dfa.ie

www.dfa.ie/kenya



ONE STOP CENTRE - KENYA INVESTMENT AUTHORITY

The Embassy has been working towards improving the business environment for both international and domestic investors through support to the Kenya Investment Authority (KenInvest). This was done through the establishment of a One Stop Centre service for investors. This initiative brings together all services critical to investors under one roof geared towards efficient facilitation. The services include;

The services include;

- Facilitation to investors for the registration their companies
- Advice for investors to obtain necessary permits and passes
- Advice on matters relating to taxation in Kenya
- Offering advice and licences on environmental impact assessment and management issues
- Assisting investors in power connections
- Offering advice to investor on the export processing zones scheme

This service is essentially very useful for any organisation/business planning to invest in the region. Details of the same may be found on (www.invest.go.ke/one-stop-center/).



WHY IRELAND

The Republic of Ireland (ROI) covers an area of about 70,0070 sq km, with 26 counties occupying five-sixths of the island of Ireland in the North Atlantic Ocean, west of Great Britain in the extreme north-west of the European continent, and on major air and sea routes between North America and northern Europe. The land is mostly level or rolling interior plain surrounded.

www.ireland.doingbusinessGuide.co.uk/media/1004484/Ireland_Guide.pdf



Doing Business with Ireland

There are a number of Irish State agencies dedicated to the promotion of trade, tourism and inward investment:

Enterprise Ireland

Enterprise Ireland (EI) is the Government organisation responsible for the development and growth of Irish enterprises in world markets. EI works in partnership with Irish enterprises to help them start, grow, innovate and win export sales in global markets. In this way, EI supports sustainable economic growth, regional development and secure employment. The African head office is based in Jo'burg South Africa and is focused on supporting regional development in the continent. <https://www.enterprise-ireland.com/en/>

IDA Ireland

IDA Ireland's main objective is to encourage investment into Ireland by foreign-owned companies. It works as a strategic partner and provides consultancy and support services free of charge to help organisations set-up and grow. <https://www.idaireland.com/>

Bord Bia (Irish Food Board)

Bord Bia is the Irish Food Board. It is an Irish state agency with the aim of promoting sales of Irish food and horticulture both abroad and in Ireland itself. It acts as a link between Irish producers and their customers worldwide. For that purpose, it has several overseas offices in, amongst other cities, Amsterdam, Shanghai and New York. <https://www.bordbia.ie/>

Science Foundation Ireland

Science Foundation Ireland (SFI) is the national foundation for investment in scientific and engineering research. SFI invests in academic researchers and research teams who are most likely to generate new knowledge, leading edge technologies and competitive enterprises in the fields of science, technology, engineering and math (STEM). <https://www.sfi.ie/>

Tourism Ireland

Tourism Ireland is responsible for marketing the island of Ireland overseas as a holiday destination. <https://www.ireland.com/en-gb/>

Fintech Ireland

Fintech Ireland's objective is to advance Ireland's unique ability, and leverage its capacity, to become and remain a global centre for fintech. FinTech Ireland are particularly active in the start-up scene, advancing Ireland's unique ability and leveraging its capacity to become and remain a global centre for FinTech.

Why Ireland for fintech?

Ireland is fast becoming a global centre for harnessing the FinTech opportunity. Its vibrant, dynamic technology sector, well established global Financial Services centre and proactive eco-system has provided the perfect fit for international FinTech companies seeking to expand and grow.

The Africa Agri-Food Development Programme (AADP)

This is a joint initiative between the Department of Agriculture, Food and the Marine and the Department of Foreign Affairs and Trade. The Objective of the AADP is to develop partnerships between the Irish Agri-Food Sector and African countries to support sustainable growth of the local food industry, build markets for local produce and support mutual trade between Ireland and Africa.



Tax Regime of Ireland

The key features of Ireland's tax regime that make it one of the most attractive global investment locations include:

- 12.5% Corporate Tax Rate
- 25% R&D Tax Credit
- OECD BEPS Compliant Knowledge Development Box (KDB)
- World Wide Tax System With Relief For Foreign Tax Credits,
- Extensive Tax Treaty Network -

<https://www.idaireland.com/invest-in-ireland/ireland-corporate-tax>

Ease of doing Business

Ireland's strong legal and regulatory landscape makes the country an attractive and stable place to do business. Irish regulators across different sectors have a strong reputation for excellence.

- **Health:** the Health Products Regulatory Authority (HPRA) <https://www.hpra.ie> boasts an international reputation in regulatory compliance.
- **Finance:** the Central Bank of Ireland (<https://www.centralbank.ie>) is the regulator of all financial services firms in Ireland.
- **Data:** the Irish Data Protection Commission (<https://www.dataprotection.ie/>) has a dedicated unit for multinational companies.
- **Standards:** the National Standards Authority of Ireland (NSAI) (<https://www.nsai.ie/>) is Ireland's standards and certification authority.
- **EU:** Ireland participates in EU regulatory fora and is represented by the relevant national authorities at European level.

(KPMG,2019,

<https://www.dfa.ie/irish-embassy/kenya/our-role/irish-relations/>

Ireland-Kenya Relations

Ireland and Kenya enjoy a warm relationship which has developed over many years of close connections between our countries. The two countries share a long history of friendship and political co-operation which began with the establishment of Irish Missionary centres in Kenya. Both countries share a common and painful experience of colonisation, struggle and liberalisation, and both are committed to building free and democratic societies.

Kenyans acknowledge Ireland has a legacy of contribution in their country spanning over 100 years. The Irish missionary organisations established centres for education and health in many parts of Kenya. Among these are well known educational institutions such as Loreto College Limuru, St. Mary's College Nairobi, St Patrick's College Iten - and health facilities such as the Mater Hospital. In more recent years Irish Non-Governmental organisations such as Trócaire, Concern Worldwide, Brighter Communities Worldwide, Self Help Africa and Action Aid have contributed to humanitarian and development programmes in Kenya. Through Irish Aid, the Government of Ireland annually provides €6.5 million to NGOs working in Kenya. Kenya and Nairobi are recognized as an important business and economic hub in East Africa. Kenya is a hugely important economic Centre which plays a leading role in the political, monetary and economic integration of the East African Community.

There are an increasing number of Irish companies that are doing business in Kenya and considerable growth in trade between the two countries.

<https://www.dfa.ie/irish-embassy/kenya/our-role/irish-relations/>



Trade Relations between Ireland and Kenya

Ireland's main exports to Kenya are high value manufactured products including medical/pharmaceutical products, beverages and organic chemicals, concentrated milk, cheese and cream. Kenya's main exports to Ireland are tea, leguminous vegetables, cut flowers, plastic waste, fruit juices, coffee, vegetables and avocados.

As per statistics from the Central Statistics Office, Ireland, the total number of exports for the period January to December 2020 amount to €22.92 million and 2,834 tonnes whilst imports equate to €20.41 million and 7,059 tonnes.

www.cso.ie

BIK Social event, Dusit Hotel 2019



USEFUL CONTACTS

Embassy of Ireland to Kenya

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Embassy of the Republic of Kenya to Ireland

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info@kenyaembassyireland.net

Enterprise Ireland

[https://www.enterprise-ireland.com/en/
client.service@enterprise-ireland.com](https://www.enterprise-ireland.com/en/client.service@enterprise-ireland.com)

East Africa Business Council (EABC)

<https://eabc-online.com/>
admin@eabc-online.com

Kenya Private Sector Alliance (KEPSA)

<https://kepsa.or.ke/>
info@kepsa.or.ke

Kenya Association of Manufacturers (KAM)

<https://kam.co.ke/>
info@kam.co.ke

Kenya National Chamber of Commerce and Industry (KNCCI)

<https://www.kenyachamber.or.ke/>
info@kenyachamber.or.ke

European Business Council

<https://www.ebckkenya.org/>
info@ebckkenya.org

Kenya Export Promotion and Branding Agency

<https://brand.ke/>
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Kenya National Bureau of Statistics

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Kenya Bureau of Standards (KEBS)

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Central Statistics Organisation/Ireland

<https://www.cso.ie/en/>
information@cso.ie

Shippers Council of Eastern Africa

<https://www.shipperscouncilea.org/>
info@shipperscouncilea.org

Kenya Investment Authority (KenInvest)

<http://www.invest.go.ke/>
info@invest.go.ke

Huduma Centre

<https://www.hudumakenya.go.ke/>

Federation of Kenya Employers

<https://www.fke-kenya.org/>
fkehq@fke-kenya.org

The East African Community (EAC)

<https://www.eac.int/>
eac@eachq.org

Ministry of Industrialization, Trade and Enterprise Development

<https://www.industrialization.go.ke/>
ps@industrialization.go.ke, cs@inustrialization.go.ke

Ministry of Interior and Coordination of National Government (Directorate of Immigration Services)

<https://www.immigration.go.ke/>
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Ministry of Interior and Coordination of National Government

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Ministry of Foreign Affairs

<https://www.mfa.go.ke/>
info@mfa.go.ke

Ministry of Lands and Physical Planning

<https://lands.go.ke/>
info@ardhi.go.ke

Office of the Attorney General (Registrar of Companies)

<https://statelaw.go.ke/>

African Development Bank Group

<https://www.afdb.org/en>

World Bank

<https://www.worldbank.org/en/home>

International Monetary Fund

<https://www.imf.org/en/Home>
publicaffairs@imf.org

Nairobi Securities Exchange

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Capital Markets Authority

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Central Bank of Kenya

<https://www.centralbank.go.ke/>
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The National Treasury and Planning

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Kenya Revenue Authority

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