

# COUNTRY STUDY

KENYA

## Social Protection Monitoring

### Main recommendations

- There should be a stronger focus on increasing opportunities in the labour market and providing appropriate skills training, especially for young people who occupy a large proportion of the unemployed.
- The EU should strengthen its engagement and structured dialogue with in-country civil society organisations. A space for civil society to work with the EU should be developed ensuring that all voices are heard, particularly those at the grassroots, thus avoiding elite capture.
- The EU should work with civil society organisations to ensure citizens are informed about their right to social protection as well as about existing programmes, and to increase demand for accountability from decision-makers and service providers.
- Support should be given to the further development of the financing plan for social protection and ensure that concrete steps are taken to ensure adequate funding. A potential source of revenue could be taxation, particularly of the extractive industries.

FRIEDRICH  
EBERT  
STIFTUNG





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## INTRODUCTION

Kenya's Vision 2030 sets out the country's aims to become a middle-income country by 2030, delivering inclusive economic growth, higher living standards, better quality services, increased job creation, commercialised agriculture, and an improved manufacturing sector. The strategy consists of three pillars: economic, social and political. **Social protection is recognised as a human right by the Constitution of 2010 and the Government is committed, through Vision 2030 and the National Social Protection Policy of 2011, to strengthen social protection in terms of coverage, financing and management.** Kenya is a State Party to the International Covenant on Economic, Social and Cultural Rights of 1976, which recognises a whole range of rights relating to social protection. Moreover, by adopting the ILO Recommendation on National Floors of Social Protection (R 202) the country is engaged in the set-up of a national floor of social protection for all its residents with the aim of building a comprehensive and human rights-based national social protection system. Currently, there are significant challenges to achieving universal social protection in Kenya, which include issues of service delivery, income security, and financing, in particular.

In the framework of the 11th European Development Fund (EDF), the EU's development cooperation priorities with Kenya are defined in the National Indicative Programme (NIP) 2014-2020<sup>1</sup>, whose priority areas were agreed jointly by the EU and Government of Kenya, in consultation with other donors and civil society. These are: **1) Food security and resilience to climatic shocks, with a particular focus on Arid and Semi-Arid Lands (ASAL); 2) Sustainable infrastructure; 3) Accountability of public institutions.**

The following report provides the views of the African Platform for Social Protection (APSP) on issues the NIP could tackle to better support the achievement of de-  
<sup>1</sup> [https://ec.europa.eu/europeaid/sites/devco/files/nip-kenya-20140619\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/nip-kenya-20140619_en.pdf)

cent work and social protection for all in the country. This would be in line with the EU's commitments enshrined in the 2012 Communication on Social Protection in Development Cooperation, the EU Action Plan on Human Rights and Democracy and the objectives and targets of Agenda 2030 adopted in September 2015. In this respect, the forthcoming NIP Mid-Term Review could provide the space for these commitments to be better reflected in the 11th European Development Fund programmes.

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## KENYA

### KENYA AT A GLANCE<sup>2</sup>

#### Population

44.86 million

#### Gross Domestic Product (GDP)

US \$60.94 billion

#### Human Development Index (HDI) and ranking

0.548 (145th out of 188 countries)

#### Public spending on social protection including health

3.26% of GDP

#### Total envelope of National Indicative Programme (NIP)

EUR 435 million

<sup>2</sup> World Bank: <http://www.worldbank.org/en/country/kenya>, UNDP Human Development Report 2015: [http://hdr.undp.org/sites/all/themes/hdr\\_theme/country-notes/KEN.pdf](http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/KEN.pdf), ILO World Social Protection Report 2014/15, Kenya National Indicative Programme 2014-2020.



## MAIN ISSUES TO BE TACKLED

- The benefits of economic growth are not being shared equally amongst the population, perpetuating and **worsening poverty and inequality**.
- **Youth unemployment** is high, with young people lacking the necessary skills and training to enter the labour market.
- Despite the opening of democratic space since the new Constitution was enacted in 2010, **civil society continues to be restricted**.
- The available **funding for social protection is falling far short of the need**, with spending currently at less than 1% of GDP. At the same time, the **quality and accessibility of essential services** is a concern, with large geographical disparities creating inequities in health and educational outcomes.

## RECOMMENDATIONS FOR THE EU NATIONAL INDICATIVE PROGRAMME

- There should be a stronger focus on increasing opportunities in the labour market and **providing appropriate skills training, especially for young people who occupy a large proportion of the unemployed**. The discrepancy between skills and competences developed within the formal education system and the needs of the labour market, calls for a re-thinking of the educational system towards the development of lifelong learning policies that encompass a **strong orientation on investment in TVET, and on recognition and validation of learning outcomes of non-formal and informal learning**.
- The EU should strengthen its **engagement and structured dialogue with in-country civil society organisations**. A space for civil society to work with the EU should be developed ensuring that all voices are heard, particularly those at the

grassroots, thus avoiding elite capture. The EU should engage with civil society organisations in all phases of the programming, including design, implementation, monitoring and evaluation.

- The EU should work with civil society organisations to ensure **citizens are informed about their right to social protection** as well as about existing programmes, and to increase demand for accountability from decision-makers and service providers.
- Support should be given to the further **development of the financing plan for social protection** and ensure that concrete steps are taken to ensure adequate funding. In particular, the Government of Kenya (GoK), with the support of development partners, should mobilise additional funding to **improve the quality of basic services, paying attention to the needs of particular regions. A potential source of revenue could be taxation, particularly of the extractive industries**.

## REPORT

### 1. Improving access to essential services

As of 2010 there have been fundamental changes to the way Kenya is governed. The Constitution of 2010 devolved power and responsibility from the centre to the 47 County Governments in a wide range of areas including public service management, nutrition and agriculture policies. In theory, this devolution of power should allow for improved service delivery and the better meeting of local needs. The management of social protection policies, however remains at the national level.

Vision 2030 is the main policy document for national development in Kenya, composed of three key pillar: economic, social and political. The social pillar of Kenya's Second Medium Term Plan (MTP) for Vision 2030, which runs from 2013-2017, includes education and training, health, water & sanitation, urbanisation



and housing.

According to the Government, half of the population of Kenya has access to **basic health services within 5km<sup>3</sup>**. It is important to consider that this does not necessarily signify easy access, particularly for vulnerable groups, such as people with disabilities. There are significant disparities in the availability of services between urban and rural areas, and the **quality of care also varies considerably**. The primary healthcare scheme in Kenya is the National Hospital Insurance Fund (NHIF) which covers in- and out-patient care. This scheme is based on contributions on a graduated scale, starting with a minimum payment of 30 Kenyan shillings (equivalent of US \$0.29) per month. Whilst salaried workers are included compulsorily, **informal sector workers can opt in voluntarily**. The reality however, is that most informal sector workers cannot afford the contribution rate, nor can formal sector workers who have left employment on retirement.<sup>4</sup>

In the view of the African Platform for Social Protection (APSP) in Kenya, public expenditure is inadequate given the large numbers of people who currently lack access to essential services, particularly health services. There is a need to reassess the way funding is allocated and administered, by geographical consideration. For instance, different counties within Kenya have varied contexts in terms of infrastructure, financial and human resources and capacity. There is also a large concern regarding the quality of services provided, where the infrastructure may be in place but staff and equipment are lacking. The APSP believes that EU support should be pegged to the government increasing its expenditure on access to health care services in order to encourage more spending.

When it comes to education, although primary attendance rates are high and there are increasing numbers of children transitioning to secondary school, quality of **education remains a challenge in Kenya**

3 Kenya Vision 2030 Second Medium-Term Plan (2013-2017).

4 Kenya National Social Protection Policy, June 2011.

according to the APSP. There are high pupil to teacher ratios and insufficient numbers of trained teachers. Teaching and learning materials are not adequately supplied to all schools and there are large regional disparities.<sup>5</sup>

Although there are more places at technical, vocational education and training (TVET) institutes as well as at universities, there are weak links between education and training institutions and industry. No programmes of integrated industrial training exist.<sup>6</sup> There are a number of flagship projects under Vision 2030 which the Government is implementing to tackle these challenges, including curriculum review and reform, integrating Information and Communications Technology (ICT) into teaching and learning, increasing the scope of the school feeding programme, amongst several other activities.

The APSP points out the challenges in the transition between different levels of education and entry into the job market. **Given the realities of the employment situation in Kenya, where the informal sector still dominates, as well as the need to boost the manufacturing industries, the APSP believes there should be higher investment in TVET.**

According to the National Census of 2009, over a quarter of Kenya's population received their **water supply** from unsafe sources<sup>7</sup>. Although the majority of the population remains in rural areas, the increased rate of urbanization in recent years presents challenges to the provision of adequate and affordable **housing**. In addition, the quality of housing in rural areas remains low.

Only 29% of households in Kenya have access to grid electricity and over 68% of people still use traditional biomass for cooking and heating.<sup>8</sup> The scarcity of **energy** supplies and dependence on imported fuels, **biomass and hydropower** make Kenya vulnerable to

5 Kenya Vision 2030 Second Medium-Term Plan (2013-2017).

6 ILO, Kenya Decent Work Country Programme 2013-2016.

7 Kenya Vision 2030 Second Medium-Term Plan (2013-2017).

8 EU-Kenya Cooperation, National Indicative Programme 2014-2020.



price volatility, and instability in supply. The supply of energy is low quality yet highly priced, contributing to the high price of doing business in the country.<sup>9</sup> The APSP welcomes the EU's promotion of sustainable sources of energy and energy efficiency. They point out, however, that connection to the grid is not the end game in itself, as it is equally important to invest in skills to ensure that people with access to energy engage in livelihood models that can increase their productivity and build their resilience to shocks.

According to the EU's National Indicative Programme (NIP) for 2014-2020, **past failures to build resilience and manage risks had serious consequences in various areas, including in health and nutritional status and educational opportunity. Therefore it follows that there should be improvements in these areas in the long-term as a result of EU interventions in priority sector 1 (food security and resilience to climatic shocks).** In addition, the NIP states that the inadequate investment in infrastructure has had a direct impact on the cost of providing essential services. Through NIP priority area 2 on sustainable infrastructure, the EU is aiming to sustain and expand transport networks, improving the condition of roads, as well as modernizing the energy infrastructure network to provide reliable and affordable energy. It is expected that the capacity of the electricity sector will be increased, through the development of Kenya's generation, transmission and distribution capacity, as well as decentralised off-grid systems. There are also measures to develop solutions for clean lighting and cooking at the household level. The EU is also concerned with increasing the production of renewable energy and improving energy efficiency in the country. Priority area 3, on the accountability of public institutions is also of interest here. Given the new system of devolved governance, citizens should be able to access decision-makers and those providing services more easily, in order to demand improvements in quality and access.

**The APSP are particularly concerned about the**

<sup>9</sup> Ibidem.

**situation in the ASALs, where there is very poor access to infrastructure and supportive services, particularly hospitals, schools, water services and roads.**

## 2. Ensuring income security

Despite being the leading economy in the region and enjoying the benefits of macroeconomic stabilisation, poverty levels in Kenya are still high. Nearly half of the country's rural population lives below the poverty line.<sup>10</sup> Agriculture remains the backbone of the economy, despite its share of GDP declining significantly in recent years. The unemployment rate is high, particularly among the youth, at 35% for people around 20 years old, although this declines with age: the rate is 25% for people around 25 and 15% for people around 30 years old.<sup>11</sup> This is partly due to the discrepancy between the skills acquired in schools and the demands of the labour market, as the APSP points out. There is a statutory minimum wage which varies according to the location, age and skill level of the worker. Agricultural labourers and unskilled workers are the lowest paid. Only 12.7% of the total labour force is covered by a pension scheme.<sup>12</sup>

**The National Social Protection Policy of 2011 contains several measures to contribute towards income security, including social assistance schemes (cash transfer programmes, public works programmes and grants) and social security schemes. There is currently no unemployment benefit, although the Government is considering establishing such a scheme for formal sector workers.**

Through the NIP, the EU is supporting food security and resilience to climatic shocks. This is highly relevant here, given the links between social protection and food security.

Social protection, in terms of providing income security, can increase access to adequate food,

<sup>10</sup> EU-Kenya Cooperation, National Indicative Programme 2014-2020.

<sup>11</sup> UNDP (2013) Kenya's Youth Employment Challenge.

<sup>12</sup> [http://siteresources.worldbank.org/FINANCIALSECTOR/Resources/Session4\\_EdwardOdundo\\_Pension2014.pdf](http://siteresources.worldbank.org/FINANCIALSECTOR/Resources/Session4_EdwardOdundo_Pension2014.pdf).





through enabling individuals to purchase food from markets.<sup>13</sup> It can also increase the availability of food, as farmers are able to overcome credit constraints and thus take more risks, including investing in inputs and technology to produce higher yields. Utilisation of food can also be improved, as individuals are more able to diversify their diets and consume more nutrient-rich foods. Finally, social protection can provide food stability during times of crisis, smoothing consumption when there is a poor harvest, for example.<sup>14</sup>

Kenya experiences severe food insecurity due to climatic shocks. In the ASAL region, people depend on their livestock for their livelihoods, which are severely threatened during periods of drought. The vast of producers (around 80%) are smallholder farmers, who are faced with several challenges, including low access to modern inputs, limited access to technical and financial services, low prices for their produce at the farm gate and thus significant post-harvest losses. Moreover, incomes are threatened by recurring droughts and other shocks.

Focus area 1 of the NIP includes an explicit focus on resilient and diversified livelihoods, ensuring agriculture incomes are maintained in the face of climatic shocks. The EU provides support to the agriculture sector in the development and implementation of disaster risk reduction strategies. This is a multifaceted approach covering nutrition, agricultural productivity, integrating market linkages, diversifying livelihood sources and climate proof investments at the community and country levels. The expected result is that the food security and nutrition of the most vulnerable groups and their resilience to climatic shocks will be improved. There is a recognition of the need to transform the agricultural model of smallholder, subsistence farming to farming as a business. The NIP contains no explicit mention

13 De Schutter and Sepúlveda 'Underwriting the Poor: A Global Fund for Social Protection.' Briefing Note 07, October 2012, p.6.

14 HLPE (2012) 'Social protection for food security.' A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security. Rome.

of employment policies, although there are other donors (EU and non-EU) contributing to programmes targeting the youth. Focus area 2 on sustainable infrastructure, should also boost economic growth through more sustainable and efficient energy and transport infrastructure. However, it cannot be assumed that the benefits of growth will necessarily be shared amongst the population, or that poverty will decrease as a result.

The APSP warns that the EU's focus on agriculture is not giving enough space to other sectors such as manufacturing, which has declined in Kenya. **There should also be a strong focus on entrepreneurship, apprenticeships for youth and the promotion of skilled labour.** They recommend strengthening the role of the private sector and civil society to complement the work of the government in creating jobs, as well as ensuring the inclusion of vulnerable segments of society. They would like the EU to work with the GoK in strengthening the business environment to encourage investment and absorb the youth into the labour market. **Unemployed youth often fall outside of the traditional social protection mechanisms in the country and are left vulnerable to shocks and stresses.** Although there are public works programmes and other funds targeting youths, these are not sustainable nor accessible to all.

As regards the agriculture sector, the APSP is concerned at the high cost of inputs and technology, which makes products in turn too expensive for local consumption. They would encourage the EU to **support cooperatives to give farmers a stronger collective bargaining voice.** In addition, in the interests of social inclusion, the EU's focus on scaling up agriculture should take care not to exclude small scale farmers and those with a burden of care to look after children, older people and people with disabilities. **The APSP would also like to see more of a link between Social Protection and agriculture, particularly in the context of building resilience and establishing disaster risks reduction (DRR) strategies.** Social protection



has been shown to be an effective tool to cushion the impact of shocks and this could be more clearly highlighted in the NIP. They are also concerned that in the context of resilience building, the EU could look beyond climate shocks to also include income and health shocks, drawing synergies with already existing programmes which are trying to provide this protection, such as the National Social Security Fund (NSSF) and the National Hospital Insurance Fund (NHIF). Part of the problem may be that agricultural policies are now devolved, whereas social protection is not, making linkages more challenging.

### 3. Promoting a rights based approach to social protection

The 2010 Constitution of Kenya contains a comprehensive Bill of Rights, which includes the tenets of the ILO's Decent Work Agenda. Article 43 guarantees all Kenyans their economic, social, and cultural (ESC) rights. It asserts the *"right for every person... to social security and binds the State to provide appropriate social security to persons who are unable to support themselves and their dependents."* This right is closely linked to other economic and social rights, including the right to healthcare, human dignity, reasonable working conditions, and access to justice.<sup>15</sup>

In setting out the strategic objectives of the EU's relationship with Kenya, the NIP states that *"relations... are very much driven by mutual interests in the economic and social development of the country as well as the will to promote a common political agenda of human rights, democracy and peace in the country and the region."* This is in line with the EU commitment to support social protection, as set out in the Commission Communication and Council Conclusions of 2012,<sup>16</sup> and its support to the development and extension of National Social Protection Floors in the recently adopted European Action Plan on Human Rights and Democracy.

<sup>15</sup> Kenya National Social Protection Policy, June 2011.

<sup>16</sup> Commission Communication: <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52012DC0446&from=EN>, Council Conclusions: [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/132875.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/132875.pdf).

The APSP encourages the EU to invest in promoting social protection as a right, to increase knowledge on entitlements and increase citizen demand for accountability and service provision from their government. They are concerned that people view social protection programmes as charity, rather than an entitlement. Concretely speaking, the APSP recommends the use of easy-to-access Information, Education and Communication materials translated in local dialects and a continuous process of awareness raising throughout the programme cycle. The new constitution of 2010 has opened up democratic space to some extent, and there has been more citizen participation in governance but there is still a long way to go. The APSP is also concerned that **corruption and discrimination against particular ethnic groups are impeding the full enjoyment of rights in Kenya. The government's continued practice of targeting social protection programmes by geographical location and income levels restricts numbers that can be reached and undermines the ideal of universal coverage.**

### 4. Promoting Freedom of Association and CSO participation

According to SOLIDAR, Freedom of Association is not only a right per se but is also an essential pre-condition for the progressive realisation of Economic, Social and Cultural Rights (ESCRs) including social protection. Kenya's Vision 2030 aims to *"create a cohesive, equitable and just society based on democratic principles grounded in the existing rich and diverse cultures."* In addition it commits the country to a *"democratic political system founded on issue-based politics that respects the rule of law and protects the rights and freedoms of every individual..."* Since the passing of the 2010 Constitution, trade unions and civil society organisations (CSOs) have flourished. However Kenya has not yet ratified ILO Convention 87 concerning Freedom of Association and Protection of the Right to Organise, citing the adequacy of the



Constitution and enabling legislation in this regard.<sup>17</sup> According to a report by Civicus, the conditions for civil society have considerably worsened since 2013, with the suspension of over 500 CSOs in 2014, many of which work on rights-based issues. Although 179 of these were reinstated following national and international pressure, the climate of insecurity and fear persists.<sup>18</sup> When it comes to trade unions' and workers' rights, Kenya was given a rating of 4 in the International Trade Union Confederation Global Rights Index 2014.<sup>19</sup> This signifies systematic violations of rights, where the government and/or companies are engaged in serious efforts to crush the collective voice of workers.

The NIP was endorsed by 80 civil society organisations (CSOs), including Local Authorities networks, who participated in a consultation meeting held by the EU Delegation to Kenya in September 2013. There is no specific allocation for support to civil society under the NIP. However, CSOs are among the potential implementing partners and beneficiaries of the activities under focal areas 1 and 3. Focal area 3 in particular seeks to support the transparent management of public funds at central and county level.

**APSP warns that** consultation with civil society should not be tokenistic or minimalist. Given the broad spectrum of players active in Kenya's civil society, **there should be measures to ensure that all voices are heard, particularly those at the grassroots, thus avoiding elite capture.** They also strongly encourage wider and more substantive EU engagement with civil society, which should be built into programme design, in order to collaborate on the implementation of programmes, for example monitoring. CSOs have a potentially large role to play in the fight against corruption. More specifically **regarding social protection**, the APSP points out that

17 United Nations Economic and Social Council: Consideration of reports submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights, Combined second to fifth periodic reports of States parties due in 2013, Kenya.

18 Civicus, State of Civil Society Report 2015.

19 International Trade Union Confederation Global Rights Index 2014: The world's worst countries for workers.

there is a risk of bias in the selection of beneficiaries for cash transfer programmes and other forms of corruption in the implementation of schemes. **CSOs should be allowed to play the role of independent monitors to ensure that complaints can be heard and dealt with effectively.**

### 5. Mobilising financial resources for social protection

The main drivers of the economy in Kenya are agriculture, forestry and fishing (contributing to 27.3% of GDP), whilst manufacturing, transport and storage, real estate, financial services, construction, and mining and quarrying are also key sectors.<sup>20</sup> Recent threats to security have hit the tourism industry, with resulting negative impacts on employment and industries. The country has recently implemented various measures to improve revenue administration in the Finance Act of 2014. These include the enactment of an income tax regime for the extractive industries (including oil & gas and mining) and the reintroduction of capital gains tax, which had been suspended since 1985.<sup>21</sup> Despite the potentially large fiscal space available, public spending on social protection is low, at an estimated 0.93% of GDP in 2013 (excluding public health expenditure). Public expenditure on health is also low, at 2.33% of GDP.<sup>22</sup> Since 2013, however, health funding has been devolved to county government level. The ILO estimation of the cost of basic social security, carried out in 2008, puts the total cost at 8.2-9.5% of GDP.<sup>23</sup> Social protection programmes are currently highly donor-dependent, with the majority of donors supporting social safety net programmes.

**The Constitution states that it is the duty of the State to allocate sufficient resources to ensure the realization of constitutional rights, including social protection. The government is currently considering a**

20 Kenya National Bureau of Statistics, Economic Survey Highlights 2015: [http://www.knbs.or.ke/index.php?option=com\\_phocadownload&view=category&id=16&Itemid=508](http://www.knbs.or.ke/index.php?option=com_phocadownload&view=category&id=16&Itemid=508), KPMG Budget Brief, Kenya 2015

21 KPMG Budget Brief, Kenya 2015

22 ILO, World Social Protection Report 2014/15

23 ILO (2008) Can low-income countries afford basic social security? *Social security policy briefings, Paper 3*



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variety of measures to increase financing for social protection, which it recognises to be inadequate. Areas under consideration include the adoption of a taxation policy to fund social protection and the establishment of a Consolidated Social Protection Fund to be administered by the National Social Protection Council (NSPC).<sup>24</sup>

Under focal area 3 of the NIP, one objective is to support more transparent management of public funds. The EU, together with DANIDA, is leading the donor group on public financial management.

The APSP believes that the focus should be on fighting tax evasion and on streamlining revenue in terms of spending. The Government could decrease its recurring expenditure by increasing the efficiency of its administrative structures. There is also potential to raise revenue from the extractives industry, which should be explored. However, the APSP wishes to point out that the increase in budgetary allocations for social protection will not be sufficient to alleviate poverty. In addition to funding considerations, there must be a focus on the effective coordination and delivery of programmes, as well as accountability in service delivery.

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<sup>24</sup> Kenya National Social Protection Policy, June 2011

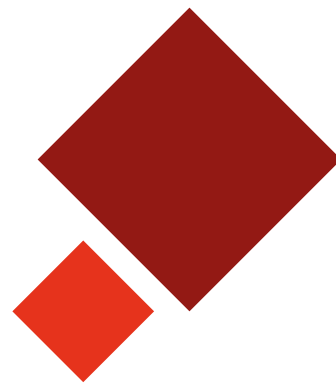






Rue du Commerce | Handelsstraat 22  
1000 Brussels  
Belgium  
T +32 2 500 10 20  
F +32 2 500 10 30

Twitter: @SOLIDAR\_EU  
Facebook: SOLIDAR  
[www.solidar.org](http://www.solidar.org)  
[solidar@solidar.org](mailto:solidar@solidar.org)



This Social Protection Monitor Country Report was written by Dharini Bhuvanendra, based on the contributions of the Africa Platform for Social Protection (APSP) and the Social Protection Actors Forum-Kenya. These organisations are networks of individuals and organizations operating at grassroots, national and regional levels, whose main objective is to support the development of effective national social protection policies and programmes with the active engagement of Civil Society Organisations (CSOs).

The Social Protection Monitor is a tool developed by SOLIDAR, the Friedrich-Ebert-Stiftung and the Africa Platform for Social Protection to consult partner organisations on the priorities of the 11th European Development Fund's (EDF) National Indicative Programmes (NIPs).

SOLIDAR is a European network of membership based Civil Society Organisations who gather several millions of citizens throughout Europe and worldwide. SOLIDAR voices the values of its member organisations to the EU and international institutions across the three main policy sectors; social affairs, lifelong learning and international cooperation.

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