



**REPORT BY THE ETHICS AND ANTI-CORRUPTION COMMISSION
TO THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL
AFFAIRS OF THE NATIONAL ASSEMBLY ON STATUS REPORT OF
COMPLETED INVESTIGATIONS FROM 2013 TO 2018**

PARLIAMENT

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THURSDAY

21ST JUNE 2018

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Background

The Ethics and Anti-Corruption Commission (EACC) is a statutory body established under the Ethics and Anti-Corruption Commission Act of 2011. The Act was enacted pursuant to the requirements in Article 79 of the Constitution. The mandate of the Commission is to combat corruption and economic crime in Kenya through law enforcement, prevention, public education and promotion of ethical standards and practices. Apart from the Act aforesaid and the constitutional mandate conferred on it specifically in enforcement and ensuring compliance with chapter Six of the Constitution, the Commission also derives its statutory mandate from a number of other statutes namely, the Anti-Corruption and Economic Crimes Act of 2003, the Leadership and Integrity Act, 2012 and the Public officer Ethics Act, 2003.

This is a report to the Departmental Committee on Justice and Legal Affairs of the National Assembly on Investigations carried out by EACC from 2013 to 2018 in the exercise of its mandate. It is submitted pursuant to a written request by the Departmental Committee on Justice and Legal Affairs vide letter ref: NA/JLA/OC/2018/VOL.1/91 dated 14th June, 2018.

PART I: STATUS REPORT ON INVESTIGATIONS CARRIED OUT FROM 2013-2018

Part I of the report is divided into the three possible outcomes of an investigations (Prosecution, Administrative action and Closure). It also considers the outcome of the cases finalized in Court.

Table 1: Recommendation to Prosecute

Reports to DPP with recommendation to prosecute				
Year	No. of Reports	Accepted	Not Accepted	Concurrence rate
2013/14	44	43	1	99%
2014/15	75	74	1	99%
2015/16	136	131	5	96%
2016/17	97	89	8	92%
2017/18	143	94	6	***
Total	495	447	20	96%

*** 34 files are awaiting action from the Director of Public Prosecution while 9 files have been returned for further investigations.

Notes:

- i. An average concurrence rate of **96%** on recommendations to prosecute between EACC and DPP
- ii. The reports forwarded to DPP have increased three-fold between 2013 and 2018.

Table 2: Recommendation for administrative action

Reports to DPP with recommendation for administrative action				
Year	No. of Reports	Accepted	Not Accepted	Concurrence rate
2013/14	9	7	2	78%
2014/15	8	8	0	100%
2015/16	4	3	1	99%
2016/17	7	7	0	100%
2017/18	10	7	3	70%
Total	38	32	6	84%

Table 3: Recommendation for Closure

Reports to DPP with recommendation for closure				
Year	No. of Reports	Accepted	Not Accepted	Concurrence rate
2013/14	17	14	3	82%
2014/15	22	19	3	86%
2015/16	27	25	2	92%
2016/17	26	25	1	99%
2017/18	27	21	6	78%
Total	119	104	15	87%

Table 4: Outcome of Cases finalized in court 2013-2018

Cases Finalized in Court					
Year	No of cases finalized	Conviction	Acquittal	Discharge	Conviction rate
2013/14	2	1	-	1	50%
2014/15	1	1	-	-	100%
2015/16	14	11	-	3	79%
2016/17	25	18	7	-	72%
2017/18	44	35	9	-	79%

PART II: STATUS REPORT ON ASSET RECOVERY CASES (2013-2018)**Table 5:****i. Assets Recovered from 2013-2018**

Assets Recovered from 2013-2018					
Year	2013/14	2014/15	2015/16	2016/17	2017/18
Recovered Public Assets	2,068 billion	140,280,426	700,582,155	256,044,092	7,800,000,000 (including disruptions)
Total	3,164,906,673				

ii. Assets Recovery cases pending before Court

There are **394** cases for recovery of assets pending in court whose total estimate value is approximately **Kshs. 8 Billion**.

Notes:

The valuation does not take into account the multiplying effect of a loss of a public utility such as; Airstrips, school play fields, roads and police stations. Such a value cannot be fully ascertained and appreciated by comparing the value of the recovered asset with the current market prices of adjacent properties.

PART III: MEASURES PUT IN PLACE TOWARDS PREVENTION OF ABUSE OF OFFICE AND RESOURCES**a. Systems Reviews**

The commission has conducted examinations into the systems, policies, procedures and practices of work in the following state entities:

- i. 2013/14 – Kenya Institute of Curriculum Development (KICD)
 - National Cereals and Produce Board
- ii. 2014/15 – Parliamentary Service Commission
 - Ports of entry in Kenya
- iii. 2015/16 – Ministry of Education (Free Primary Education programme)
- iv. 2016/2017 – Ministry of Lands and Physical Planning
 - Pricing of pharmaceuticals and non-pharmaceuticals Supplies in the Kenya Health Sector

b. Corruption Risk Assessments

National Government - National Youth Service and The National Bureau of Statistics.

County Government - **21** CRA’s have been conducted both at the County Executive and County Assemblies.

C. Development of leadership and Integrity Codes

		No. of entities	Developed codes
1.	National Government	44	43
2.	County Assemblies	47	46
3.	County Executives	47	39
	Total		128

PART IV: ENHANCING SYNERGY BETWEEN THE ODPP AND EACC

- 1. Prosecution–led Investigations
- 2. Enhancing the submission and review of investigations reports
 - a. Consultative meetings between investigators and prosecutors to reduce the time-taken to review reports on investigation.
- 3. Supporting prosecution of cases
- 4. Multi-Agency Approach to the fight against corruption

DATED at Nairobi this _____ day of _____ 2018

HALAKHE D. WAQO CBS, MCIArb
SECRETARY/CHIEF EXECUTIVE OFFICER