



UDENRIGSMINISTERIET

J.nr. 2022-36361
29. november 2022

Kenya
Vedr. Information vedrørende
valg, herunder valgbarhed
US ref. nr. _____

Udenrigsministeriet har den 8. november 2022 modtaget en anmodning om bistand fra Udlændingestyrelsen til at indhente oplysninger vedrørende valg, herunder valgbarhed i Kenya.

Udenrigsministeriet har adspurgt en ekstern kilde. Besvarelsen af spørgsmålene fremsendes i vedlagte dokument.

Udenrigsministeriet

[REDACTED]

MEMORANDUM

To: [REDACTED]

From: [REDACTED]

Date: 28 November 2022

Subject: **Eligibility for Elected Office in Kenya**

We refer to your email of 22 November 2022 in which you sought our assistance on answering the questions below:

1. What are the requirements and control mechanisms to stand as a candidate for public elections in Kenya?
2. Is it a requirement to hold Kenyan citizenship in order to run for the position as Governor in a county in Kenya?
3. Is it a requirement to hold Kenyan citizenship in order to run for the position as member of the Independent Electoral and Boundaries Commission (IEBC)?
4. Is it a requirement to hold Kenyan citizenship in order to run for the position as Speaker of the Parliament in Kenya?

We set out our responses on the same below.

Definition of a State Officer:

Article 260 of the Constitution of Kenya, 2010 (the Constitution) defines a state officer as a person holding a state office. A state officer is defined to include:

- (a) President;
 - (b) Deputy President;
 - (c) Cabinet Secretary;
- [REDACTED]

- (d) Member of Parliament;
- (e) Judges and Magistrates;
- (f) member of a commission to which Chapter Fifteen applies including the Independent Electoral and Boundaries Commission (IEBC);
- (g) member of a county assembly, governor or deputy governor of a county, or other member of the executive committee of a county government;
- (h) Attorney-General;
- (i) Director of Public Prosecutions;
- (j) Secretary to the Cabinet;
- (k) Principal Secretary;
- (l) Chief of the Kenya Defence Forces;
- (m) commander of a service of the Kenya Defence Forces;
- (n) Director-General of the National Intelligence Service;
- (o) Inspector-General, and the Deputy Inspectors-General, of the National Police Service; or
- (p) an office established and designated as a State office by national legislation;

Question One: What are the requirements and control mechanisms to stand as a candidate for public elections in Kenya?

Candidates for public office ought to generally comply with Chapter 6 of the Constitution on leadership and integrity. The underpinning of Chapter 6 is an understanding that the authority a State Officer holds is a public trust to be exercised in a manner that promotes public confidence in the integrity of the office, demonstrates respect for the people and is consistent with the purpose and objects of the Constitution.

On this basis, it is a requirement under the Constitution to select candidates on the basis of personal integrity, competence and suitability and election in free and fair elections. A number of government bodies have the mandate to ensure that candidates meet these requirements. For instance, the Independent Electoral and Boundaries Commission and registered political parties bear the responsibility to vet candidates for office and approve them for running for the same.

Please note however that the specific requirements may vary per the specific office for instance on academic requirements.

State officers are required to behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids—

- (a) any conflict between personal interests and public or official duties;
- (b) compromising any public or official interest in favour of a personal interest; or
- (c) demeaning the office the officer holds.

Failure to which, they would be subject to the applicable disciplinary procedure for the relevant office including through dismissal.

Question Two: Is it a requirement to hold Kenyan citizenship in order to run for the position as Governor in a county in Kenya?

Under Article 78 (1) of the Constitution, a person is not eligible for election or appointment to a state office i.e. as a governor unless the person is a citizen of Kenya.

Question Three: Is it a requirement to hold Kenyan citizenship in order to run for the position as member of the Independent Electoral and Boundaries Commission (IEBC)?

Under Article 78 (1) of the Constitution, a person is not eligible for election or appointment to a state office i.e. a member of a constitutional commission unless the person is a citizen of Kenya.

Question Four: Is it a requirement to hold Kenyan citizenship in order to run for the position as Speaker of the Parliament in Kenya?

Under Article 78 (1) of the Constitution, a person is not eligible for election or appointment to a state office i.e. as a member of parliament unless the person is a citizen of Kenya.

The speaker of the Parliament in Kenya is eligible for election by the house of Parliament from amongst persons qualified to be elected as members of Parliament. This means that the speaker will need to be a citizen of Kenya.

We trust that the above is of assistance and remain available to address any further queries or clarifications you may have.

Yours faithfully