Doing Business in Kenya 2016

responsabilité juridique
bureau de crédit единое окно
прозрачность 一站式服务 نافذة موحدة
تحديد مهل زمنية oficina de crédito transparency
balcão único 在线服务 collateral registry сроки
single window liability 征信中心
реестр залогового обеспечения مكتب الائتمان one stop shop servicios en línea
services en ligne transparência
реорганизация credit bureau reorganización سجل الضمانات
transparencia guichet unique 设置办理时限
responsabilidade jurídica مسؤولية
重组 reorganization
registro de garantías

COMPARING BUSINESS REGULATION FOR DOMESTIC FIRMS IN 11 COUNTIES WITH 188 OTHER ECONOMIES

WORLD BANK GROUP

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IN 11 COUNTIES WITH 188 OTHER ECONOMIES

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Doing Business in Kenya 2016

Doing Business in Kenya 2016 is the third report of the subnational *Doing Business* series in Kenya. It measures business regulations and their enforcement in 11 counties. The counties are compared against each other, and with 188 other economies worldwide.

Comparisons with other economies are based on the indicators in *Doing Business 2016: Measuring Regulatory Quality and Efficiency*, the 13th in a series of annual reports published by the World Bank Group. The indicators in *Doing Business in Kenya 2016* are also comparable with more than 400 locations from 65 economies benchmarked in other subnational *Doing Business* studies. All data and reports are available at www.doingbusiness.org /subnational.

Doing Business investigates the regulations that enhance business activity and those that constrain it. Regulations affecting four areas of the life of a business are measured at the subnational level in Kenya: starting a business, dealing with construction permits, registering property and enforcing contracts. These indicators were selected because they cover areas of local jurisdiction or practice. The indicators are used to analyze economic outcomes and identify what reforms have worked, where and why. The data in *Doing Business in Kenya 2016* are current as of April 15, 2016.

This project was implemented by the Global Indicators Group (Development Economics) of the World Bank Group at the request of the Government of Kenya and with support from the Kenya Investment Climate Program. The study was co-funded by the Dutch Government and UK aid from the UK government.

Doing Business in Kenya 2016

Overview

Kenya is a country of contrasts. Only 10 years ago, 75% of working-age Kenyans were farmers.[1] Today the agriculture sector's net output is still equivalent to nearly a third of GDP,[2] while Kenya is also a regional hub for financial services and a center of innovation. Long before Apple Pay was introduced across the world, Kenya replaced cash and checks with a phone-based payment platform called M-pesa—with "m" standing for "mobile" and "pesa" meaning money in Swahili.[3] Other online banking systems followed suit, such as M-Shwari and M-Kesho.[4] Technological innovations applied to health insurance and other financial products have helped low-income segments of the population access these services.[5]

Kenya remains the industrial and financial hub of the East African Community with a strong private sector and robust annual growth rate (above 5% over the past several years). However, about 46% of the population remains under the national poverty line.[6] Inequality, as measured by the Gini coefficient, is estimated at about 0.5, which is one of the highest in the East African Community.[7] In addition, there are deeply entrenched regional disparities within the national borders.

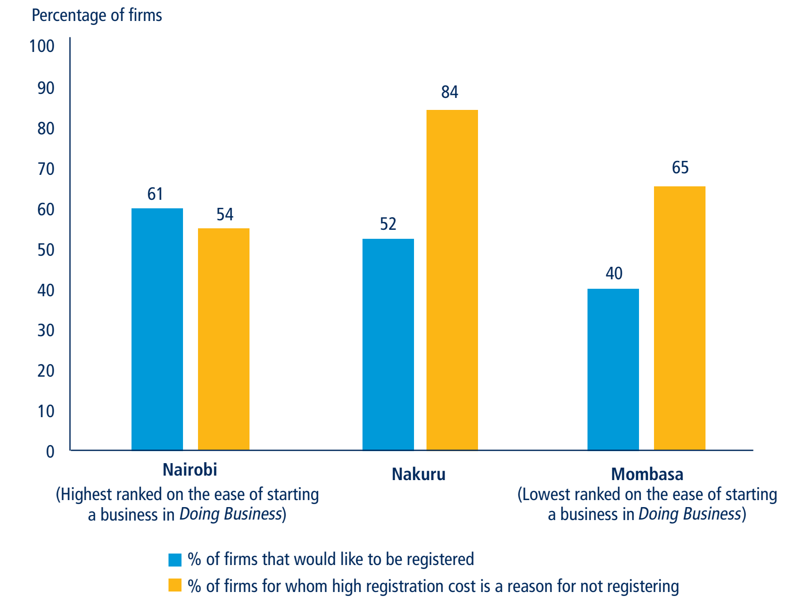
Since the 2010 adoption of Kenya's new constitution, the country has embarked on an ambitious devolution agenda—shifting multiple powers and responsibilities from the national government to 47 new county administrations. In 2013, new county governors and assemblies were elected, creating a brand-new level of government. The counties started setting up new institutions and systems to deliver many services formerly assumed by the central government. In order to avoid overlaps and duplication, the functions of the two tiers of government have to be carefully coordinated. Devolution seeks to enhance accountability and improve service delivery at the local level, thus addressing important limitations to past economic growth and poverty reduction efforts.

However, Kenya's low level of productivity—especially in its informal sector, which represented 77.9% of employment in 2012—continues to constrain firms' ability to grow and generate more employment.[8] A recent World Bank paper compared the rate at which Kenyan firms wanted to be formally registered with the ease of business start-up in that county as measured by *Doing Business in Kenya 2012*. The proportion of firms that want to register formally is significantly higher in counties where registering a business is less cumbersome (figure 1.1).[9] Given that formal firms are more productive, business start-up and other investment climate reforms could help foster productivity and employment growth throughout Kenya.

The national government and new counties have embarked on a bold investment climate reform program that has transformed the regulatory landscape. Implementing the reforms across Kenya, coordinating across the different levels of government and building capacity to ensure efficient and quality service delivery are the main challenges ahead.

- This third report of the *Doing Business in Kenya* series updates the data presented in 2012 for 10 counties, and benchmarks Machakos for the first time.
- *Doing Business in Kenya 2016* introduces new components in three of the four areas measured in order to capture different dimensions of regulatory quality.
- Since 2012, Kenya's devolution of powers to 47 new counties has prompted major regulatory changes: the national reform agenda is focused on improving service delivery at the local level for all citizens.
- Kenyan entrepreneurs face different regulatory hurdles depending on where they establish their businesses, and no single county in Kenya performs equally well on all indicators. Additionally, there is no relationship between the size of the county (as measured by population) and the rankings.
- All counties measured have improved in at least one regulatory area between 2012 and 2016, many due to national reforms. A total of ten counties implemented local reforms in at least one of three areas: starting a business, dealing with construction permits and registering property.
- The creation of the Huduma Centers (one-stop shops for multiple government services) was the boldest reform recorded; new Huduma Centers are helping facilitate business start-up and property transfers.
- Critical challenges remain. Following the devolution process, the national and local governments must create new rules, structures and systems across the two tiers of government and build national and local capacity.

FIGURE 1.1 The ease of starting a business is associated with greater willingness among informal firms to register



Source: Adapted from Safavian, Mehnaz S.; Wimpey, Joshua Seth; Amin, Mohammad. 2016. "Informal enterprises in Kenya." Washington, D.C.: World Bank Group.
Note: This recent paper used data from the *Enterprise Surveys* and *Doing Business in Kenya 2012* databases.

WHAT *DOES DOING BUSINESS IN KENYA 2016* MEASURE?

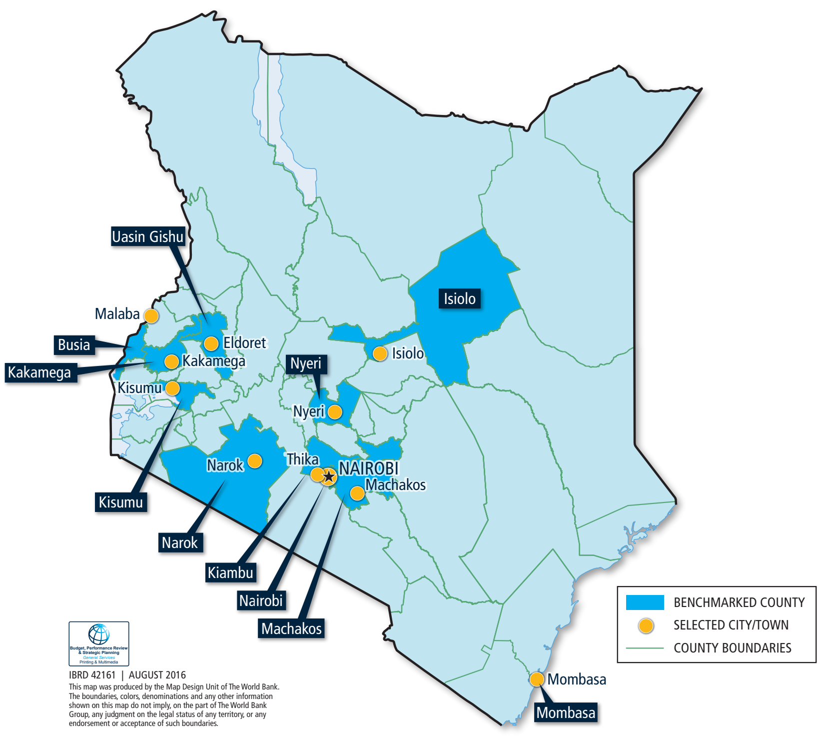
Doing Business studies regulations from the perspective of small and medium-size firms. It focuses on whether an economy has in place the rules and processes that can lead to good outcomes for entrepreneurs and, in turn, increased economic activity. Recognizing the important role governments play in bolstering private-sector development, *Doing Business* promotes smart regulation. The key premise is that well-framed laws and regulations—designed to be efficient, transparent, accessible to all, enforceable in court and easily implemented—can empower entrepreneurs to devote their time to productive activities and grow their businesses.

Nairobi, the largest business city in Kenya, represents the country in the annual *Doing Business* assessment, comparing 189 economies around the globe.[10] However, Nairobi does not tell the full story. Entrepreneurs throughout Kenya face different local regulations and practices, depending on where they operate—especially in the context of Kenya's ongoing devolution, with 47 new counties granted increasing power and autonomy.

Doing Business in Kenya 2016 is the third report of the subnational *Doing Business* series in Kenya. *Doing Business in Kenya 2010* went beyond Nairobi, for the first time, to measure the business and regulatory environment in 10 other localities.[11] *Doing Business in Kenya 2012* added two localities.[12] This third edition measures 10 counties plus Nairobi—namely, Busia, Isiolo, Kakamega, Kiambu, Kisumu, Machakos (benchmarked for the first time), Mombasa, Narok, Nyeri and Uasin Gishu (figure 1.2).[13]

The series focuses on four areas relevant to the life of a small to medium-size

FIGURE 1.2 *Doing Business in Kenya 2016* measures 11 counties



company: starting a business, dealing with construction permits, registering property and enforcing contracts. These indicators were selected because they relate to regulatory areas where counties have the administrative power to reform and/or make changes in the way the regulation is implemented. While a common legal and regulatory framework applies across counties, its implementation varies and local regulations may be different. One of the areas measured—dealing with construction permits—is almost entirely governed by the respective county. Across the other three areas, local differences in the implementation of national regulations drive the variations seen.

Doing Business in Kenya 2016 introduces two important methodological changes. The first one affects three out of the four areas measured. Dealing with construction permits, registering property and enforcing contracts added new components to systematically capture different dimensions of regulatory quality. In the area of dealing with construction permits, for example, *Doing Business* now measures the quality of building regulations and the qualifications of the people reviewing building plans in addition to the efficiency of the process for completing all the formalities to build a warehouse (figure 1.3). The data is based on the relevant laws, regulations, decrees and fee schedules, as well as questionnaires administered to local experts—including lawyers, business consultants, accountants, architects, building engineers, government officials, and other professionals routinely administering or advising on legal and regulatory requirements.[14]

The second methodological change affects how the indicator rankings are calculated. In *Doing Business in Kenya 2016* the ranking is based on a measure called the distance to frontier (DTF) score rather than on the percentile rank. The DTF score benchmarks counties with respect to a measure of regulatory best practice—showing the gap between each county's performance and the best performance on each indicator as recorded by *Doing Business*. Climbing a mountain is a good analogy: the DTF score shows how far each county is from the highest point anyone has ever traveled to on the mountain (being the frontier). In addition, comparing the DTF over time sheds light on the actual progress a county has made compared to itself—even if it lost ground in the ranking, because other counties climbed faster.

FIGURE 1.3 What the *Doing Business in Kenya* series continues to cover and what is new

Note: See the *About Doing Business and Doing Business in Kenya 2016* chapter for more information on the quality indices. The indicator chapters on dealing with construction permits, registering property and enforcing contracts also include a box on the quality component of each indicator.

WHAT ARE THE FINDINGS?

It is easier to start a business in Uasin Gishu (Eldoret), deal with construction permits in Kisumu, register a property in Nairobi and enforce a contract in Busia (Malaba) (table 1.1).[15] Looking closely at the results for each indicator, a number of observations stand out. First, there is no clear correlation between size (as measured by population) and the rankings.[16] Nairobi—the most populous county—leads on the registering property indicator but brings up the rear on dealing with construction permits. Mombasa, the other urban county, is doing well on registering property and enforcing contracts, but—like Nairobi—stands in the bottom quarter of the ranking for dealing with construction permits. Meanwhile, the much smaller Busia (Malaba) leads the pack for enforcing contacts, but is 7 in the ranking for starting a business.

Second, no single county does equally well in all four areas. With the exception of Kakamega and Narok, all counties rank in the top half and bottom half on at least one indicator (figure 1.4). In Kiambu (Thika), for example, starting a business is easy because it is relatively fast and inexpensive to obtain a business permit, but it ranks near the bottom on enforcing contracts—mainly because the trial and judgment and enforcement phases combined take more than 14 months. From a public policy point of view, such uneven performances across indicators reveal opportunities for county policy-makers to share their good practices in some areas, while learning from others how to improve in other areas. Take Machakos, for example, which is one of the top three counties for starting a business. While teaching other counties their good business start-up practices, they could look to Busia (Malaba) or Mombasa to overcome their local constraints on registering property or enforcing a contract through the courts. Even in counties with lower rankings, good practices can be found to learn from. For example, Kakamega is

TABLE 1.1 Where is doing business easier in Kenya—and where not?

County (City/Town)	Starting a business		Dealing with construction permits		Registering property		Enforcing contracts	
	DTF score	Rank	DTF score	Rank	DTF score	Rank	DTF score	Rank
Busia (Malaba)	82.26 ↑	7	70.35	2	50.91 ↑	4	59.46	1
Isiolo (Isiolo)	82.44 ↑	6	70.18	3	39.67 ↑	11	58.35	4
Kakamega (Kakamega)	81.57 ↑	11	63.02	10	47.98	10	56.74	11
Kiambu (Thika)	83.64 ↑	2	63.87	9	48.63 ↑	8	56.97	10
Kisumu (Kisumu)	82.26 ↑	7	70.49	1	50.31 ↑	6	58.24	7
Machakos (Machakos)	83.41	3	67.11	5	48.33	9	57.90	9
Mombasa (Mombasa)	82.91 ↑	4	66.22	8	51.62	2	58.96	2
Nairobi (Nairobi)	82.76 ↑	5	56.17	11	54.27 ↑	1	58.27	6
Narok (Narok)	81.92 ↑	10	66.33	7	49.89	7	58.01	8
Nyeri (Nyeri)	82.26 ↑	7	68.86	4	50.68	5	58.37	3
Uasin Gishu (Eldoret)	83.73 ↑	1	66.34	6	51.03	3	58.28	5

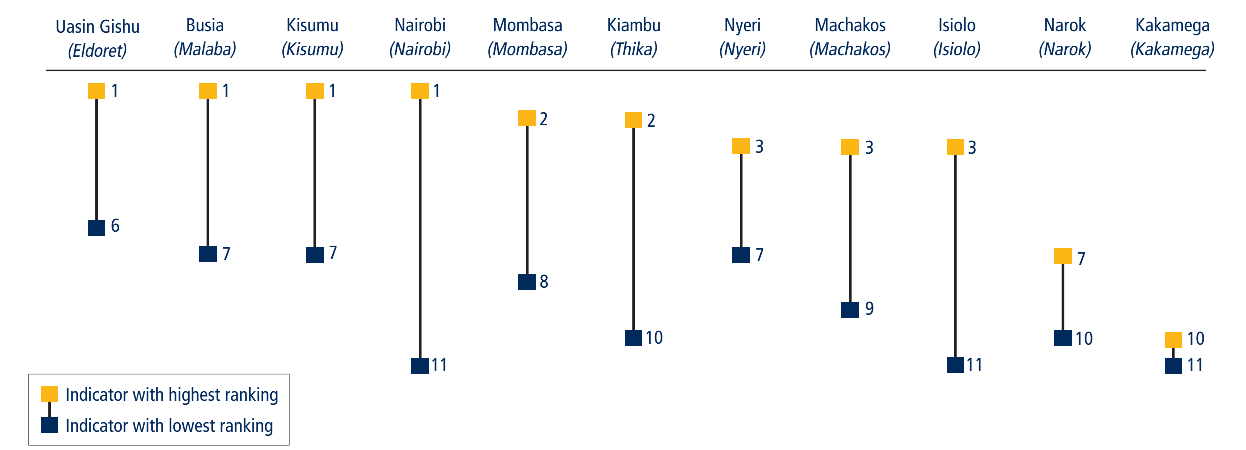
Source: Doing Business database.

Note: The distance to frontier (DTF) score for each indicator shows how far on average a county is from the best performance achieved by any economy on each *Doing Business* indicator. The measure is normalized between 0 and 100, with 100 representing the frontier of best practices (the higher the score, the better). An arrow indicates an improvement in the score between 2012 and 2016. The score for both years is based on the new methodology. For details, see the *About Doing Business and Doing Business in Kenya 2016* chapter.

an example to follow for affordable construction permitting: it costs just 2.5% of the warehouse value in Kakamega, compared with 7.1% in Nairobi. Likewise, enforcing a contract is faster in Narok than in nine other counties benchmarked. Reform-minded local policymakers can look for areas where local improvements are possible, even without legislative changes at the national level.

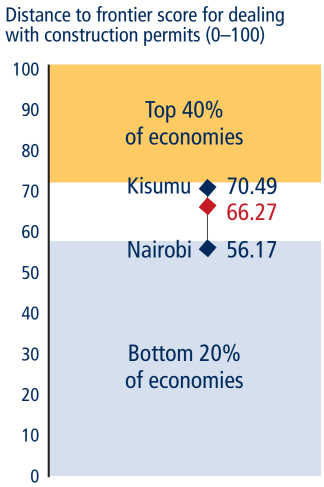
Third, local improvements not only advance the standing of one county as compared to another's in Kenya, they can also make a difference in the bigger, global picture. For example, Kisumu, the best performing county for the dealing with construction permits indicator, with a DTF of 70.49, is close to the top 40% economies globally (figure 1.5). Meanwhile Nairobi is among the bottom 20%. If Nairobi were to replicate the good practices found in Kisumu and elsewhere in Kenya for dealing with construction permits, it would not only move up in the ranking as compared to its peers, but also move up the global scale, as it represents Kenya in the global *Doing Business* report.

FIGURE 1.4 A county's regulatory environment may be more business-friendly in some areas than others—revealing opportunities for reform



Source: Doing Business database.

FIGURE 1.5 The gap between the highest and lowest distance to frontier score on dealing with construction permits puts Kenyan counties worlds apart on a global scale



Source: Doing Business database.
Note: The distance to frontier (DTF) score for each indicator shows how far on average a county is from the best performance achieved by any economy on each *Doing Business* indicator. The measure is normalized between 0 and 100, with 100 representing the frontier of best practices (the higher the score, the better).

TABLE 1.2 Who has made it easier to do business since 2012?

County (City/Town)	Starting a business		Dealing with construction permits		Registering property	
	National	Local	National	Local	National	Local
Busia (*Malaba*)	✔	✔			✔	
Isiolo (*Isiolo*)	✔	✔			✔	✔
Kakamega (*Kakamega*)	✔	✔			✔	
Kiambu (*Thika*)	✔	✔			✔	
Kisumu (*Kisumu*)	✔	✔		✔	✔	
Machakos (*Machakos*)	✔	✔			✔	
Mombasa (*Mombasa*)	✔	✔			✔	
Nairobi (*Nairobi*)	✔	✔			✔	✔
Narok (*Narok*)	✔				✔	
Nyeri (*Nyeri*)	✔	✔		✔	✔	
Uasin Gishu (*Eldoret*)	✔	✔			✔	

Source: Doing Business database.
Note: This table only presents regulatory reforms making it easier to do business between March 2012 and April 15, 2016. If a county has implemented both reforms making it easier to do business and changes making it more difficult to do business, only those reforms with a net positive impact are recorded above. See the respective indicator chapters for a disaggregated list of reforms making it easier to do business and changes making it more difficult to do business. No reform was recorded in the area of enforcing contracts.

WHAT HAS CHANGED?

Since 2012, the transfer of resources and responsibilities to 47 newly elected county administrations under an ambitious devolution plan has created multiple new institutions and systems. In parallel, a bold reform effort prompted major improvements in the benchmarked areas (table 1.2).

At the national level, in the area of starting a business, the 2015 Companies Act eliminated the requirement to have registration documents notarized before the Commissioner of Oaths, which reduced procedural complexity and the time to start a business overall. The year 2016 saw another major improvement with the abolishment of the stamp duty on the memorandum and articles of association and the statement of nominal capital. National registration costs were capped at KES 10,000 ($109).

In the area of registering a property, the Ministry of Land, Housing and Urban Development made its service charter available online in 2016. This increases transparency on the national level by giving clients access to critical information about the transactions they undertake at the Lands Offices and is recorded as an improvement on the quality of land administration index.

In terms of dealing with construction permits, the 2011 National Construction Authority (NCA) Act and its accompanying regulations—passed in 2014—now require contractors to register with and obtain a compliance certificate from the NCA before construction can begin. The requirement's objective is to ensure construction professionals meet minimum standards to perform work. But obtaining the new certificate is an additional procedure that takes, on average, one week and costs another 0.5% of the warehouse value. In addition, the fees of the National Environmental Management Authority (NEMA) doubled, with a minimum fee of KES 10,000 ($109). As a result, no national reforms that make it easier to deal with construction permits were recorded from 2012 to 2016.

For the enforcing contracts area, reforms tend to take several years to show results. Such is the case in Kenya, where improvements under the Judiciary Transformation Framework launched in 2012 are yet to bear fruit. In the longer run, the implementation of these reforms should make it easier to enforce a contract in Kenya.

At the local level, arguably the boldest initiative is the creation of the Huduma Centers, which are one-stop shops for multiple government services (box 1.1).

BOX 1.1 Kenya's Huduma Centers

In November 2013, the first Huduma Center (Huduma means "service" in Swahili) opened its doors in Nairobi with the objective of offering many government services under one roof. Since then, 38 centers have opened—five branches in Nairobi City County and 33 in other counties. All the counties covered by the *Doing Business in Kenya 2016* study have a Huduma Center, except Narok.

Huduma branches serve 30,000 customers daily and offer 45 government services, which vary from county to county.[a] For example, they process ID cards, issue copies of birth certificates and register users with the National Social Security Fund and the National Hospital Insurance Fund. The Huduma Center website provides transparency, an international good practice that Kenya is striving to offer. It features the service charter, including fees and time limits for all services. In 2014, the Huduma Centers won the African Association of Public Administration and Management Gold Medal Award in Innovation Management. And in 2015, the United Nations awarded them the UN Public Service Awards.

In the realm of company registration, Huduma Centers—together with a new electronic database of company names—helped speed up company name reservations across Kenya. With respect to property transfers, the Lands Office installed a counter at the local Huduma Centers, where clients can now request the stamp duty assessment and pay the stamp duty through Posta Pay, if the amount due is no larger than KES 90,000 ($981). Of the counties benchmarked, this service has only become widely used in Isiolo, thereby reducing the time to obtain the stamp duty assessment there.

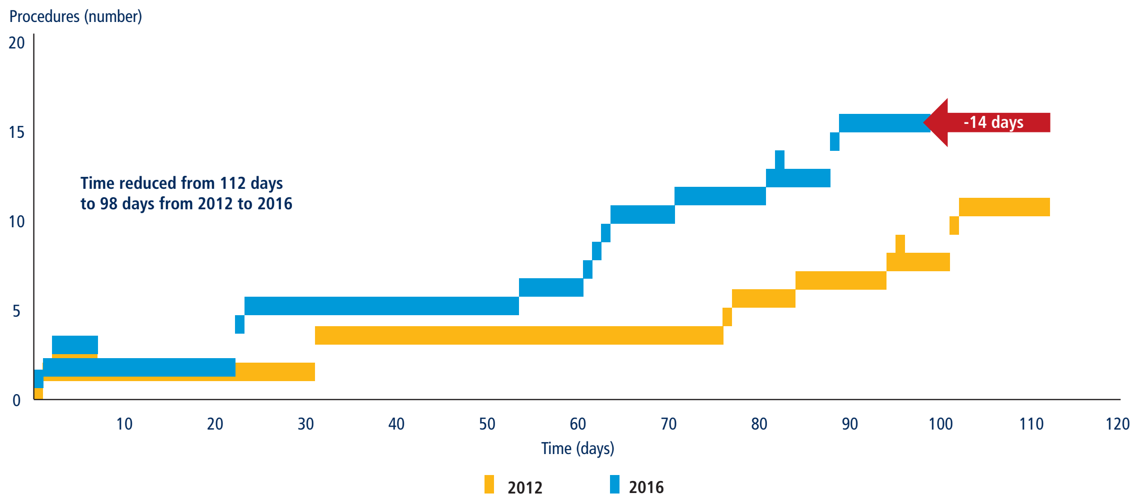
The uptake of the Huduma Centers is generally stronger in Nairobi than elsewhere in the country, perhaps because fewer services are available outside of Nairobi, staffs are not as experienced and/or potential clients may remain unaware of the services offered in their counties. Connectivity and other administrative difficulties also hamper efficiency. It is important to identify the bottlenecks and make sure that all Huduma Centers across Kenya have the necessary resources and capacity to fulfill their mandate. For example, more trained staff members are needed at the desks to quickly spot when required documents are missing or inaccurate before valuable time is lost. Furthermore, raising public awareness of the Huduma Centers and their services would allow more entrepreneurs to benefit from them. Lastly, close cooperation—and a clear division of labor—between the Huduma Centers and the various agencies involved is necessary to further streamline regulatory processes in the one-stop shops.

a. http://www.hudumakenya.go.ke.

Other local reforms include the Kisumu County Government's electronic platform for construction permitting, launched in 2015. With this improvement, Kisumu moved up from the middle of the ranking in 2012 to become the easiest place to deal with construction permits in 2016. This electronic platform streamlines the permitting process and reduces the time to obtain an approval—from 30 to 22 days. In addition, the NEMA branch in Kisumu is now more efficient at screening construction projects for potential harmful environmental impact than it is in other counties (figure 1.6).

For registering property, Isiolo made the process significantly easier with the

FIGURE 1.6 Kisumu sped up building permit approvals and other approvals since 2012



Source: Doing Business database.

opening of a local Lands Office branch in 2012. Previously local land titles were housed at the central Lands Office in Nairobi, requiring travel to the capital city. In fact, Isiolo entrepreneurs save almost one month registering a property in Isiolo with the new Lands Office. Isiolo also benefits from the creation of a local Huduma Center, which further decreases the time required for property transfer. Nevertheless, Isiolo continues to be a relatively poor performer on this indicator—especially when it comes to registration costs. To obtain a rates clearance certificate, the county charges a fee equivalent to 5% of the property value, whereas other counties charge fixed fees that are significantly lower (figure 1.7).

Other counties also reformed. The NEMA branch in Nyeri became more efficient, cutting the time to deal with a construction permit by 15 days. Finally, Nairobi made several improvements in the area of registering property, becoming a top reformer globally. Most of Nairobi's land records were digitalized, strengthening document security and data reliability—as documented by a higher score on the quality of land administration index. In addition to digitization, the Lands Office also introduced a unified form, which makes it possible to undertake multiple processes simultaneously. As a result, the time to register property in Nairobi dropped by nearly two weeks.

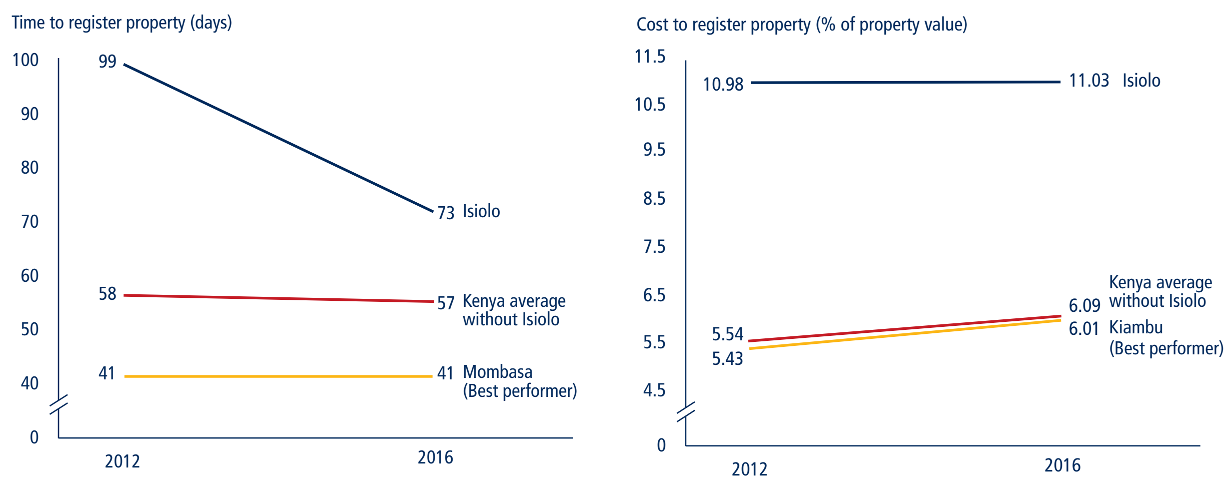
Not all changes made life easier for entrepreneurs. Seven counties have introduced regulations or practices that increase either the cost, time or complexity of doing business since 2012. Busia (Malaba), Isiolo and Kakamega significantly increased business permit fees to start a business. Busia (Malaba), Kiambu (Thika), Mombasa, Nairobi and Uasin Gishu (Eldoret) made dealing with construction permits more difficult. Despite an electronic platform that is meant to streamline the construction permitting process, delays increased by over two weeks in Nairobi, because a newly-created executive committee for approvals only meets once a week. In Mombasa the system suffers from technical glitches. Infrequent committee meetings and an additional layer of approvals also slow down architectural and structural plan approvals in Kiambu (Thika) and Uasin Gishu (Eldoret). Finally, building plan approval fees increased by more than 2.5 percentage points in Busia (Malaba), Kiambu (Thika) and Nairobi.

COMPARING REGULATIONS ACROSS COUNTIES

Starting a business

Starting a business is regulated by Kenya's Companies Law of 2015. The registration process is centralized in Nairobi, therefore requiring entrepreneurs in the other counties to travel to Nairobi to register their companies. On average, starting a company requires seven procedures, takes 23 days and costs 22.0% of Kenya's income per capita. While the process is less efficient compared with the global *Doing Business 2016* average, it is faster and costs less than half of the regional average in Sub-Saharan Africa. Within Kenya, the time varies from 20 days in Mombasa and Uasin Gishu (Eldoret) to 27 days in Narok and Nyeri. Start-up costs range from 18.1% of income per capita in Nyeri to 26.9% in Mombasa. These variations are driven by the time and cost of the local business permits. The process to obtain the business permit is relatively inexpensive and takes two days in Kiambu (Thika) and Uasin Gishu (Eldoret). As a result, these are the two counties where it is easiest to start a business in Kenya.

FIGURE 1.7 Isiolo is speeding up the property registration process, but it remains the most expensive county in Kenya, by far



Source: Doing Business database.

Thanks to an electronic database of company names now linking the Huduma Centers in each county with Nairobi, reserving the company name takes only one day as compared to three days (plus travel time for entrepreneurs outside of Nairobi) in 2012. In the medium term, entrepreneurs should be able to go through all the steps to register a company at their respective local Huduma Center branches rather than travel to Nairobi.

Dealing with construction permits

Dealing with construction permits requires 17 procedures, takes 108 days and costs 3.8% of the warehouse value, on average—about two months faster than the average for Sub-Saharan Africa (162 days). However, the number of procedures is three times the global average measured by *Doing Business*. The number of steps ranges from 14 in Kiambu (Thika) to 18 in Isiolo, Kakamega and Machakos. The differences are driven mainly by how local authorities manage the preconstruction clearances issued by various municipal departments—including utility providers, public roads administration and fire and health departments—and by how many inspections take place during construction. The time to deal with construction permits varies from 72 days in Busia (Malaba) to more than twice as long in Kiambu (Thika) and Nairobi. It depends to a large extent on how long it takes to obtain a building plan approval. In Busia (Malaba) approvals take nine days, but in Kiambu (Thika) they take two months. The cost varies from 2.5% of the warehouse value in Kakamega to 7.1% in Nairobi. The building plans approval fees constitute nearly half the total cost. On the quality of building control index, the Kenyan average is 8.2 of 15 possible points.

Simplifying preconstruction approvals would greatly facilitate the construction permitting process in many Kenyan counties. This could be achieved by streamlining building plan approvals as a first step towards applying risk-based approaches to plan reviews, inspections and environmental approvals. Electronic platforms could also help by connecting the relevant approving departments.

Registering property

Registering property takes on average nine procedures, 58 days and costs 6.54% of property value. The cost is on par with South Africa and lower than in Mauritius or the regional average for Sub-Saharan Africa. Across Kenya, property registration requires three times as many procedures as in Rwanda and requires about the same number of days as in Sub-Saharan Africa (57.5 days)—which is nearly five times the time required in Botswana (12 days). Transferring property presents the same procedural complexity—at nine procedures—across the country. The time needed ranges from 41 days in Mombasa to 73 in Isiolo, depending on how fast the respective county governments issue the rates clearance certificates and how efficient the local Lands Offices are. Cost varies from 6.01% of the property value in Kiambu (Thika) to almost double in Isiolo. Differences in cost stem from the rates clearance certificate fee, which is most expensive—5% of property value—in Isiolo as compared to a flat fee in all other counties. Kenyan counties' scores on the quality of land administration are all 10 points—except Nairobi's, which is 16 out of a maximum of 30 points. Nairobi is the sole county with a computerized and fully digital registry and a geographic information system.

Since seven out of nine property registration requirements are executed at the Lands Office, reforms should focus on making these procedures simpler. Extending the use of the unified application form beyond Nairobi, enforcing time limits and digitizing land records across Kenya could all help simplify the process. Making it easier to obtain a land rent clearance from the Lands Office would also be a significant step towards making it easier to transfer property on the whole.

Enforcing contracts

Resolving a commercial dispute across the 11 Kenyan counties takes, on average, 427 days and costs 38.8% of the claim value. This is more than six months faster than the average Sub-Saharan African economy, but almost twice as long as in Rwanda. In Kenya, it is nearly three times more expensive than in Tanzania, but 10% less than the average for Sub-Saharan Africa. Kenya's average score on the quality of judicial processes index—7.8 of 18 possible points—is 1.4 points higher than the average for Sub-Saharan Africa, but only half the United Kingdom's score of 15 points.

In Kiambu (Thika), it takes 455 days and costs 38.6% of the claim value to enforce a contract, while in Busia (Malaba) it is two months faster (390 days) and costs nearly 2 percentage points less as a percent of the claim value (36.7%). On the quality of judicial processes index, Mombasa and Nairobi score 9 points, as compared to 7.5 points in the other counties. This is due to the availability of a specialized court dealing with commercial cases in their jurisdictions.

There are several ways to improve commercial dispute resolution, as measured by *Doing Business*. Court automation, for instance, especially at the magistrates level, would increase Kenya's score on the quality of judicial processes index. The efficiency of dispute resolution would be also improved, if rules on adjournments were applied more strictly.

LEARNING FROM EACH OTHER

Benchmarking exercises like *Doing Business in Kenya* can motivate governments to reform. They reveal areas where bottlenecks exist and where opportunities for improving the quality and efficiency of regulation lie. Even small administrative improvements that do not require major regulatory changes can make a big difference in the life of a small

TABLE 1.3 Summary recommendations to improve the ease of doing business across Kenya

Suggested reforms	Relevant agencies and other stakeholders
Starting a business	
▪ Step up the communications campaign to educate the public about reforms and foster their implementation ▪ Streamline and merge preregistration procedures ▪ Enable the Huduma Centers across the country to register a business ▪ Streamline all registration and postregistration procedures ▪ Allow for online registration and online payments ▪ Automate postregistration procedures ▪ Implement and enforce a risk-based approach to issuing business permits and make them easier to attain	**Local** ▪ County Government ▪ Huduma Center **National** ▪ Companies Registry
Dealing with construction permits	
▪ Make the permitting process more transparent ▪ Issue the occupancy certificate on the spot at the time of the final inspection ▪ Identify opportunities to streamline requirements and review the cost structure of building plan approvals for low-risk buildings ▪ Introduce a risk classification matrix as a first step towards applying risk-based approaches to plan reviews, inspections and environmental approvals ▪ Introduce stricter standards for the professionals supervising on-site construction and require key building professionals to carry insurance ▪ Use electronic platforms throughout the entire construction permitting process ▪ Update and clarify the legislative framework ▪ Introduce joint responsibility of the permitting process by moving toward practitioner-focused enforcement of building regulation	**Local** ▪ Building Control Section ▪ Environmental Department ▪ Fire Department ▪ Physical/Town Planning Department ▪ Public Health Department ▪ Public Roads Department **National** ▪ National Construction Authority (NCA) ▪ National Environmental Management Authority (NEMA) ▪ Ministry of Land, Housing and Urban Development **Private sector** ▪ Construction practitioners and associations (architects, engineers, contractors, building inspectors) ▪ Insurance companies
Registering property	
▪ Enforce time limits ▪ Use a unified form for Lands Office requirements ▪ Replace the rates clearance certificate with online payment confirmation or accept payment receipts as proof of payment ▪ Simplify the process of obtaining a land rent clearance certificate ▪ Consider replacing on-site inspections with a property-value assessment based on a standardized schedule of property values ▪ Continue the digitization of land records and move towards more online services	**Local** ▪ County Government ▪ Local Lands Office **National** ▪ Central Lands Office ▪ Ministry of Land, Housing and Urban Development
Enforcing contracts	
▪ Enforce rules to limit adjournments ▪ Establish a mediation culture ▪ Expand court automation at the magistrates' courts	**Local** ▪ Local Law Society ▪ Local Magistrates Court **National** ▪ Judiciary ▪ National Law Society **Private sector** ▪ Chamber of Commerce

Note: All recommendations are detailed in the "What can be improved?" section of each chapter.

or medium-size firm. Repeated subnational *Doing Business* studies are powerful monitoring and evaluation tools, because they document progress over time.

This report identifies opportunities for improvement in each area (table 1.3). In addition, some cross-cutting issues emerge that require leadership of national and local policymakers. First, building national and county capacity to deliver the business regulation services under their mandates and then coordinating their functions are critical under the devolution process. From an entrepreneur's point of view, it is irrelevant whether a requirement comes from the county or a national institution. What matters is the ease of compliance. In registering property, for example, both the Huduma Centers and the Lands Offices offer stamp duty assessments in most counties. According to anecdotal evidence, staff members at the Huduma Centers are not always trained sufficiently. Building capacity and agreeing on a clear division of labor between the two institutions will be necessary in order to optimize their joint contributions. The national government has developed a national Capacity Building Framework focused on devolution and county governors are working on the same agenda. The capacity building effort is supported by multilateral development partners, such as the World Bank.[17]

Another cross-cutting topic is the importance of raising awareness about current initiatives and thus promoting their use. Without communicating the benefits of reforms effectively, implementation suffers. The evolving role Huduma Centers play in business regulations is a good example. According to practitioners, uptake has been slow, mainly because users are unaware of the services provided in the areas of starting a business and registering property. Another example is the eCitizen portal—dubbed "the gateway to all government services"—launched in 2014 by the Information and Communication Technology (ICT) Authority of Kenya. The eCitizen portal enables citizens to access essential services from the Ministry of Land, Housing and Urban Development, the National Transportation Safety Authority, and the Department of Immigration from their homes. Its lands-related services—including property searches for parcels in Nairobi and stamp duty payments—have not yet gained wide acceptance. One of the alleged reasons is the lack of knowledge about the service offerings. Both initiatives also suffer from connectivity and system unreliability issues. When a new system fails during a prolonged period of time, it is difficult to recover trust. For example, in Mexico the migration of one online business start-up platform to version 2.0 led to a two-month collapse. When the system starting working again, one of its functions was impaired. Even though all the issues were resolved eventually, the number of new companies registered through the online platform never recovered and eventually the online platform was discontinued.

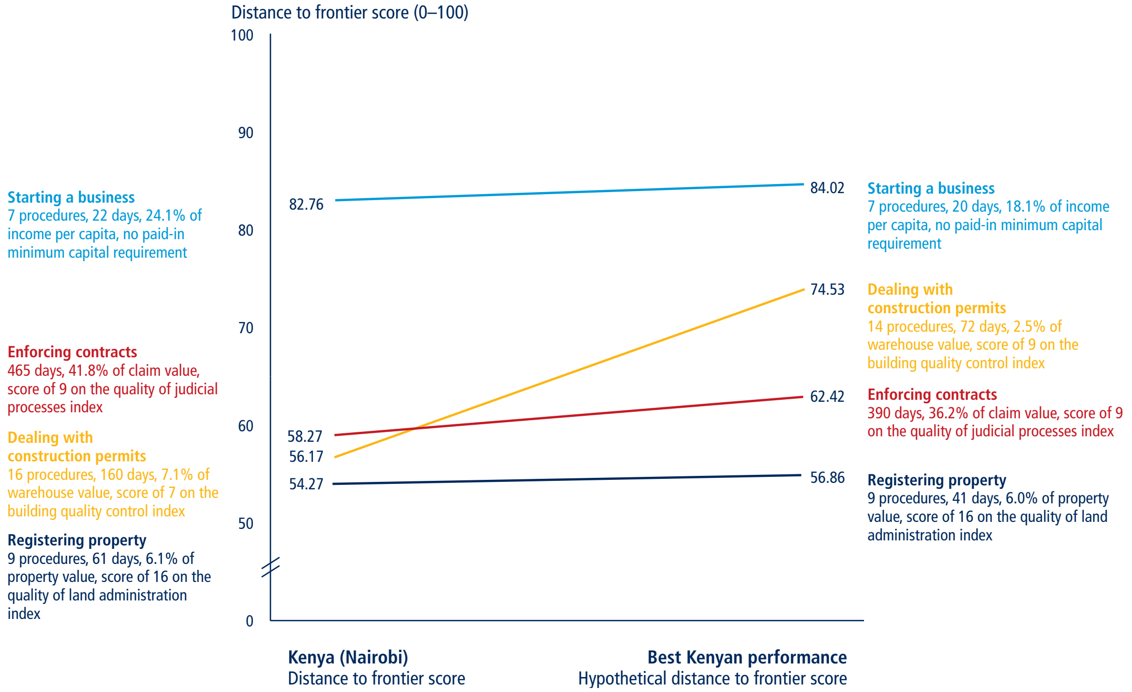
Various other initiatives in Kenya use technology to facilitate compliance with regulatory requirements. Examples include the electronic platforms to submit, track and obtain building permits in Kisumu, Mombasa and Nairobi. However, because digital signatures are not available, applicants must still get hard copies of their plans stamped by the physical planning department after electronic approval is obtained. Developing digital signatures could enable more online services in other areas as well.

Finally, the enforcement of new rules, structures and systems is another cross-cutting theme. The Ministry of Land, Housing and Urban Development, for example, updated the service charter with new time limits for the delivery of key services. However, in practice, these time limits are not enforced. One way to face up to the challenge of enforcement, and use scarce resources where they are most needed, is to apply selectivity criteria. For example, rather than enforcing strict preconstruction approvals, inspections or environmental approvals across the board in the construction permitting process, policy makers could focus on high-risk projects using a risk-based approach.

Good practice examples can be found throughout Kenya. If all local good practices across the 11 counties measured were adopted in a hypothetical Kenyan county, Kenya's global performance—as measured by *Doing Business*—would improve (figure 1.8). All indicator areas would benefit, but the potential for improvement is most pronounced in the area of dealing with construction permits. This is not surprising, as it is the area where local governments have the most say. If a hypothetical county were to streamline the number of requirements to obtain a construction permit to 14, as in Kiambu (Thika), requiring 72 days, as in Busia (Malaba), and costing less than half as much as Nairobi, as in Kakamega, Kenya would move ahead 18.36 points—from the bottom 20% in the global ranking to the top 40%.

Counties can also learn from others how to improve regulatory quality (figure 1.9). Variations in construction regulations

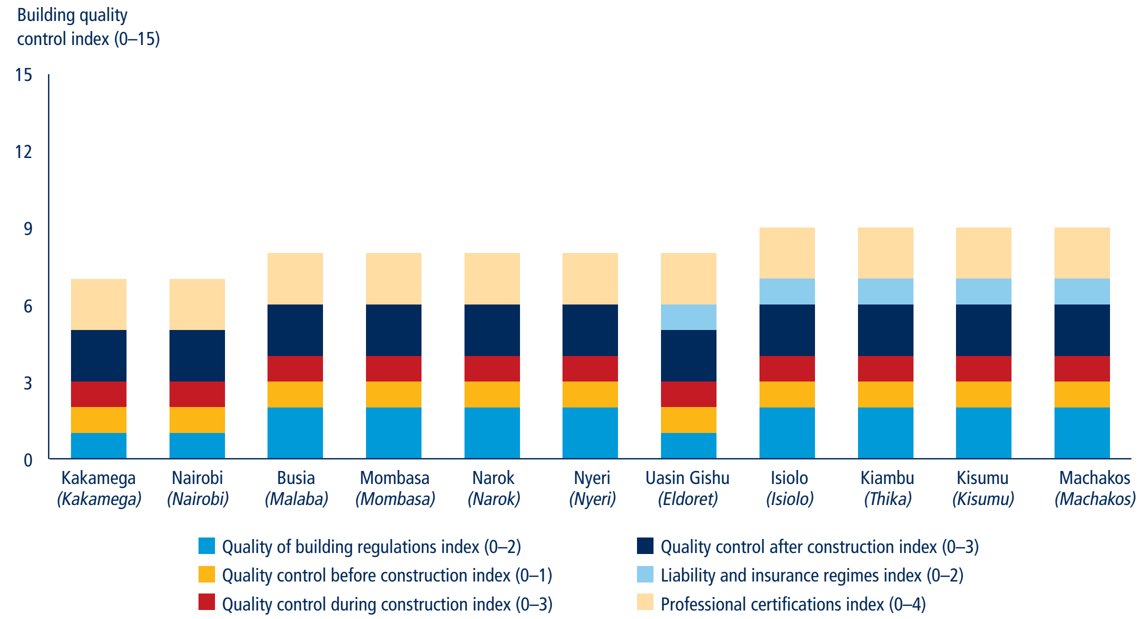
FIGURE 1.8 If all local good practices were adopted, Kenya's global performance would improve



Source: Doing Business database.

Note: The distance to frontier (DTF) score for each indicator shows how far on average a county is from the best performance achieved by any economy on each *Doing Business* indicator. The measure is normalized between 0 and 100, with 100 representing the frontier of best practices (the higher the score, the better).

FIGURE 1.9 Peer-learning opportunities extend beyond efficiency



Source: Doing Business database.

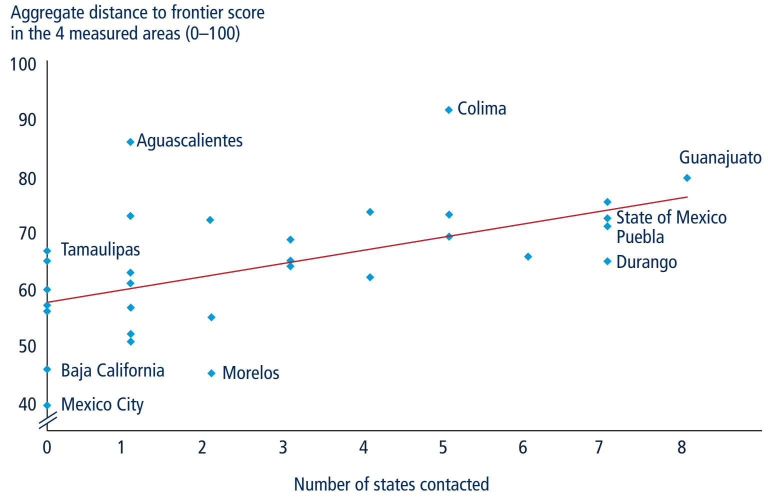
across Kenya are mainly found in the quality of building regulations and the liability and insurance index—specifically in whether counties have information publicly available and whether liability insurance covering structural building flaws once the building is in use is obtained.

The good news is that there is no need to reinvent the wheel. Reform-minded local policy makers can achieve tangible improvements by replicating measures already successfully implemented in other counties across Kenya. Sharing the same national legal and regulatory framework facilitates the adoption of good practices across counties. Other countries can serve as examples. A recent consultation of public officials from 31 Mexican states confirmed that peer learning is a significant tool for reform-minded states. The *Doing Business in Mexico* series and the biannual meetings organized by Mexico's Federal Commission on Regulatory Improvement (COFEMER) are recurring opportunities to learn about good practices and connect to peers. Peer learning also takes place when local policy makers visit neighboring states and cities. For example, Mexican policy makers from the state of Colima paid a visit to Sinaloa, where they learned about how to issue land-use authorizations electronically. Soon after, Colima set up a similar system on its own website. Not surprisingly, the states making the largest number of inquiries are those that consistently maintain and develop good practices. The data shows that the better performing states are those that make the most efforts to maintain dialogue with their peers (figure 1.10).

Kenyan counties have already opened dialogues and are emulating each other's good practices. For example, in 2015 Mombasa implemented a new e-business permit system to automate business permit applications and business permit renewals. Mombasa county officials are confident this will translate into an increase in efficiency of business permit issuance and renewal. In April 2016, Mombasa hosted delegations from Kisumu, Meru, Nairobi, Narok and Nyeri to share its experiences with its electronic system. Similarly, in the areas of dealing with construction permits, Kisumu and Mombasa learned from Nairobi. They both implemented an electronic platform for construction permitting (e-CP) in 2015, modeled on Nairobi's 2011 experience. Such exchanges could be expanded to other counties throughout Kenya. Peer-to-peer learning should not be confined to Kenya. Frequently, the best Kenyan practice is not competitive globally—as in registering property, where even the best local performer lags behind the global average, as measured by *Doing Business*.

At a time when both internal and global risks call for Kenya to be innovative about improving its economy, the nation should focus on boosting productivity, creating more jobs and promoting economic growth by encouraging entrepreneurship. Kenya needs to release small firms from unnecessary regulatory burdens, so entrepreneurs can devote more time and resources to productive activities. In this environment, reforms making it easier to do business make more sense than ever, because they help create jobs and boost growth at a relatively affordable

FIGURE 1.10 In Mexico, states that strive the most to maintain an active dialogue with peers have a better business regulatory environment



Source: Doing Business database—obtained November 2013 during consultative meetings with authorities from Mexican states.

Note: The correlation between the distance to frontier score and the number of states that were contacted by other states is 0.53 and the relationship is significant at the 1% level.

cost. As Kenya continues to undergo institutional and policy changes with its devolution agenda, a comprehensive regulatory reform program will help strengthen the business environment and promote higher productivity faster. That, in turn, should help Kenya meet the big challenges posed by poverty, inequality and regional disparities.

NOTES

1. Library of Congress Federal Research Division. 2007. Kenya Country Profile.
2. World Bank world development indicators: "Agriculture, value added (% of GDP)," which is the net output of the sector after adding up all outputs and subtracting intermediate inputs. http://data.worldbank.org/indicator/NV.AGR.TOTL.ZS?contextual=region&end=2015&locations=KE&start=2015&view=bar, accessed August 22, 2016.
3. 60 Minutes, CBS News. November 22, 2015. "The Future of Money." http://www.cbsnews.com/news/future-of-money-kenya-m-pesa-60-minutes/.
4. M-Shwari is a deposit-lending facility tailored to the poor, which gained 7 million customers over a year of operations. M-Kesho is a set of financial services available to customers of Safaricom with no minimum balance needed, interest on accounts, and emergency credit and insurance services.
5. International Monetary Fund. April 2016. "Sub-Saharan Africa: Time for a policy reset." World Economic and Financial Surveys. https://www.imf.org/external/pubs/ft/reo/2016/afr/eng/sreo0416.htm.
6. Poverty headcount ratio for 2005, the most recent year available. http://data.worldbank.org/country/kenya, accessed August 22, 2016.
7. World Development Indicators database. Washington, DC. http://data.worldbank.org. Accessed August 10, 2016. Data from 2005. A value of 0 represents absolute equality, a value of 1 absolute inequality.
8. United Nations Economic Commission for Africa. 2015. *Economic Report on Africa 2015: Industrializing Through Trade*. p. 77.
9. Safavian, Mehnaz S., Joshua Seth Wimpey and Mohammad Amin. 2016. "Informal enterprises in Kenya." Washington, D.C.: World Bank Group. http://documents.worldbank.org/curated/en/262361468914023771/Informal-enterprises-in-Kenya.
10. The annual *Doing Business* report comparing 189 economies will be referred to here as the global *Doing Business* report.
11. These are Eldoret, Garissa, Isiolo, Kilifi, Kisumu, Malaba, Mombasa, Narok, Nyeri and Thika.
12. These are Kakamega and Nakuru.
13. Garissa, Kilifi and Nakuru are no longer included in the study.
14. See the *About Doing Business and Doing Business in Kenya 2016* chapter, the data notes and the list of contributors in the acknowledgments.
15. This study focuses on the potential for peer learning among counties in each of the regulatory area covered. There is no aggregate ranking across the four indicators.
16. Kenya National Bureau of Statistics. August 2009. "Kenya Population and Housing Census." http://www.knbs.or.ke/index.php?option=com_content&view=article&id=176&Itemid=645.
17. World Bank. 2016. "Devolution Support Program-for-Results Project for Kenya." Project P149129. Washington, D.C.: World Bank. http://www.worldbank.org/projects/P149129?lang=en.

About *Doing Business* and *Doing Business in Kenya 2016*

Economic activity requires sensible rules that encourage firm start-up and growth and avoid creating distortions in the marketplace. *Doing Business* focuses on the rules and regulations that can help the private sector thrive—because without a dynamic private sector, no economy can provide a good, and sustainable, standard of living for people. *Doing Business* measures the presence of rules that establish and clarify property rights, minimize the cost of resolving disputes, increase the predictability of economic interactions and provide contractual partners with core protections against abuse.

The *Doing Business* data highlight the important role of the government and government policies in the day-to-day life of domestic small and medium-size firms. The objective is to encourage regulations that are designed to be efficient, accessible to all who use them and simple in their implementation. Where regulation is burdensome, it diverts the energies of entrepreneurs away from developing their businesses. But where regulation is efficient, transparent and implemented in a simple way, it becomes easier for businesses to innovate and expand—and easier for aspiring entrepreneurs to compete on an equal footing. Indeed, *Doing Business* values good rules as a key to social inclusion. Enabling growth—and ensuring that all people, regardless of income level, can participate in its benefits—requires an environment where new entrants with drive and good ideas can get started in business and where good firms can invest and grow.

Doing Business was designed with two main types of users in mind: policy makers and researchers.[1] It is a tool that governments can use to design sound business regulatory policies. Nevertheless, the *Doing Business* data are limited in scope and should be complemented with other sources of information. *Doing Business* focuses on a few specific rules relevant to the specific case studies analyzed. These rules and case studies are chosen to be illustrative of the business regulatory environment, but they are not a comprehensive description of that environment. *Doing Business* is also an important source of information for researchers. It provides a unique data set that enables analysis aimed at better understanding the role of business regulation in economic development.

WHAT DOES *DOING BUSINESS* AND *DOING BUSINESS IN KENYA 2016* MEASURE?

Doing Business captures several important dimensions of the regulatory environment as it applies to local firms. It provides quantitative indicators on regulation for starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts and resolving insolvency (table 2.1). *Doing Business* also measures features of labor market regulation. The *Doing Business 2016* report does not present rankings of economies on the labor

Doing Business in Kenya 2016

- *Doing Business* measures aspects of business regulation affecting domestic small and medium-size firms in 11 areas across 189 economies. *Doing Business in Kenya 2016* covers four of these areas: starting a business, dealing with construction permits, registering property and enforcing contracts.
- *Doing Business* and *Doing Business in Kenya 2016* do not capture other aspects of the business environment, such as security, market size, macroeconomic stability and the prevalence of bribery and corruption.
- The *Doing Business* methodology is based on standardized case scenarios in the largest business city of each economy. Subnational *Doing Business* studies expand the *Doing Business* analysis beyond this largest business city to measure variations in regulations or in the implementation of national laws across locations within an economy or a region. *Doing Business in Kenya 2016* relies on the following main sources of information: the relevant laws and regulations, private sector respondents, government officials, court officials and World Bank Group staff.

market regulation indicators or include the topic in the aggregate distance to frontier score or ranking on the ease of doing business. It does present the data for these indicators.

Four sets of indicators—dealing with construction permits, getting electricity, registering property and enforcing contracts—were expanded for the *Doing Business 2016* report to measure aspects of regulatory quality. One indicator set—trading across borders—has been redesigned to increase the relevance of what is measured.

The subnational *Doing Business* studies expand the *Doing Business* analysis beyond the largest business city of an economy. They measure variation in regulations or in the implementation of national laws across locations within an economy (as in South Africa) or a region (as in Central America). Projects are undertaken at the request of governments.

Data collected by subnational studies over the past two years show that there can be substantial variation within an economy (figure 2.1). In Mexico in 2013, for example, registering a property transfer took as few as two days in Colima and as many as 74 in Mexico City. Indeed, within the same economy one can find locations that perform as well as economies ranking in the top 20 on the ease of registering property and locations that perform as poorly as economies ranking in the bottom 40 on that indicator.

The subnational *Doing Business* studies create disaggregated data on business regulation. But they go beyond a data collection exercise. They have proved to be strong motivators for regulatory reform at the local level:

- The data produced are comparable across locations within the economy and internationally, enabling locations to benchmark their results both locally and globally. Comparisons of locations that are within the same economy and therefore share the same legal and regulatory framework can be revealing: local officials find it hard to explain why doing business is more difficult in their jurisdiction than in a neighboring one.
- Pointing out good practices that exist in some locations but not others within an economy helps policy makers recognize the potential for replicating these good practices. This can prompt discussions of regulatory reform across different levels of government, providing opportunities for local governments and agencies to learn from one another and resulting in local ownership and capacity building.

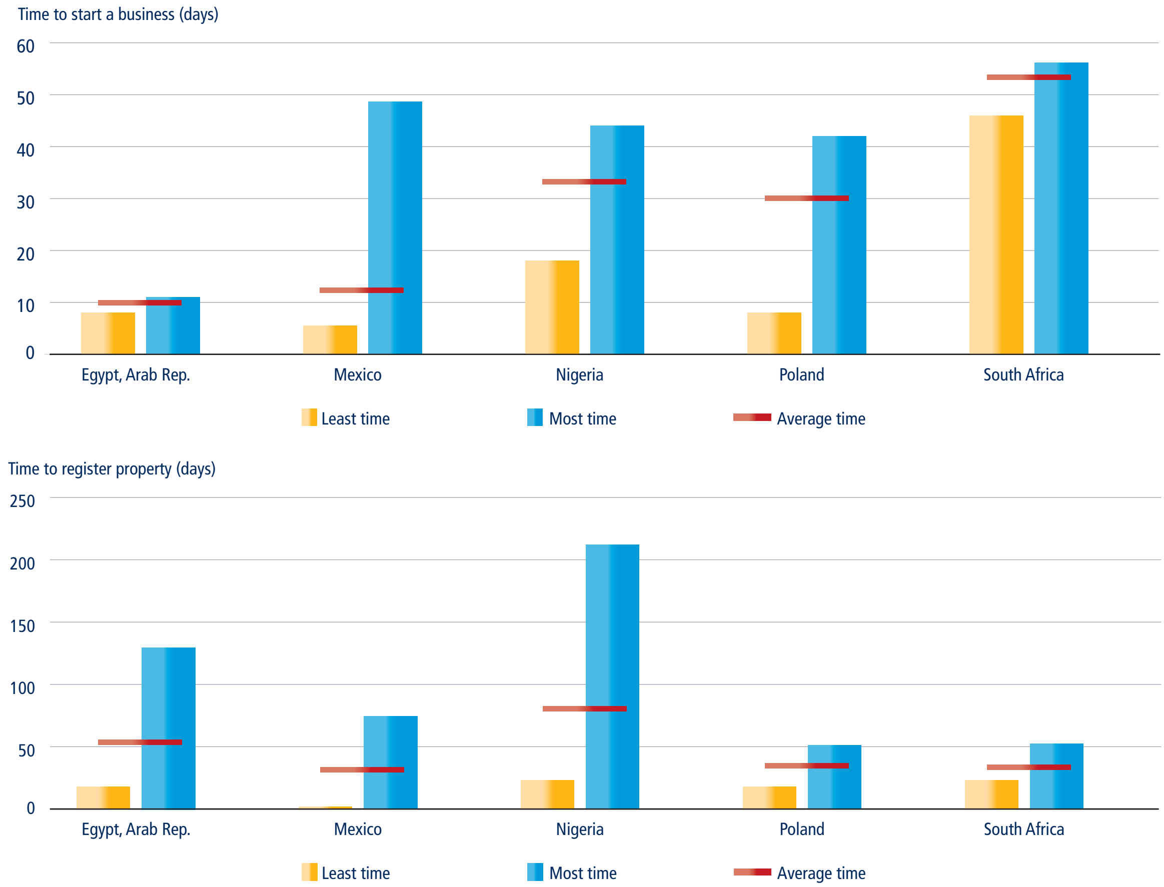
TABLE 2.1 What *Doing Business* measures—11 areas of business regulation

Indicator set	What is measured
Starting a business	Procedures, time, cost and paid-in minimum capital to start a limited liability company
Dealing with construction permits	Procedures, time and cost to complete all formalities to build a warehouse and the quality control and safety mechanisms in the construction permitting system
Getting electricity	Procedures, time and cost to get connected to the electrical grid, the reliability of the electricity supply and the cost of electricity consumption
Registering property	Procedures, time and cost to transfer a property and the quality of the land administration system
Getting credit	Movable collateral laws and credit information systems
Protecting minority investors	Minority shareholders' rights in related-party transactions and in corporate governance
Paying taxes	Payments, time and total tax rate for a firm to comply with all tax regulations
Trading across borders	Time and cost to export the product of comparative advantage and import auto parts
Enforcing contracts	Time and cost to resolve a commercial dispute and the quality of judicial processes
Resolving insolvency	Time, cost, outcome and recovery rate for a commercial insolvency and the strength of the legal framework for insolvency
Labor market regulation	Flexibility in employment regulation and aspects of job quality

Since 2005 subnational reports have covered 437 locations in 65 economies, including Colombia, the Arab Republic of Egypt, Italy, the Philippines and Serbia. Fifteen economies—including Indonesia, Kenya, Mexico, Nigeria, the Philippines, and the Russian Federation—have undertaken two or more rounds of subnational data collection to measure progress over time. This year a subnational study was completed in the United Arab Emirates and last year subnational studies were completed in the Dominican Republic, Poland, South Africa, Spain and six countries in Central America. Ongoing studies include those in Afghanistan (five cities), Colombia (32 cities), three EU member states (22 cities in Bulgaria, Hungary and Romania), Kazakhstan (eight cities) and Mexico (31 states and Mexico City).

Doing Business in Kenya 2016 is the third report of the subnational *Doing Business* series in Kenya. *Doing Business in Kenya 2010* for the first time went beyond Nairobi to measure the regulatory and business environment in 10 other cities and towns: Eldoret, Garissa, Isiolo, Kilifi, Kisumu, Malaba, Mombasa, Narok, Nyeri and Thika. It provided quantitative measures of regulations in four business areas: starting a business, dealing with construction permits, registering property

FIGURE 2.1 Different locations, different regulatory processes, same economy



Source: Subnational *Doing Business* database.

Note: The average time shown for each economy is based on all locations covered by the data: 15 locations and governorates in the Arab Republic of Egypt in 2013, 31 states and Mexico City in Mexico in 2013, 36 cities in Nigeria in 2014, 18 cities in Poland in 2014 and 9 cities in South Africa in 2015.

and enforcing contracts. *Doing Business in Kenya 2012* documented improvements in the 11 cities and towns previously measured and expanded the analysis to two additional cities: Kakamega and Nakuru. This third edition of *Doing Business in Kenya* is conducted following Kenya's creation of counties and measures 10 counties—Busia (Malaba), Isiolo, Kakamega, Kiambu (Thika), Kisumu, Machakos, Mombasa, Narok, Nyeri and Uasin Gishu (Eldoret)—in addition to Nairobi.

How the indicators are selected

The choice of the 11 sets of *Doing Business* indicators has been guided by economic research and firm-level data, particularly data from the World Bank Enterprise Surveys.[2] These surveys provide data highlighting the main obstacles to business activity as reported by entrepreneurs in more than 135 economies. For example, among the factors that the surveys have identified as important to businesses have been access to finance and access to electricity—inspiring the design of the *Doing Business* indicators on getting credit and getting electricity.

The design of the *Doing Business* indicators has also been informed by theoretical insights gleaned from extensive research and the literature on the role of institutions in enabling economic development. In addition, the background papers developing the methodology for each of the *Doing Business* indicator sets have established the importance of the rules and regulations that *Doing Business* focuses on for such economic outcomes as trade volumes, foreign direct investment, market capitalization in stock exchanges and private credit as a percentage of GDP.[3]

The areas measured in *Doing Business in Kenya 2016* were selected in collaboration with the Government of Kenya, on the basis of their relevance to the country context and ability to show variation across the counties measured. The benchmarked counties are those which meet minimum standards for measurement—sufficient economic activity within the locale, population size and demographic difference from the rest of the sample—and showed the greatest interest in participating in the subnational *Doing Business* study.

Two aggregate measures

Doing Business presents data both for individual indicators and for two aggregate measures—the distance to frontier score and the ease of doing business ranking—to provide different perspectives on the data. The distance to frontier score aids in assessing the absolute level of regulatory performance and how it improves over time. This measure shows the distance of each economy to the "frontier," which represents the best performance observed on each of the indicators across all economies in the *Doing Business* sample since 2005 or the third year in which data were collected for the indicator. (For indicators calculated as scores, such as the quality of land administration index, the frontier is set at the highest possible value.) This allows users both to see the gap between a particular economy's performance and the best performance at any point in time and to assess the absolute change in the economy's regulatory environment over time as measured by *Doing Business.* The distance to frontier is first computed for each topic and then averaged across all topics to compute the aggregate distance to frontier score. The ranking on the ease of doing business complements the distance to frontier score by providing information about an economy's performance in business regulation relative to the performance of other economies as measured by *Doing Business.*

Doing Business in Kenya 2016 includes rankings of the 11 cities measured on four topics: starting a business, dealing with construction permits, registering property and enforcing contracts. The rankings presented are based on the distance to the frontier score. The distance to frontier score captures the gap between a county's performance and a measure of best practices across the areas covered by the report. For starting a business, for example, the former Yugoslav Republic of Macedonia and New Zealand have the smallest number of procedures required (one), and New Zealand the shortest time to fulfill them (0.5 days). Slovenia has the lowest cost (0.0), and Australia, Colombia and 103 other economies have no paid-in minimum capital requirement (table 2.2)

For each topic covered and for all topics, *Doing Business* uses a simple averaging approach for weighting component indicators, calculating rankings and determining the distance to frontier score.[4] Each topic covered by *Doing Business* relates to a different aspect of the business regulatory environment. The distance to frontier scores and rankings of each economy vary, often substantially, across topics, indicating that strong performance by an economy in one area

TABLE 2.2 What is the frontier in regulatory practice in the areas measured by *Doing Business in Kenya 2016*?

Topic and indicator	Who set the frontier	Frontier	Worst performance
Starting a business			
Procedures (number)	FYR Macedonia; New Zealand	1	18[a]
Time (days)	New Zealand	0.5	100[b]
Cost (% of income per capita)	Slovenia	0.0	200.0[b]
Minimum capital (% of income per capita)	Australia; Colombia[c]	0.0	400.0[b]
Dealing with construction permits			
Procedures (number)	No economy was at the frontier as of June 1, 2015.	5	30[a]
Time (days)	Singapore	26	373[b]
Cost (% of warehouse value)	Qatar	0.0	20.0[b]
Building quality control index (0–15)	New Zealand	15	0[d]
Registering property			
Procedures (number)	Georgia; Norway; Portugal; Sweden	1	13[a]
Time (days)	Georgia; New Zealand; Portugal	1	210[b]
Cost (% of property value)	Saudi Arabia	0.0	15.0[b]
Quality of land administration index (0–30)	No economy has attained the frontier yet.	30	0[d]
Enforcing contracts			
Time (days)	Singapore	120	1,340[b]
Cost (% of claim)	Bhutan	0.1	89.0[b]
Quality of judicial processes index (0–18)	No economy has attained the frontier yet.	18	0[d]

Source: Doing Business database.
a. Worst performance is defined as the 99th percentile among all economies in the *Doing Business* sample.
b. Worst performance is defined as the 95th percentile among all economies in the *Doing Business* sample.
c. Another 103 economies also have a paid-in minimum capital requirement of 0.
d. Worst performance is the worst value recorded.

of regulation can coexist with weak performance in another. A quick way to assess the variability of an economy's regulatory performance is to look at its distance to frontier scores across topics. The Kyrgyz Republic, for example, has an overall distance to frontier score of 66.01, meaning that it is two-thirds of the way from the worst to the best performance. Its distance to frontier score is 92.94 for starting a business, 90.59 for registering property and 79.98 for dealing with construction permits. At the same time, it has a distance to frontier score of 34.66 for resolving insolvency, 43.95 for getting electricity and 49.49 for enforcing contracts.

Calculation of the distance to frontier score

Calculating the distance to frontier score for each economy involves two main steps. In the first step individual component indicators are normalized to a common unit where each of the 36 component indicators y (except for the total tax rate) is rescaled using the linear transformation (worst − y)/(worst − frontier). In this formulation the frontier represents the best performance on the indicator across all economies since 2005 or the third year in which data for the indicator were collected. Both the best performance and the worst performance are established every five years based on the *Doing Business* data for the year in which they are established, and remain at that level for the five years regardless of any changes in data in interim years. Thus an economy may set the frontier for an indicator even though it is no longer at the frontier in a subsequent year.

In the same formulation, to mitigate the effects of extreme outliers in the distributions of the rescaled data for most component indicators (very few economies need 700 days to complete the procedures to start a business, but many need nine days), the worst performance is calculated after the removal of outliers. The definition of outliers is based on the distribution for each component indicator. To simplify the process two rules were defined: the 95th percentile is used for the indicators with the most dispersed distributions (including minimum capital and the time and cost indicators), and the 99th percentile is used for number of procedures (figure 2.2).

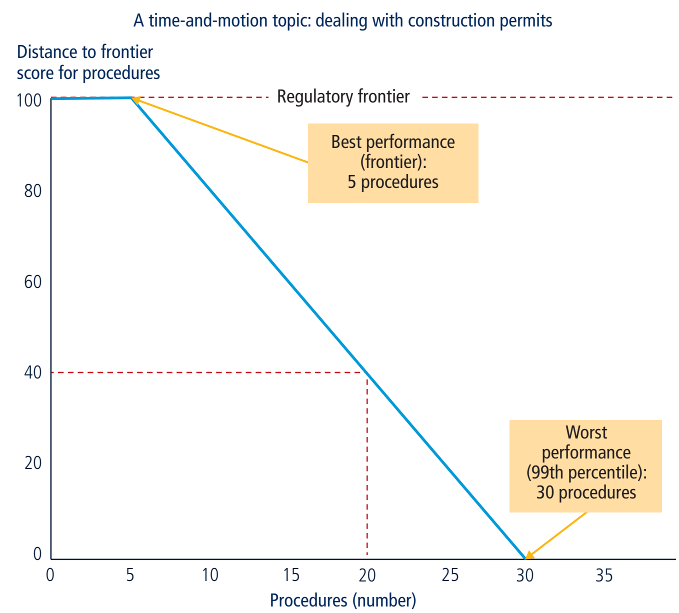
Second, for all counties in *Doing Business in Kenya 2016,* the obtained scores are presented for each measured and ranked topic: starting a business, dealing with construction permits, registering property and enforcing contracts. More complex aggregation methods—such as principal components and unobserved components—yield a ranking nearly identical to the simple average used by *Doing Business.*[5] Thus *Doing Business* uses the simplest method: weighting all topics equally and, within each topic, giving equal weight to each of the topic components.[6]

A county's distance to frontier score is indicated on a scale from 0 to 100, where 0 represents the worst performance and 100 the frontier. All distance to frontier calculations are based on a maximum of five decimals. However, indicator ranking calculations and the ease of doing business ranking calculations are based on two decimals.

WHAT DOES *DOING BUSINESS IN KENYA 2016* NOT MEASURE?

Doing Business does not cover many important policy areas, and even within the areas it covers its scope is narrow (table 2.3). *Doing Business* does not measure the full range of factors, policies and institutions that affect the quality of an economy's business environment or its national competitiveness. It does not, for example, capture aspects of security, market size, macroeconomic stability, the state of the financial system,

FIGURE 2.2 How are distance to frontier scores calculated for indicators? An example



Source: Doing Business database.

TABLE 2.3 What *Doing Business* does not cover

Examples of areas not covered
Macroeconomic stability
State of the financial system
Level of training and skills of the labor force
Prevalence of bribery and corruption
Market size
Security
Examples of aspects not included within the areas covered
In paying taxes, personal income tax rates
In getting credit, the monetary policy stance and the associated ease or tightness of credit conditions for firms
In trading across borders, export or import tariffs and subsidies

the prevalence of bribery and corruption or the level of training and skills of the labor force.

Even within the relatively small set of indicators included in *Doing Business,* the focus is deliberately narrow. The trading across borders indicators, for example, capture the time and cost required for the logistical process of exporting and importing goods, but they do not measure the cost of tariffs or of the international transport. Thus through these indicators *Doing Business* provides a narrow perspective on the infrastructure challenges that firms face, particularly in the developing world. It does not address the extent to which inadequate roads, rail, ports and communications may add to firms' costs and undermine competitiveness (except to the extent that the trading across borders indicators indirectly measure the quality of ports). Similar to the indicators on trading across borders, those on starting a business do not cover all aspects of commercial legislation. And while *Doing Business* measures only a few aspects within each area that it covers, business regulation reforms should not focus just on these aspects, because those that it does not measure are still important.

Doing Business does not attempt to measure all costs and benefits of a particular law or regulation to society as a whole. For example, the paying taxes indicators measure the total tax rate, which, in isolation, is a cost to businesses. The indicators do not measure, nor are they intended to measure, the benefits of the social and economic programs funded through tax revenues. Measuring quality and efficiency in business regulation provides one input into the debate on the regulatory burden associated with achieving regulatory objectives. These objectives can differ across economies. *Doing Business* provides a starting point for this discussion and should be used in conjunction with other data sources.

WHAT ARE THE STRENGTHS AND LIMITATIONS OF THE METHODOLOGY?

The *Doing Business* methodology was designed to be an easily replicable way to benchmark certain aspects of business regulation. It has advantages and limitations that should be understood when using the data (table 2.4).

A key consideration for the *Doing Business* indicators is that they should ensure comparability of the data across a global set of economies. The indicators are therefore developed around standardized case scenarios with specific assumptions. *Doing Business* recognizes the limitations of the standardized case scenarios and assumptions. But while such assumptions come at the expense of generality, they also help ensure the comparability of data. For this reason it is common to see limiting assumptions of this kind in economic indicators.

Some *Doing Business* topics are complex, and so it is important that the standardized cases are carefully defined. For example, the standardized case scenario usually involves a limited liability company or its legal equivalent. There are two reasons for this assumption. First, private, limited liability companies are the most prevalent business form for firms with more than one owner in many economies around the world. Second, this choice reflects the focus of *Doing Business* on expanding opportunities for entrepreneurship: investors are encouraged to venture into business when potential losses are limited to their capital participation.

TABLE 2.4 Advantages and limitations of the *Doing Business* methodology

Feature	Advantages	Limitations
Use of standardized case scenarios	Makes the data comparable across economies and the methodology transparent	Reduces the scope of the data and means that only regulatory reforms in the areas measured can be systematically tracked
Focus on largest business city[a]	Makes the data collection manageable (cost-effective) and the data comparable	Reduces the representativeness of the data for an economy if there are significant differences across locations
Focus on domestic and formal sector	Keeps the attention on where regulations are relevant and firms are most productive—the formal sector	Fails to reflect reality for the informal sector—important where that is large—or for foreign firms where they face a different set of constraints
Reliance on expert respondents	Ensures that the data reflect the knowledge of those with the most experience in conducting the types of transactions measured	Results in indicators that do not measure the variation in experiences among entrepreneurs
Focus on the law	Makes the indicators "actionable"—because the law is what policy makers can change	Fails to reflect the reality that where systematic compliance with the law is lacking, regulatory changes will not achieve the full results desired

a. Subnational *Doing Business* studies go beyond the largest business city within a country or region.

Another assumption underlying the *Doing Business* indicators is that entrepreneurs have knowledge of and comply with applicable regulations. In practice, entrepreneurs may not know what needs to be done or how to comply and may lose considerable time trying to find out. Alternatively, they may deliberately avoid compliance altogether—by not registering for social security, for example. Where regulation is particularly onerous, firms may opt for bribery and other informal arrangements intended to bypass the rules—an aspect that helps explain differences between the de jure data provided by *Doing Business* and the de facto insights offered by World Bank Enterprise Surveys.[7] In economies with particularly burdensome regulation, levels of informality tend to be higher. Compared with their formal sector counterparts, firms in the informal sector typically grow more slowly, have poorer access to credit and employ fewer workers—and these workers remain outside the protections of labor law.[8] Firms in the informal sector are also less likely to pay taxes. *Doing Business* measures one set of factors that help explain the occurrence of informality and give policy makers insights into potential areas of regulatory reform.

Rules and regulations fall under the direct control of policy makers—and they are often where policy makers start when intending to change the set of incentives under which businesses operate. *Doing Business* not only shows where problems exist in the regulatory framework; it also points to specific regulations or regulatory procedures that may lend themselves to reform. And its quantitative measures enable research on how specific regulations affect firm behavior and economic outcomes.

Many of the *Doing Business* indicators can be considered "actionable," measuring aspects over which governments have direct control. For example, governments can reduce (or even eliminate) the minimum capital requirement for new firms. They can invest in company and property registries to increase the efficiency of these public agencies. They can improve the efficiency of tax administration by adopting the latest technologies to facilitate the preparation, filing and payment of taxes by businesses. And they can undertake court reforms to shorten delays in the enforcement of contracts. On the other hand, some *Doing Business* indicators capture costs that involve private sector participants, such as lawyers, notaries, architects, electricians or freight forwarders—costs over which governments may have little influence in the short run.

While many *Doing Business* indicators are actionable, this does not necessarily mean that they are always "action-worthy" in a particular context.[9] And *Doing Business* data do not indicate which indicators are more "action-worthy" than others. Business regulation reforms are one element of a strategy aimed at improving competitiveness and establishing a solid foundation for sustainable economic growth. There are many other important goals to pursue—such as effective management of public finances, adequate attention to education and training, adoption of the latest technologies to boost economic productivity and the quality of public services, and appropriate regard for air and water quality to safeguard people's health. Governments have to decide what set of priorities best fits the needs they face. To say that governments should work toward a sensible set of rules for private sector activity does not suggest that they should be doing so at the expense of other worthy economic and social goals.

HOW ARE THE DATA COLLECTED?

The *Doing Business* data are based on a detailed reading of domestic laws and regulations as well as administrative requirements. The data are collected through several rounds of interaction with expert respondents (both private sector practitioners and government officials)—through responses to questionnaires, conference calls, written correspondence and visits by the team. *Doing Business* relies on several main sources of information: the relevant laws and regulations, private sector respondents, government officials, court officials and World Bank Group staff. For a detailed explanation of the *Doing Business* methodology, see the data notes.

Relevant laws and regulations

Doing Business in Kenya 2016 indicators are based on laws and regulations. Besides participating in interviews or filling out written questionnaires, *Doing Business in Kenya* respondents provided references to the relevant laws, regulations and fee schedules, which were collected and analyzed by the *Doing Business in Kenya* team.

For the rest of the data, the team conducts extensive consultations with multiple contributors to minimize measurement error. For some indicators—for example, those on dealing with construction permits and enforcing contracts—the time component and part of the cost component (where fee schedules are lacking) are based on actual practice rather than the law on the books. This introduces a degree of judgment by respondents on what actual practice looks like. When respondents disagree, the time indicators reported by *Doing Business in Kenya 2016* represent the median values of several responses given under the assumptions of the standardized case.

Doing Business in Kenya 2016 respondents

Over 200 professionals participated in the study, providing the data that inform the four *Doing Business* indicators. The subnational *Doing Business* website and the acknowledgments section of this report list the names and credentials of those respondents wishing to be acknowledged. Respondents are professionals who routinely administer or advise on the legal and regulatory requirements in the specific areas covered by *Doing Business* *in Kenya 2016,* selected on the basis of their expertise in these areas. Because of the focus on legal and regulatory arrangements, most of the respondents are legal professionals, such as lawyers. Architects, engineers, physical planners, contractors and other professionals answer the questionnaires related to dealing with construction permits. Local government officials, representatives of national agencies and court officials also provided information that is incorporated into the indicators.

The *Doing Business in Kenya 2016* approach was to work with legal practitioners and other professionals who regularly undertake the transactions involved. Following the standard methodological approach for time-and-motion studies, *Doing Business* breaks down each process or transaction, such as starting a business or registering a building, into separate steps to ensure a better estimate of time. The time estimates for each step are provided by practitioners who have significant and routine experience in the transaction.

Doing Business does not survey firms for two main reasons. The first relates to the frequency with which firms engage in the transactions captured by the indicators, which is generally low. For example, a firm goes through the start-up process once in its existence, while an incorporation lawyer may carry out 10 such transactions each month. The incorporation lawyers and other experts providing information to *Doing Business* are therefore better able to assess the process of starting a business than are individual firms. They also have access to the latest regulations and practices, while a firm may have faced a different set of rules when incorporating years before. The second reason is that the *Doing Business* questionnaires mostly gather legal information, which firms are unlikely to be fully familiar with. For example, few firms will know about all the many legal procedures involved in resolving a commercial dispute through the courts, even if they have gone through the process themselves. But a litigation lawyer should have little difficulty in providing the requested information on all the procedures.

Governments and World Bank Group staff

After analyzing laws and regulations and conducting follow-up interviews with *Doing Business in Kenya 2016* respondents, the subnational *Doing Business* team shared preliminary findings of the report with governments and public agencies operating at the national and local levels. Through this process, government authorities had the opportunity to comment on the preliminary data, in meetings with World Bank Group staff as well as in writing. Having public officials discuss and comment on the preliminary results has proven to be an important activity, not only to improve the quality of the report, but also to enhance the dialogue between the local governments and the World Bank Group at the subnational level.

NOTES

1. The focus of the *Doing Business* indicators remains the regulatory regime faced by domestic firms engaging in economic activity in the largest business city of an economy. *Doing Business* was not initially designed to inform decisions by foreign investors, though investors may in practice find the data useful as a proxy for the quality of the national investment climate. Analysis done in the World Bank Group's Global Indicators Group has shown that countries that have sensible rules for domestic economic activity also tend to have good rules for the activities of foreign subsidiaries engaged in the local economy.
2. For more on the World Bank Enterprise Surveys, see the website at http://www.enterprisesurveys.org.
3. These papers are available on the *Doing Business* website at http://www.doingbusiness.org/methodology.
4. For getting credit, indicators are weighted proportionally, according to their contribution to the total score, with a weight of 60% assigned to the strength of legal rights index and 40% to the depth of credit information index. In this way each point included in these indices has the same value independent of the component it belongs to. Indicators for all other topics are assigned equal weights. For more details, see the chapter on the distance to frontier and ease of doing business ranking in *Doing Business 2016.*
5. See Djankov, Simeon, Darshini Manraj, Caralee McLiesh and Rita Ramalho. 2005. "Doing Business Indicators: Why Aggregate, and How to Do It." World Bank, Washington, DC. Principal components and unobserved components methods yield a ranking nearly identical to that from the simple average method because both these methods assign roughly equal weights to the topics, since the pairwise correlations among indicators do not differ much. An alternative to the simple average method is to give different weights to the topics, depending on which are considered of more or less importance in the context of a specific economy.
6. For getting credit, indicators are weighted proportionally, according to their contribution to the total score, with a weight of 60% assigned to the strength of legal rights index and 40% to the depth of credit information index. Indicators for all other topics are assigned equal weights.
7. Hallward-Driemeier, Mary, and Lant Pritchett. 2015. "How Business Is Done in the Developing World: Deals versus Rules." *Journal of Economic Perspectives* 29 (3): 121–40.
8. Schneider, Friedrich. 2005. "The Informal Sector in 145 Countries." Department of Economics, University Linz, Linz. Also: La Porta, Rafael, and Andrei Shleifer. 2008. "The Unofficial Economy and Economic Development." Tuck School of Business Working Paper 2009-57, Dartmouth College, Hanover, NH. Available at Social Science Research Network (SSRN). http://ssrn.com/abstract=1304760.
9. One study using *Doing Business* indicators illustrates the difficulties in using highly disaggregated indicators to identify reform priorities (Kraay, Aart, and Norikazu Tawara. 2013. "Can Specific Policy Indicators Identify Reform Priorities?" *Journal of Economic Growth* 18 (3): 253–83).

Starting a business

Between 2008 and 2014, the number of new limited liability companies formally registered in Kenya increased by more than 2.5 times.[1] This may be an outcome of government incentives to register businesses. In Kiambu (Thika), for example—a top performing county in Kenya in 2012 and again in 2016—the Kiambu County Government adopted a fund to promote entrepreneurship in 2014. The Biashara Fund offers a capital advance of up to KES 100,000 ($1,090) to individual entrepreneurs who are young, female, with disabilities or low-income. The same fund offers KES 500,000 ($5,453) to eligible groups seeking to start a business or already operating a small enterprise in the county.[2]

However, much remains to be done. Kenya's informal sector accounts for 82.7% of employment, according to the 2015 Economic Survey conducted by the Kenya National Bureau of Statistics.[3] Informal firms cannot seek legal protections nor access the court system if, for instance, the company is threatened with insolvency. When businesses are formally registered, they also have better access to credit from banks and other financial institutions. Entrepreneurs themselves benefit, too. Establishing a limited liability company helps entrepreneurs protect their own personal assets as they make investments and take on financial risk in search of business growth.

WHAT DOES STARTING A BUSINESS MEASURE?

Doing Business records all procedures officially required, or commonly done in practice, for an entrepreneur to start up and formally operate an industrial or commercial business, as well as the time and cost to complete these procedures and the paid-in minimum capital requirement (figure 3.1). To make the data comparable across 189 economies, *Doing Business* uses a standardized business that is 100% domestically owned, has start-up capital equivalent to 10 times income per capita, engages in general industrial or commercial activities, and employs between 10 and 50 people within the first month of operation.

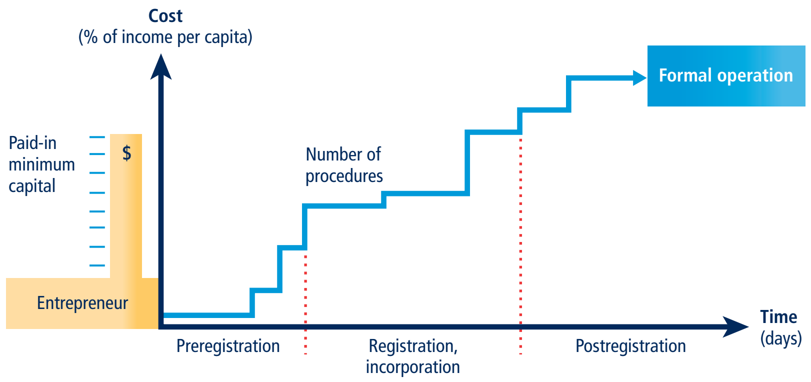
HOW DOES STARTING A BUSINESS WORK IN KENYA?

The new Companies Law governing business start-up across Kenya was adopted in September 2015. Many provisions came into effect in November 2015 (box 3.1). The same seven procedures take 23 days and cost 22.0% of income per capita, on average, in all benchmarked counties. There is no paid-in minimum capital requirement. Compared to other economies in Sub-Saharan Africa, starting a business in Kenya is less burdensome, faster and cheaper, on average (figure 3.2). However, in South Africa starting a business is even more affordable, as it costs only 0.3% of income per capita across the country.

The Registrar of Companies has only one office located in Nairobi, which means that entrepreneurs from all over Kenya must travel to the capital for registration. Many entrepreneurs take advantage of their trip to Nairobi to complete the reservation of the

- Compared to other Sub-Saharan African economies, starting a business in Kenya is less burdensome, faster and cheaper, on average, thanks to the implementation of several reforms.
- Starting a business in Kenya is easiest in Uasin Gishu (Eldoret) where it takes 20 days and costs, on average, 20.4% of income per capita. It takes seven procedures to start a business across all counties.
- While the registration process in Kenya remains centralized in Nairobi, the establishment of one-stop shops (called Huduma Centers) across the country eases the registration process by allowing certain requirements, such as the reservation of a company name, to be completed there.
- In September 2015, Kenya adopted a new Companies Act, which among other achievements, no longer requires a notarized declaration of compliance when registering a company.
- Kenya eliminated its stamp duty on the memorandum and articles of association and the statement of nominal capital in April 2016.

FIGURE 3.1 What are the time, cost, paid-in minimum capital and number of procedures to get a local limited liability company up and running?



company name at the same time, even though this step could also be completed in their respective hometowns. The postregistration requirements—obtaining the business permit and the company seal, as well as dealing with the local branches of the Kenya Revenue Authority, the National Social Security Fund (NSSF) and the National Hospital Insurance Fund (NHIF)—are mostly initiated or completed locally. It is easier to start a business in Uasin Gishu (Eldoret), Kiambu (Thika) and Machakos and where it takes 20 to 21 days and costs between 19.1% and 20.9% of income per capita. It is more difficult in Kakamega and Narok, where it takes 26 to 27 days and, in the case of Kakamega, costs approximately 25.6% of income per capita (table 3.1).

In Uasin Gishu (Eldoret), the top performing county in 2016, the county government has focused its efforts on supporting formally registered businesses. It adopted a legal notice in 2013 stipulating that any entity seeking to purchase goods and services through a procurement process must allocate at least 30% of the budget towards procuring goods and services from formally registered micro- and small enterprises owned by youth, women and persons with disabilities.[4]

The first step to start a business is reserving the company name (figure 3.3). While it may be reserved online through the "e-citizen" portal at http://www.ecitizen.go.ke, most applicants visit their local Huduma Center—a one-stop shop—and obtain the approval on the spot (box 3.2). Once the name is reserved, entrepreneurs can register the company, but this can only be done in Nairobi.

For tax registration, the directors of the company must first apply for personal identification numbers (PINs) online. Then they apply for the company identification number, value added tax

BOX 3.1 Kenya's new Companies Act

Kenya's new Companies Act of September 15, 2015 repeals the Companies Act, Chapter 486 of the Laws of Kenya from 1978. The new Companies Act recognizes the efficiencies brought about by technology. Companies may now communicate certain matters through their websites and submit documents electronically, such as giving notice of a general meeting. However, the exact electronic processes have yet to be defined.

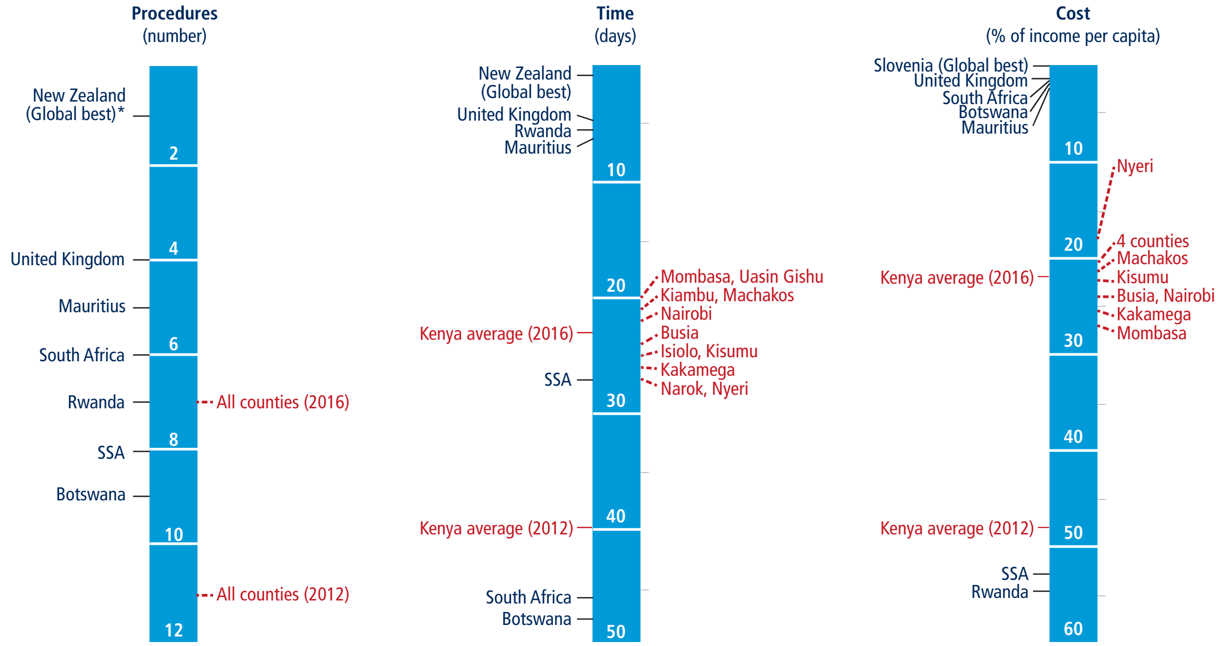
The new Companies Act will come into force in various phases, and it introduces several changes affecting the formation of a company:

- A company can now adopt articles of association from a template rather than create its own.
- A company no longer needs to have the declaration of compliance (Form 208) signed before a Commissioner for Oaths.
- A private company must have at least one director and a public company must have at least two. This is the same requirement under the repealed Companies Act; however the new Companies Act specifies that at least one director must be a natural person (i.e., an individual).
- The formation of a one-member private or public company is permissible. A person may also be a sole shareholder and director of a company. Previously, two shareholders were required to form a company.
- The company seal is no longer required.

Furthermore, under the repealed Companies Act, a company could only perform activities that were specified in its memorandum of association. This led to lengthy memorandums of association, with the aim of including every conceivable business activity. The new Companies Act provides that unless the articles of the company expressly restrict an activity, it is considered valid. The new Companies Act also introduces a small companies' regime for private companies. For example, small companies with a turnover of less than KES 720 million ($7.85 million) and net balance sheet assets of below KES 360 million ($3.93 million) are not required to have their financial statements audited.

Source: "The Companies Act No. 17 of 2015." September 15, 2015. http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/TheCompaniesAct_No17of2015_RevisedCompressed.pdf.

FIGURE 3.2 Starting a business is more efficient and cheaper in Kenya than in the average Sub-Saharan African economy



Source: Doing Business database.
Note: Data for Kenya for 2012 and 2016 represent the average for all 11 counties. The averages indicated for Kenya in 2012 reflect revisions to the data and capture the change in the sample (Garissa, Kilifi and Nakuru were discontinued and Machakos added). Data for SSA represent the average for the 48 Sub-Saharan African economies.
* In FYR Macedonia it also takes one procedure to start a business.

TABLE 3.1 Where is it easy to start a business in Kenya—and where not?

County ***(City/Town)***	**Rank 2016**	**Rank 2012**	**Distance to frontier** (score)	**Procedures** (number)	**Time** (days)	**Cost** (% of income per capita)
Uasin Gishu *(Eldoret)*	1	6	83.73	7	20	20.4
Kiambu *(Thika)*	2	2	83.64	7	21	19.1
Machakos *(Machakos)*	3	3	83.41	7	21	20.9
Mombasa *(Mombasa)*	4	4	82.91	7	20	26.9
Nairobi *(Nairobi)*	5	1	82.76	7	22	24.1
Isiolo *(Isiolo)*	6	9	82.44	7	25	20.6
Busia *(Malaba)*	7	8	82.26	7	24	24.1
Kisumu *(Kisumu)*	7	11	82.26	7	25	22.1
Nyeri *(Nyeri)*	7	10	82.26	7	27	18.1
Narok *(Narok)*	10	5	81.92	7	27	20.8
Kakamega *(Kakamega)*	11	6	81.57	7	26	25.6

Source: Doing Business database.
Note: There is no paid-in minimum capital requirement in Kenya. Rankings are based on the average distance to frontier (DTF) score of procedures, time, cost and paid-in minimum capital associated with starting a business. The DTF measure is normalized to range between 0 and 100, with 100 representing the frontier of best practices (the higher the score, the better). The 2012 rankings are adjusted: they capture the change in the sample (Garissa, Kilifi and Nakuru were discontinued and Machakos added), data revisions and changes in the method of calculating the ranking. For more details, see the *About Doing Business and Doing Business in Kenya 2016* chapter.

(VAT) and pay-as-you-earn (PaYE) tax at the local office of the Kenya Revenue Authority. Upon completion of tax registration, the application for the local business permit,[5] as well as registration with the NSSF and the NHIF can be done at most Huduma Centers across Kenya. However, many applicants still visit the three local offices of the three respective agencies, perhaps as a matter of habit or due to lack of awareness that this service is available at the one-stop shops.

Lastly, it is still customary for entrepreneurs to obtain a company seal, even though it is no longer required under the new Companies Act.[6] In five counties[7] there are no authorized private dealers and entrepreneurs order the seals in Nairobi to be delivered by courier.

The time it takes to start a business ranges from 20 days, in Mombasa and Uasin Gishu (Eldoret), to 27 days, in Narok and Nyeri, with nearly half of the time spent on registration (applying and then waiting for the certificate of registration). Obtaining the local

FIGURE 3.3 Starting a business in Kenya involves seven procedures

Preregistration

- Reserve unique company name

Registration

- Apply for company registration and obtain certificate of registration from the Companies Registry

Postregistration

- Register for taxes at the Kenya Revenue Authority
- Apply for a business permit
- Register with the National Social Security Fund (NSSF)
- Register with the National Hospital Insurance Fund (NHIF)
- Make a company seal

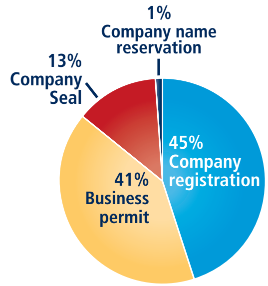
Source: Doing Business database.

business permit is one source of variation in the times. It takes just two days in Isiolo, Kiambu (Thika), Mombasa and Uasin Gishu (Eldoret), running up to eight days in Narok. The main source of delay is the mandatory inspection of the office premises—a prerequisite for a business permit. In Machakos, where it takes four days, the chief officer must sign the application before a business permit can be issued, which can add two or three days in itself. Obtaining the company seal takes two days in Machakos, Mombasa, Nairobi and Uasin Gishu (Eldoret) and seven days in Isiolo.

Setting up a company in Kenya costs 22.0% of income per capita, on average, which is below the global average of 26.1%. Registration fees (levied by the Companies Registry) and business permit fees (levied by the counties) account for more than 85% of the total cost (figure 3.4). The registration fee is a fixed fee of KES 10,000 ($109), regardless of the company's nominal capital.

While the cost of company registration is the same across Kenya, the business permit fees are regulated at the county level and vary widely across counties.[8] The business permit costs KES 6,300 ($69) in Nyeri, but an entrepreneur in Mombasa pays more than double at KES 15,500 ($169). Some counties charge additional fees. For example, seven counties[9] charge an application fee ranging from KES 200 ($2) in Nairobi to KES 600 ($7) in Machakos.

FIGURE 3.4 Registration fees and business permit fees account for 86% of the total cost, on average



Source: Doing Business database.

Kisumu charges an inspection fee of KES 400 ($4) and Machakos charges a fire safety inspection fee equivalent to 10% of the business permit fee. And finally, Machakos and Narok both charge a solid waste management fee of KES 1,000 ($11)[10] and KES 1,300 ($14), respectively (figure 3.5). The company seal costs KES 3,000 ($33) to KES 4,000 ($44).

Travel costs to the Registrar of Companies in Nairobi range from KES 300 ($3) for an entrepreneur based in Kiambu (Thika) to KES 3,000

BOX 3.2 The growing role of Huduma Centers in the business start-up process across Kenya

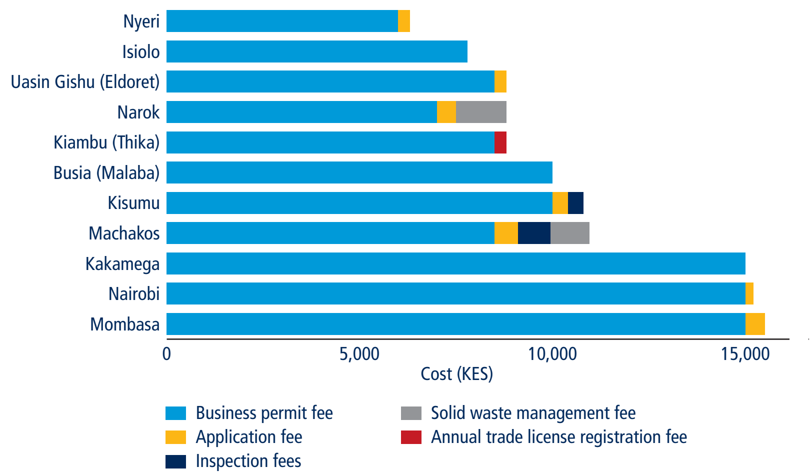
The first Huduma Center was established in Nairobi in November 2013. One-stop business registration, along with related procedures, is among the many services offered by the center. In Nairobi, entrepreneurs can visit two of the three Huduma Center branches—the general post office or city square branch—and complete all business registration and most postregistration procedures.

For entrepreneurs living outside of Nairobi, the role of Huduma Centers as a one-stop shop for starting a business is still evolving. While the business name search and reservation can be done at any county Huduma Center, as of date, the actual registration process can only be completed at the Huduma Centers in Nairobi. Entrepreneurs in other counties may elect to submit registration documents to their local Huduma Center, but the documents will not be processed there. The center mails them to Nairobi and then waits three to four weeks for the documents to be mailed back. If the entrepreneur travels to Nairobi and conducts registration in person, he or she will save at least one to two weeks.

Once the business is registered with the Kenya Revenue Authority, the other postregistration requirements can be executed at the local Huduma Center in the 10 counties benchmarked here that have one. However, many citizens are still unaware of this offer and continue to visit the respective offices associated with the postregistration services they are seeking.

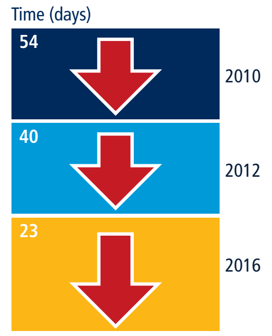
The effectiveness of the Huduma Centers outside the capital will remain limited until the same services are available everywhere—particularly company registration. One way to fix this would be for the Companies Registry to hire representatives to serve customers at each county Huduma Center. Then they could receive company registration applications, process the information through the electronic database and issue a certificate of registration on the spot. This would better serve entrepreneurs living outside of Nairobi.

FIGURE 3.5 Business permit fees in Mombasa are nearly 2.5 times as expensive as Nyeri



Source: Doing Business database.

FIGURE 3.6 Today a Kenyan entrepreneur spends one month less starting a business than in 2010



Source: Doing Business database.
Note: Data for Kenya for 2010, 2012 and 2016 represent the average for all 11 counties. The averages indicated for Kenya in 2010 and 2012 reflect revisions to the data and capture the change in the sample (Garissa, Kilifi and Nakuru were discontinued and Machakos was added).

($33) for one based in Busia (Malaba) or Mombasa. Entrepreneurs in Isiolo also incur a transportation fee to travel to the nearest local office of the Kenya Revenue Authority and entrepreneurs in Busia (Malaba) must travel to Bungoma for tax registration and the hospital insurance fund registration. Towns and cities that do not have authorized company seals dealers pay for courier fees to deliver the seal from Nairobi or the nearest location with a dealer.

WHAT HAS CHANGED?

Doing Business in Kenya 2012 showed significant improvements in business-entry regulations between 2010 and 2012. All 13 counties assessed in *Doing Business in Kenya 2012* had implemented national and/or local reforms that made it easier to start a business. As a result, the time required dropped by 25%, from 54 days in 2010 to 40 days in 2012 (figure 3.6). Four years later, the story continues to be promising; it is nearly another 50% faster, on average, to start a business across Kenya, thanks to a number of positive initiatives undertaken by the government.

Accelerating the reform momentum can and should continue in order not to be left behind: A competing firm in Rwanda only waits 5.5 days to start their business.

Since 2012, Kenya has implemented two major reforms at the national level that affected all counties as well as one reform at the local level. Not only did these reforms significantly reduce the time required, but they also reduced the number of interactions an entrepreneur must undergo by one-third, from 11 to 7.

The first major reform was the new Companies Act of September 2015 (box 3.1), which impacted businesses nationwide. The new Companies Act no longer requires the declaration of compliance (Form 208) to be signed before a Commissioner for Oaths. Entrepreneurs now submit a notice of appointment of directors (Form CR6) and a notice of address (Form CR8), which only have to be signed by the directors and do not need to be notarized. Furthermore, under the new Companies Act, obtaining a company seal is now optional. However, in practice, entrepreneurs continue to use the seal as an additional means of validating documents, partly as a matter of habit and partly due to lack of trust in the legality of documents without a seal.

The second major reform was eliminating the stamp duty on the memorandum and articles of association and on the statement of nominal capital, as per Legal Notice No. 60, adopted in April 2016. This measure significantly reduces the cost of starting a business for entrepreneurs. Prior to this change, entrepreneurs were required to pay 1% of the nominal capital and KES 2,000 ($22) on the memorandum and articles of association. In addition to saving money, entrepreneurs can also skip three procedures (table 3.2).

In addition, Kenya adopted Legal Notice No. 61, also in April of 2016, which sets a fixed registration fee of KES 10,000 ($109), regardless of the company's nominal capital, given that processing the documentation for all companies requires the same time and resources.

At the local level, the main reform was the result of the newly established Huduma Centers, which are one-stop shops (box 3.2). Before, reserving the company name could only be done at the Companies Registry in Nairobi, which took three days plus travel time for entrepreneurs from out of town. Now it can be done at any Huduma Center across the country in just one day, thanks to an electronic database of company names. The only exception is Narok where no Huduma Center has been established. In this case, entrepreneurs must still visit the Huduma Center in Nairobi.

With respect to cost, business permit fees increased in Busia (Malaba), Isiolo and Kakamega.[11]

Mombasa is in the process of making it easier to obtain a business permit. It implemented a new e-business permit system, pursuant to the Mombasa County Trade Licensing Amendment Act of 2015.[12] The automated system processes permit applications for new businesses as well as permit renewals. Entrepreneurs can apply online via http://ebusinesspermit.mombasa.go.ke and pay fees electronically. Once a provisional permit is printed—which can take up to two days, because the system is not fully stable—operations can commence. After the inspection is done, the Mombasa County Government has 30 days from the submission date of the application to issue the final permit. By March 2016, 18,857 business permit registrations were processed by the electronic system and revenues had increased by 1.8%[13] compared to March 2015, despite keeping fees flat for the majority of business categories.[14] Mombasa has been keen to share its experiences with other counties. In April 2016, the Mombasa County Government hosted Nairobi, Kisumu, Narok, Meru and Nyeri for peer-to-peer learning workshops on the electronic system.

TABLE 3.2 Who has made it easier to start a business since 2012?

County *(City/Town)*	Abolished requirement to submit notarized declaration of compliance	Abolished the stamp duty on the memorandum and articles of association and statement of nominal capital	Reduced time to reserve company name	Increased business permit fees
National reform	✔	✔		
Busia *(Malaba)*			✔	✘
Isiolo *(Isiolo)*			✔	✘
Kakamega *(Kakamega)*			✔	✘
Kiambu *(Thika)*			✔	
Kisumu *(Kisumu)*			✔	
Machakos *(Machakos)*			✔	
Mombasa *(Mombasa)*			✔	
Nairobi *(Nairobi)*			✔	
Narok *(Narok)*				
Nyeri *(Nyeri)*			✔	
Uasin Gishu *(Eldoret)*			✔	

Source: Doing Business database.

Note: This table records local and national *Doing Business* reforms and changes that occurred between March 2012 and April 15, 2016. The time to reserve a company name was also reduced in Narok, but this is a result of the time having been reduced in Nairobi. There is no Huduma Center in Narok and therefore the name reservation must be done in Nairobi.

✔ *Doing Business* reform making it easier to start a business

✘ *Doing Business* change making it more difficult to start a business

WHAT CAN BE IMPROVED?

Step up the communications campaign to educate the public about reforms and foster their implementation

Sixty-three percent of the economies measured by *Doing Business* do not require a company seal to legalize documents and many others make standardized articles of association publicly available, saving small businesses time and money. In Kenya, the new Companies Act of 2015 did just that—yet company seals are still widely used. In addition, the new Huduma Centers make business start-up easier and more convenient for entrepreneurs across Kenya. But not everyone is aware of these changes. Despite the Huduma Centers' public awareness campaign in 10 counties, including the use of print media and the radio, many people remain unaware of the one-stop shops. As a result, the majority of entrepreneurs, particularly those living outside of Nairobi, continue to use outdated or unnecessary processes.

Some of the main challenges faced when introducing reforms are a poor public understanding of the issues, a lack of ownership by those affected by changes, an uneven distribution of reform benefits, general inertia (or lack of support), and weak transmission channels. An effective communication strategy can help overcome obstacles, preventing reforms from going unnoticed or even remaining on the books without being implemented.

Nigeria was facing similar challenges after adopting several reforms. In response, Nigeria's Corporate Affairs Commission, in partnership with the Nigerian Investment Promotion Agency, launched an awareness campaign in 2014 called "Running a Business in Nigeria." The threefold aim of the campaign was to promote the benefits of formally registering to small and medium-size enterprises, to create awareness of recent reforms and to increase new business registrations across the country. The campaign was launched in Kaduna, Kano, Cross River and Lagos and featured public-private dialogue forums with key stakeholders.

Streamline and merge preregistration procedures

In many countries, a company's name reservation is carried out along with its registration application. This is already theoretically possible in Kenya, because staff at Huduma Centers can check a centralized electronic database when conducting a name search. Similarly, the name reservation fee could be charged along with registration fees. Merging these two procedures into one would save entrepreneurs from having to make a second visit to the Huduma Center.

In July 2008 Ghana made its business start-up process easier by merging the procedure to reserve the company name with the submission of company documents. A customer service office was created for this purpose. Similarly, in May 2009, Rwanda attached its name search to the single registration procedure available at the main desk of the Commercial Registration Department. Company registrar books are available in this service area, allowing the Commercial Registration Department representative to check the availability of a name while also reviewing and accepting the company's application form and payment.

Enable the Huduma Centers across the country to register a business

Currently, entrepreneurs across Kenya must travel to Nairobi to apply for incorporation. To save them time and money, the Huduma Centers in counties outside of Nairobi could be authorized to complete the registration process as well. The Companies Registry could consider hiring representatives for each of the county Huduma Centers to receive company registration applications, process the information through the electronic database and issue a certificate of registration. This way, both the registration process and the quality control would be carried out locally, at the county Huduma Center. The certificate would then be scanned into the central database, the same one currently accessed by staff in Nairobi. Since Huduma Centers already have full access to the name-reservation electronic database, granting access to the company-registration database would not require a new system. It would, however, require a significant investment in training and hiring appropriate staff. It would also require purchasing more computers and scanners for each Huduma Center.

Streamline all registration and postregistration procedures

Once Huduma Centers are mandated with registering a business across all counties, all registration and postregistration procedures could be merged into a single step. As of May 2016, Kenya's government had taken a positive step in this direction: It adopted a unified registration form allowing entrepreneurs to use one form to apply for company registration, tax registration (assuming the directors already obtained their PINs online) and registration with the NSSF and the NHIF. There is currently a representative from the Kenya Revenue Authority, the NSSF and the NHIF at the Companies Registry; they each process their respective registrations. However, the practical impact of this change still remains to be seen. Looking ahead, the government needs to ensure that this same form is adopted at the county Huduma Centers, once the registration process is decentralized. In the future, the government may also consider streamlining the business permit process with registration.

Allow for online registration and online payments

Over the past four years, Kenya has put technology to use to ease some of its business processes. Kenya's e-citizen portal was launched in 2014 and is managed by its national Information and Communication Technology (ICT) Authority. Currently, 15 different services are available through the portal, including applying for name reservation and obtaining a PIN. However, many users complain about connectivity issues and occasional glitches in the system. As a result, they prefer to apply in person. In the short-term, efforts should focus on optimizing the existing ICT platforms.

Kenya's government is also in the process of introducing an online registration system. However, an amendment to its Companies Act of 2015 will be required for the new system to take effect. This amendment would have to allow an electronic signature and stamping system to carry the same weight, and legal effect, as handwritten signatures and stamps. Once online registration is in place, the government could consider expanding its e-citizen portal to allow online applications for permits, social security and hospital insurance.

Other countries in the region have gone fully electronic with significantly positive results. In October 2006, all businesses in Mauritius began being registered through an integrated computerized system called CBRIS (for

Companies and Business Registration Integrated System) and now the application for incorporation and registration can be completed online. Mauritius' Commercial Registry grants access to information on new company registrations to the relevant authorities in charge of tax, social security and local issues through its Central Business Registration Database (CBRD). Tax registrations then take place automatically, along with a company registration. As a result, the time to start a business was reduced drastically—from a month and a half (46 days) to just seven days.

Automate postregistration procedures

In the long term, the government should link the databases of the NSSF, the NHIF and the Kenya Revenue Authority so that postregistration procedures are automated once company registration is completed. This would allow Kenya to finally have a centralized, complete, reliable repository of data on businesses. Such an initiative would require the exchange of data between the stakeholders involved in the process and hence an interoperable digital-technology-based platform. This initiative would help address another current deficiency in the system: the lack of a unique business identifier. Currently, there are several numbers issued during the process of registration—including the Companies Registry registration number, the PIN, the NSSF number and the NHIF number. In the current set-up, using a single business identification number would facilitate information exchanges. For the future, it could be pivotal in creating a seamless, online, real-time information system.

Moreover, having a centralized and reliable database could be a valuable resource for the government, providing reliable statistics on businesses and supporting the design of evidence-based policies in a number of regulatory areas (e.g., tax, licensing, trade, and sector specific areas). And making the database publicly accessible could help the private sector conduct useful market research.

Implement and enforce a risk-based approach to issuing business permits and make them easier to attain

All businesses—regardless of their types of activity—must obtain a business permit from their respective home county to commence operations in Kenya. Furthermore, all types of workspaces are subject to a physical inspection by a county officer. The time it takes to obtain a permit ranges from two to eight days, mainly because of the time it takes to send a county officer to conduct an inspection. This poses a significant cost to entrepreneurs. Business permits or licenses should be used to achieve a specific regulatory objective, such as protecting the environment, public safety or health. Simple activities, such as selling greeting cards, should not require any type of licenses or permits. For example, in South Africa, only businesses that supply meals or other perishable foodstuffs, or those that provide certain types of health facilities or entertainment are required to obtain a license to start operating.

Regulation and compliance strategies that are focused on hazardous activities and/or non-compliant businesses can reduce the burden on less risky businesses. Kenya could consider adopting a risk-based system applicable across all counties. This would entail classifying risk to then determine priorities and enforcement strategies. For instance, high-risk business activities that pose potentially serious threats to the public might require an ex-ante inspection, while medium-risk activities might have ex-post inspections, conducted after business operations have commenced. And for low-risk businesses, self-declaration may suffice.

Additionally, efforts should be made to simplify the permit process and lower its cost. Mombasa implemented an electronic system, where permits can be applied for online and provisional permits are issued immediately. This portal could be nationalized to cover all counties. The permit-fee structure should also be simplified, as there are over 80 different rate types available, making it difficult for entrepreneurs to identify which category to pay for. Although the fee structure was intended to be progressive, allowing smaller businesses to pay less than larger ones, the vast array of categories ends up increasing the complexity of administration and creates opportunities to negotiate the terms. (For example, dealing with a hotel that also has a restaurant, bar, and/or retail shop might be complicated and/or open to interpretations.) Permit-fee definitions were intended to be based on objective criteria, such as floor space and the number of employees or vehicles, but a complex structure increases the temptations for businesses to "hide" workers or vehicles or claim floor space is used for non-business purposes. Efforts should be made to streamline fee categories and increase transparency by posting information on fee schedules in municipal offices and on their websites. Currently, fee information can only be found at the end of a county Finance Act (and not all counties have placed their latest Finance Acts online).

NOTES

1. According to the World Bank Group Entrepreneurship Database, the number of new limited liability companies registered in 2008 was 17,896 and in 2014 it was 45,366 http://data.worldbank.org/indicator/IC.BUS.NREG.
2. County Government of Kiambu, Biashara Fund. http://www.kiambu.go.ke/index.php/departments/youth-sports-communication/investment-opportunities/402-procedures.
3. Kenya National Bureau of Statistics. April 29, 2015. "2015 Economic Survey Report." http://www.knbs.or.ke/index.php?option=com_phocadownload&view=category&download=720:economic-survey-2015&id=107:economic-survey-publications&Itemid=1181.
4. Article 31, Legal Notice No. 114 of the Public Procurement and Disposal Act. June 18, 2013.

5. The business permit is issued by the county government and the purview differs from county to county. For example, in Malaba, the Trade Licensing Department is responsible for issuing business permits, while in Nyeri the responsibility falls under the county government's Revenue Department.
6. Article 38, The Companies Act No. 17 of 2015. September 15, 2015. http: //kenyalaw.org/kl /fileadmin/pdfdownloads /Acts TheCompaniesAct_No17of2015 _RevisedCompressed.pdf.
7. These are Busia (Malaba), Isiolo, Kiambu (Thika), Narok and Nyeri.
8. In all counties, the business permit fee depends on the type of business activity, number of employees, size and location of the company's premises. For the case study assessed by *Doing Business*, which is involved in general industrial or commercial activities, the category in Kenya under each Finance Act is a medium trader, shop or retail service from five to 20 employees.
9. These are Kisumu, Machakos, Mombasa, Nairobi, Narok, Nyeri and Uasin Gishu (Eldoret).
10. KES 1,000 ($11) is the solid waste-management charge if the permit fee is less than KES 15,000 ($164). KES 2,000 ($22) is the charge if the permit is above KES 15,000 ($164).
11. Business permit fees were increased nominally across all counties. However, Kenya's income per capita also increased over the last four years. Therefore, relative to the country's income per capita, business permit fees actually dropped in all counties except Busia (Malaba), Isiolo and Kakamega. Similarly, registration fees more than doubled nominally since 2012 for the type of company assessed by *Doing Business*. However, relatively to the country's income per capita, registration fees are lower.
12. The e-business permit system is a result of a cooperation agreement signed with the World Bank Group Kenya Investment Climate Program 2.
13. Approximately KES 6.8 million ($74,155).
14. Statistics provided by the Department of Trade and Investment, Energy and Industry of the County Government of Mombasa.
15. The entrepreneur does not have to be present for the inspection.

Dealing with construction permits

- Obtaining all permits to build a warehouse and connect it to water and sewerage is faster in Kenya than in the average Sub-Saharan African economy. However, it involves an average of 17 procedures—an unusually high number that is three more than the global average. The average cost—3.8% of the warehouse value—is almost 3 percentage points below the Sub-Saharan African average, but varies greatly across counties.
- Dealing with construction permits is easiest in Kisumu and remains most difficult in Nairobi.
- Getting the building plans approved is the main driver of variation across counties. Requirements vary from just one procedure in Kiambu (Thika) to four in Isiolo and Kakamega. It takes only nine days to get the approvals in Busia (Malaba). Meanwhile, in Kiambu (Thika) constructors must wait two months. Fees for building plan approvals contribute the most to total costs—amounting to 42% of the total, on average—but vary greatly across counties.
- Most steps are governed at the county level. Only the environmental impact assessment and the registration of the construction project with the National Construction Authority are governed by the central government.
- Kisumu improved the most since 2012, moving up five places in the ranking to take the top spot. It implemented an e-permit system, and, as a result, the time to obtain approvals for plans dropped by more than 25%—from 30 days in 2012 to 22 days today.

In March 2016, a four-story residential building collapsed in Nairobi. Fortunately, no one was injured.[1] One month later, a six-story building collapsed in the same city and killed 49.[2] Building fires are also worrisome.[3] The fire fatality rate in Kenya is one of the worst worldwide—11 per 100,000 inhabitants, as compared to less than 1 per 100,000 in OECD countries.[4] As a result, the public is concerned over building safety. Inadequate control mechanisms and construction practices are big problems.

Sound regulation and robust control mechanisms help protect the public from unsafe buildings. Well-functioning building permitting and inspection systems also strengthen property rights, contribute to the process of capital formation, and fulfill a wide range of public policy objectives—including long-term land planning, environmental protection, water conservation, energy efficiency, and disaster risk mitigation.

WHAT DOES DEALING WITH CONSTRUCTION PERMITS MEASURE?

To measure the ease of dealing with construction permits, *Doing Business* records the procedures, time and cost required for a small or medium-size business to obtain the approvals needed to build a simple commercial warehouse and connect it to water and sewerage. This includes all the inspections and certificates needed before, during and after construction of the warehouse. To make the data comparable across 189 economies, it is assumed that the warehouse is in the periurban area of the analyzed business city, that it is not in a special economic or industrial zone, and that it will be used for the general storage of non-hazardous materials, such as books. In 2015, *Doing Business* added a building quality control index that measures the underlying quality of construction regulations and controls. The index accounts for one-fourth of the distance to frontier score (figure 4.1).

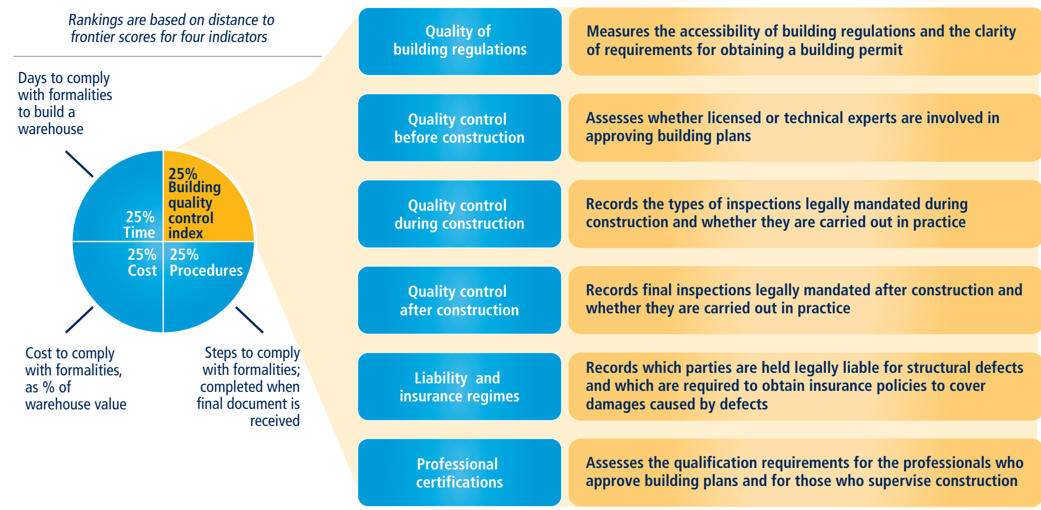
HOW DOES CONSTRUCTION PERMITTING WORK IN KENYA?

Kenya's building code[5] and the Physical Planning Act[6] establish the national regulatory framework. In addition, county governments have substantial authority, as they grant development permissions[7] and set costs.

Dealing with construction permits can be divided into 10 stages (figure 4.2), which require 14 steps in Kiambu (Thika) and 18 in Isiolo, Kakamega and Machakos. The high number of procedures—17 on average, is three more than the global average (figure 4.3). The entire process takes, on average, 108 days—two months faster than the average Sub-Saharan African economy (162 days). The average cost—3.8% of the warehouse value—is almost 3 percentage points below the Sub-Saharan African average but varies greatly across counties.

The average score in Kenya on the building quality control index is the same as

FIGURE 4.1 The building quality control index adds a new dimension to the dealing with construction permits indicator



in Botswana—8.2 out of 15 points. Scores range from 7 in Kakamega and Nairobi to 9 in Isiolo, Kiambu (Thika), Kisumu, and Machakos. Differences in scores stem from the availability of local information on building regulations and requirements and whether liability insurance—covering structural building flaws once the building is in use—is common practice (box 4.1).

It is easier to obtain a construction permit to build a warehouse and connect it to water and sewerage in Kisumu and Busia (Malaba) and, as in 2012, most difficult in Nairobi (table 4.1). In Kisumu, developers can obtain a construction permit in 15 steps, 98 days and at a cost of 3.5% of the warehouse value. In the country's largest city, Nairobi, the same process requires two more months (a total of 160 days) and twice the cost (7.1% of the warehouse value).

Depending on the county, from six to nine requirements must be fulfilled before construction can begin. The first step is obtaining a survey plan. The architectural and structural building plan approvals[8] take just one step in Kiambu (Thika), but four separate procedures in Isiolo and Kakamega (figure 4.4). In six counties[9] the building plans approval file is circulated internally across departments for review (e.g., the public roads, public health and fire departments). In the five remaining counties[10] the applicant must visit at least one county department in person. In seven counties[11] the applicant cannot submit the architectural and structural plans together: the architectural plans are submitted first and approved by a Town Planning officer; only then may the structural plans be

FIGURE 4.2 Seven of the 10 stages in the construction permitting process are governed at the county level

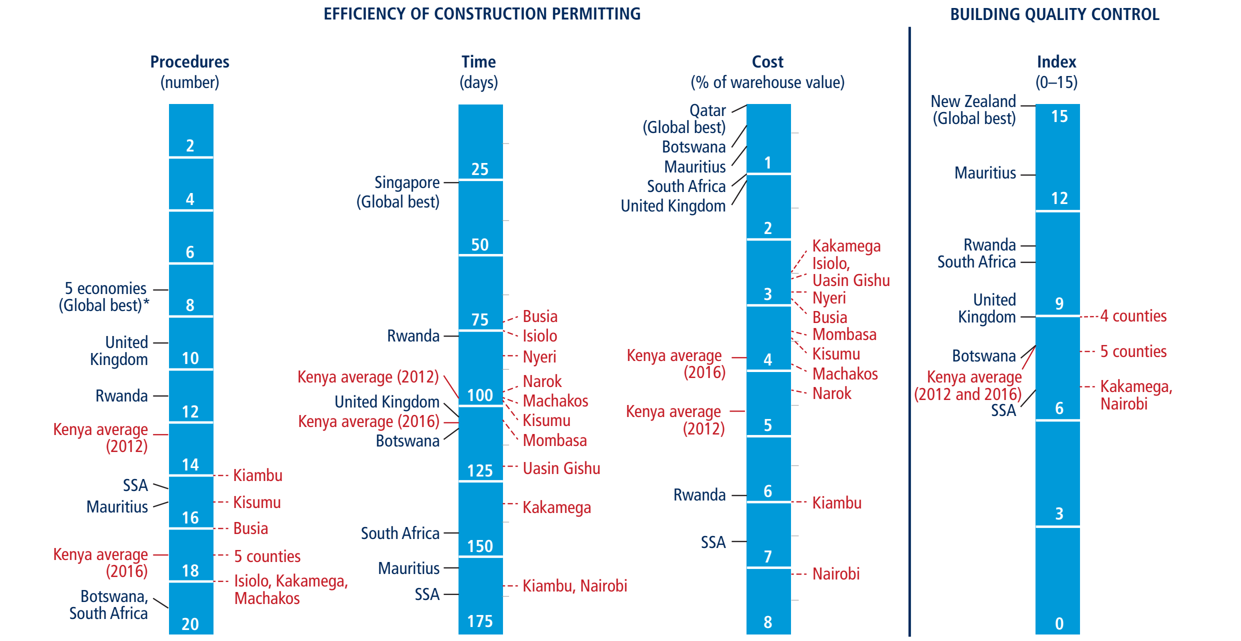
PROCEDURE	AGENCY
Before construction	
● Obtain a survey	Lands Office
● Obtain approval of the building plans	Physical Planning Department and other relevant departments
● Obtain a project report	Environmental expert
● Obtain approval of the environmental impact study	National Environment Management Authority
● Register the construction project	National Construction Authority
● Notify about commencement of construction works	Physical Planning Department
During construction	
● Receive inspections to confirm compliance of the construction with the approved plans	Building Control Section
After construction	
● Receive final inspection to confirm compliance of the construction with the approved plans	Building Control Section and relevant departments
● Obtain an occupancy certificate	Physical Planning Department
● Obtain water and sewage connections	Utility company

● County Government ● National Government ● Other

Source: Doing Business database.

Note: These stages are common to all counties benchmarked. Additional requirements may apply in specific counties.

FIGURE 4.3 Dealing with construction permits across Kenyan counties involves a high number of requirements



Source: Doing Business database.

Note: Data for Kenya for 2012 and 2016 represent the average for all 11 counties. The averages indicated for Kenya in 2012 reflect revisions to the data and capture the change in the sample (Garissa, Kilifi and Nakuru were discontinued and Machakos added). Data for SSA represent the average for the 48 Sub-Saharan African economies.

* These are Denmark, Georgia, Guyana, Marshall Islands and Sweden.

TABLE 4.1 Where is dealing with construction permits easy in Kenya—and where not?

County *(City/Town)*	Rank 2016	Rank 2012	Distance to frontier (score)	Procedures (number)	Time (days)	Cost (% of warehouse value)	Building quality control index (0–15)
Kisumu *(Kisumu)*	1	6	70.49	15	98	3.5	9
Busia *(Malaba)*	2	1	70.35	16	72	2.9	8
Isiolo *(Isiolo)*	3	2	70.18	18	75	2.6	9
Nyeri *(Nyeri)*	4	7	68.86	17	82	2.8	8
Machakos *(Machakos)*	5	8	67.11	18	96	3.9	9
Uasin Gishu *(Eldoret)*	6	5	66.34	17	120	2.6	8
Narok *(Narok)*	7	9	66.33	17	91	4.3	8
Mombasa *(Mombasa)*	8	3	66.22	17	107	3.4	8
Kiambu *(Thika)*	9	4	63.87	14	160	6.0	9
Kakamega *(Kakamega)*	10	10	63.02	18	130	2.5	7
Nairobi *(Nairobi)*	11	11	56.17	17	160	7.1	7

Source: Doing Business database.

Note: Rankings are based on the average distance to frontier (DTF) score of procedures, time, cost, and the building quality control index associated with dealing with construction permits. The DTF measure is normalized to range between 0 and 100, with 100 representing the frontier of best practices (the higher the score, the better). The 2012 rankings are adjusted: they capture the change in the sample (Garissa, Kilifi and Nakuru were discontinued and Machakos added), data revisions and changes in the method of calculating the ranking. For more details, see the *About Doing Business and Doing Business in Kenya 2016 chapter.*

submitted. The 2014 Environmental Management and Coordination Act requires, for all commercial construction, both a report by a certified expert to identify the potential negative impact on the environment and an approval by the National Environment Management Authority (NEMA). Contractors must also register the construction project with the National Construction Authority (NCA) before submitting the notification of commencement of works to Town Planning in each county.

During construction, three to five steps—including a permit to connect to the city sewage system and on-site inspections—are required. The "setting-out" and "foundation-excavation" inspections are mandatory in all counties. Six counties[12] require one more inspection while Machakos requires two more. The NEMA and the NCA may also conduct random inspections and order a project to be shut down if their conditions are not met.[13] While in Nairobi, the NCA inspects the construction site at least once, in the

BOX 4.1 The building quality control index, going beyond efficiency

In 2015 *Doing Business* added a building quality control index to assess the underlying quality of construction regulations and controls in six main areas (for a possible 15 points): quality of building regulations (2 points); quality control before (1 point), during (3 points) and after construction (3 points); liability and insurance regimes (2 points); and professional certifications (4 points).

Counties in Kenya show variation in two areas of the building quality control index

	Kakamega (Kakamega)	Nairobi (Nairobi)	Botswana	Busia (Malaba)	Mombasa (Mombasa)	Narok (Narok)	Nyeri (Nyeri)	Uasin Gishu (Eldoret)	United Kingdom	Isiolo (Isiolo)	Kiambu (Thika)	Kisumu (Kisumu)	Machakos (Machakos)	South Africa	Rwanda	Mauritius
Building quality control index (0–15)	**7**	**7**	**8**	**8**	**8**	**8**	**8**	**8**	**9**	**9**	**9**	**9**	**9**	**10.5**	**11**	**13**
Quality of building regulations (0–2)	1	1	1.5	2	2	2	2	1	2	2	2	2	2	2	1	2
Quality control before construction (0–1)	1	1	0	1	1	1	1	1	1	1	1	1	1	0	1	1
Quality control during construction (0–3)	1	1	2	1	1	1	1	1	3	1	1	1	1	2	2	2
Quality control after construction index (0–3)	2	2	3	2	2	2	2	2	3	2	2	2	2	3	2	3
Liability and insurance regimes (0–2)	0	0	1.5	0	0	0	0	1	0	1	1	1	1	0.5	2	2
Professional certifications (0–4)	2	2	0	2	2	2	2	2	0	2	2	2	2	3	3	3

Maximum points obtained   Areas with differences between Kenyan counties

Source: Doing Business database.

To measure the quality of building regulations, *Doing Business* assesses how accessible building regulations are and how clear the requirements and fees for obtaining a building permit are. Like 68% of economies globally, Kenyan counties have put their regulations online (1 point).[a] In eight out of 11 counties, applicants have access to a list of documents and preapproval requirements and are aware of the costs and where the documents must be submitted (1 point).

With regards to quality control before construction, the county governments in Kenya verify that the building plans are in compliance with the building regulations. In addition, licensed engineers actively participate in the committees in charge of approving the plans (1 point).

During construction, inspections are carried out by building control authorities—as seen in three-quarters of economies globally. These inspections are phased (1 out of 2 possible points) rather than risk-based.[b] Despite being mandated by law, in practice, inspections during construction do not occur all the time. Therefore, Kenyan counties score 0.

After construction, more than 80% of global economies require one or more government agencies to conduct the final inspection—as also seen in Kenya (2 points). Among the 176 economies requiring a final inspection, 15% of them rarely implement it in practice. That is also what happens in Kenya (0 points).[c]

Structural defects are often discovered after the building has been occupied. In most economies, liability is shared between the contractor and the architect, in some insurance is mandatory.[d] Obtaining a latent defect liability insurance policy to cover structural flaws in the building once it is in use is not required by law in Kenya (0 points). However, it is common practice that construction companies obtain such insurance in five counties (1 point).[e]

It is important that professionals have the necessary technical qualifications. In Kenya, the professional reviewing the plans is required to have a university degree in architecture or engineering and a minimum number of years of practical experience, and be a registered member of the national association of architects or engineers (2 points). As seen in 72% of economies, there is no need to pass a qualification exam. As for the professional who supervises the construction on-site, he/she is required to be a registered member of the national association of architects or engineers, have a minimum number of years of practical experience, and pass a qualification exam. However, in Kenya he/she is not required to have a university degree in engineering or construction (0 points).[f]

a. The building code and the Physical Planning Act are available online.

b. A score of 2 is assigned for one of the following options: (1) an in-house supervising engineer or, (2) an external supervising engineer or, (3) an external inspections firm is legally mandated to oversee the construction of the building throughout the entire construction period or, (4) a government agency is legally mandated to conduct phased inspections and if any party is legally mandated to conduct risk-based inspections.

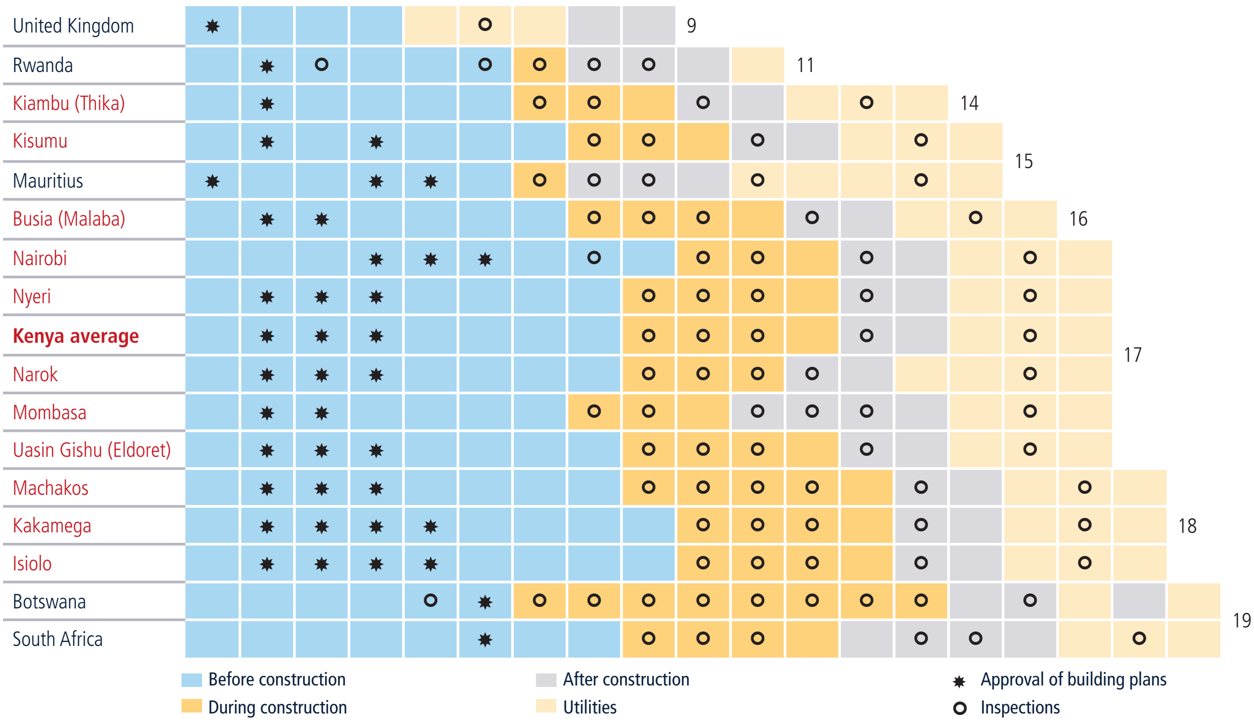
c. All Kenyan counties score 0. A score of 1 is assigned if the legally mandated inspections after construction always occur in practice.

d. A score of 1 is assigned if at least two of the following parties are held legally liable for structural flaws in the building once it is occupied: (1) the architect or engineer who designed the plans for the building, (2) the professional in charge of supervising the construction, (3) the professional or agency that conducted the inspections or the construction company.

e. These are Isiolo, Kiambu (Thika), Kisumu, Machakos and Uasin Gishu (Eldoret).

f. Here, a score of 0 is assigned because there is no requirement to hold a university degree.

FIGURE 4.4 There are six to nine requirements before construction commences



Source: Doing Business database.
Note: Inspections carried out by private professionals are not recorded.

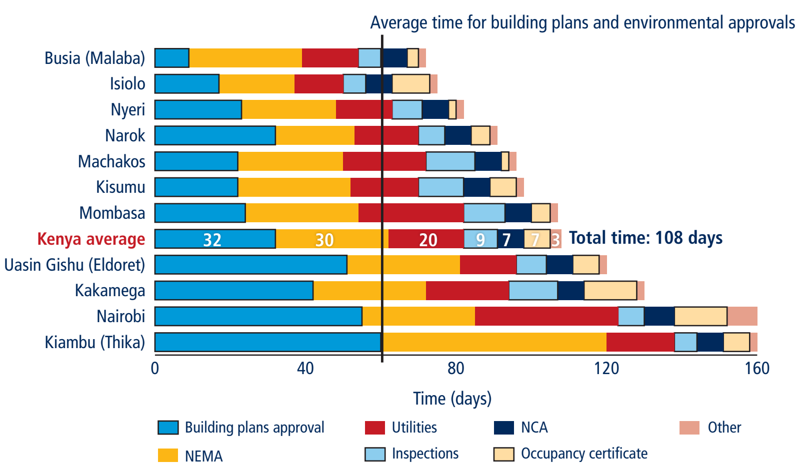
other 10 counties it is not implemented consistently.

After construction, the applicant notifies Town Planning of the works' completion and the occupancy certificate is issued after one final inspection. In all counties, except for Mombasa, the final inspection is conducted jointly with all relevant departments. In Mombasa the county fire and health departments conduct inspections separately. Water and sewerage connections involve three additional procedures in all counties but Narok. In Narok, where there is no public sewerage system, builders install a septic tank.

It takes 72 days to comply with all the requirements in Busia (Malaba) and 75 days in Isiolo. That is 13 weeks faster than in Nairobi, where the applications volume is higher. The building plans and environmental approvals are the two longest steps and main drivers of variation (figure 4.5). The approval process for building plans is fastest in Busia (Malaba) (9 days) and Isiolo (17 days), while it takes four to five times longer in Nairobi (56 days) and Kiambu (Thika) (60 days), respectively. The time required to get the environmental impact assessment approved depends on the efficiency of the local office of the NEMA, which ranges from 20 days in Isiolo to three times longer in Kiambu (Thika).

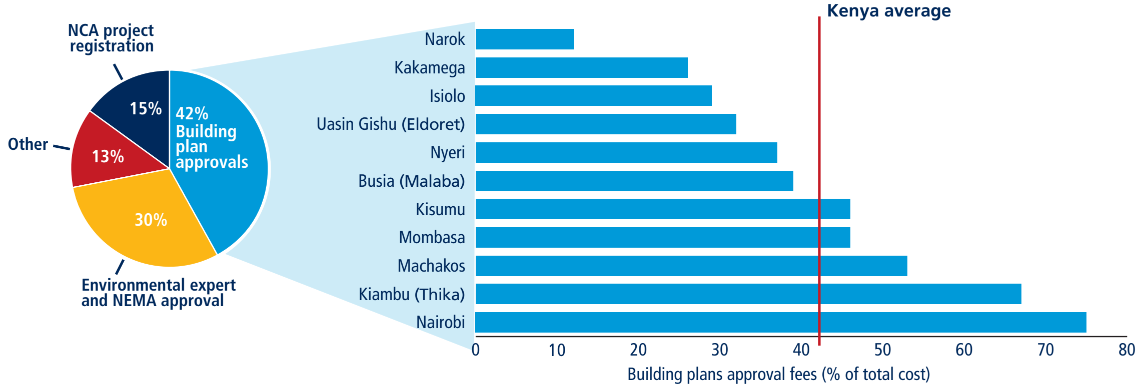
The time required for Town Planning to conduct the final on-site inspection and check whether the new construction is built according to the approved plans

FIGURE 4.5 Building plans and environmental approvals take up 60% of the average time required to deal with construction permits



Source: Doing Business database.
Note: A border indicates the procedures are conducted at the county level.

FIGURE 4.6 Building plans approval fees account for nearly half of the total costs, on average



Source: Doing Business database.

ranges from three days in Isiolo up to 10 days in Kakamega and Kisumu. The time to obtain the occupancy certificate and process the last internal verifications varies from two days in Machakos and Nyeri up to two weeks in Kakamega and Nairobi. Counties with a higher volume of transactions take longer to issue the certificate.

The cost of dealing with construction permits varies from 2.5% of the warehouse value in Kakamega to nearly three times more in Nairobi (7.1%), mainly due to the building plan approval fees. Building plans approval fees comprise over 42% of the total cost, on average, but vary greatly across counties (figure 4.6). Obtaining the building plan approvals is more affordable in Narok—KES 31,000 ($338)—just a tenth of the cost in Nairobi, which is highest—KES 313,126 ($3,413). Each county government has its own rates and methods for calculating the building plans approval fees and the fee calculation is applied consistently and transparently within each county. Authorities in Uasin Gishu (Eldoret) charge KES 15 (less than $1) per square meter to review architectural plans and KES 10 (less than $1) for structural plans.[14] Meanwhile, in Kiambu (Thika), a review of architectural plans costs KES 82,240 ($897) for the first 930 square meters and KES 9,600 ($105) for every additional 93 square meters. The review of the structural plans adds another 50% to the architectural plan costs.[15]

Environmental approvals account for 30% of the total cost, on average.

TABLE 4.2 Who has made it easier to deal with construction permits since 2012?

County *(City/Town)*	Required registration of the project with the NCA	Increased NEMA fees	Reduced processing time of building plan approvals	Developed e-permit system	Required stamps on hard copies of building plans	Increased building plan fees	Improved efficiency of NEMA branch
National reform	✘	✘					
Busia *(Malaba)*						✘	
Kiambu *(Thika)*			✘			✘	
Kisumu *(Kisumu)*			✔	✔	✘		✔
Mombasa *(Mombasa)*			✔	✔	✘		
Nairobi *(Nairobi)*			✘	✔	✘	✘	
Nyeri *(Nyeri)*							✔
Uasin Gishu *(Eldoret)*			✘				

Source: Doing Business database.
Note: This table records local and national *Doing Business* reforms and changes that occurred between March 2012 and April 15, 2016.
✔ *Doing Business* reform making it easier to deal with construction permits
✘ *Doing Business* change making it more difficult to deal with construction permits

The cost is the same nationwide—KES 60,000 ($654) and includes a private expert report and the NEMA approval.

WHAT HAS CHANGED?

Kisumu advanced the most in the ranking since 2012, introducing three local improvements that made it easier to deal with construction permits—thus moving up five places to take the top spot (table 4.2). Thanks to the successful implementation of an e-permit system in Kisumu, the time to obtain plan approvals dropped by more than 25%—from 30 to 22 days

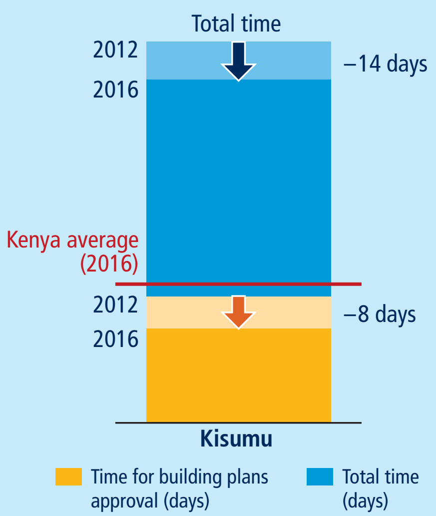
BOX 4.2 Electronic platforms for construction permitting—for a more efficient future

The manual, paper-based system used in most Kenyan counties involves application files circulating back and forth between departments. Often, applicants hire a middleman to follow the process on their behalf, which makes it more expensive. In Kisumu, Mombasa and Nairobi, this is no longer necessary. The first African electronic construction permit (e-CP) platform outside of South Africa makes paper applications obsolete.

Back in 2011, Nairobi was first to introduce an electronic platform to submit, track and obtain a building permit.[a] In March 2015, Mombasa followed suit.[b] After training staff and educating stakeholders, its use is now mandatory in Mombasa. Kisumu introduced its own platform in October 2015.[c] Since digital signatures are not available, applicants in the three counties must get the hard copies of the plans stamped by the physical planning department after electronic approval is obtained—adding an additional step to the process.

In Kisumu and Mombasa, the electronic platform has reduced the time to obtain approval (see figure), even though some system glitches continue to cause delays in the final on-site inspection and issuance of the occupancy certificate in Mombasa. In Nairobi, the time required has not decreased, partly because an executive committee now meets once a week to issue approvals. This has contributed to a two-week delay.

Electronic platforms helped cut delays in Kisumu since 2012



Source: Doing Business database.
Note: Data for Kenya for 2012 and 2016 represent the average for all 11 counties. The averages indicated for Kenya in 2012 reflect revisions to the data and capture the change in the sample (Garissa, Kilifi and Nakuru were discontinued and Machakos was added).

The improvement and replication of this tool in other counties will reduce the complexity associated with the approval of building plans, cutting an average of three procedures from the process. Electronic platforms will also reduce opportunities for corruption by reducing the number of human interactions. In addition, inspection officers can use the system to profile ongoing construction projects according to risks.

a. Nairobi City Council's e-construction permit platform is online at https://ccn-ecp.or.ke/.
b. Mombasa County's e-construction permit platform is online at https://econstruction.mombasa.go.ke/.
c. This is a result of a cooperation agreement signed in March 2014 between Kisumu County and the World Bank Group through the Kenya Investment Climate Program II (KICP II)—a program funded by the Dutch Government and UK aid from the UK government.

(box 4.2).[16] Kisumu's local branch of the NEMA also approves the environmental impact study more efficiently than it used to.

Mombasa, Nairobi and Nyeri also implemented changes since 2012. Nyeri managed to reduce the delay by 15 days, because the NEMA branch became significantly more efficient. The Nairobi City County was first to introduce an e-permit system. In Mombasa, the launch of the e-permit system[17] in 2015 helped reduce the time needed to obtain approval by 13 days. On the other hand, Kiambu (Thika), Nairobi and Uasin Gishu (Eldoret) increased the time to obtain the approvals of the building plans. Approvals of architectural and structural plans were delayed in Uasin Gishu (Eldoret) because its executive committee currently convenes only once per month. An added layer of approvals caused the time to obtain plan approvals to increase by more than one-third in Kiambu (Thika) (from 45 to 60 days) and Nairobi (from 40 days to 55 days).

However, not all changes made life easier for entrepreneurs. In an effort to improve public safety, county governments have started to enforce inspections more vigorously in recent years. Currently, two to four phase-based inspections are typically—albeit not consistently—conducted during construction. However, much remains to be done, as public safety continues to be a concern. The counties have also increased building plans approval fees across the board, with the highest increases in Busia (Malaba), Kiambu (Thika) and Nairobi. In those three counties, building plans approval fees increased by more than 2.5 percentage points, on average, relative to the warehouse value. In the other counties, the total cost expressed as a percentage of the warehouse value did not increase.[18]

At the national level, important changes have taken place in legislation. In 2011, the Kenyan parliament enacted the NCA Act to better regulate, streamline and build capacity in the construction industry through training for contractors and construction workers.[19] The NCA Regulations, which operationalize the Act, were passed in June 2014.[20] The objective of this Act was to improve safety standards in the construction industry, thereby enhancing public safety. Under the Act, contractors must register their construction projects[21] and obtain a compliance certificate from the NCA before construction can begin. However, this new requirement proved to be quite time-consuming and relatively costly, taking one week and costing a registration fee of 0.5% of the construction value.[22] Other fees were also increased, posing an extra cost for entrepreneurs. Fees charged by the NEMA have doubled, bringing them back to their pre-2009 level[23] of 0.1% of the project cost, with a minimum fee of KES 10,000 ($109) for projects below KES 10 million ($109,000).

WHAT CAN BE IMPROVED?

Make the permitting process more transparent

To enable developers to be effective "partners in compliance," government agencies must make building guidelines publicly available—including via web pages, information boards and leaflets. More accessible information is associated with lower transactions costs, lower levels of perceived corruption and more transparency.

While Kenya's relevant regulations are available online and, in eight out of 11 counties, applicants have access to the necessary documents and fees, there is room for improvement. Town Planning in each county should assume responsibility for the overall process, coordinating applicable laws and regulations; steps from beginning to end; the agencies involved; the documents, certificates, permits and approvals required; the timeframes; and the fees associated with the various approvals. Master plans and zoning maps should also be detailed. Any change should be promptly updated and communicated. Pre-consultation services (fact-finding and discussions between an applicant and the regulatory agency before the submission of a building permit application) could also be made available.

Issue the occupancy certificate on the spot at the time of the final inspection

Under the current system, it takes an average of six days for the building control department to inspect a completed building. Following the inspection, builders must wait an additional week, on average, to receive the occupancy certificate and legally occupy the building. Authorities could adopt a system in which buildings become operational right away, if the final inspection does not find any irregularities and the building complies with the approved building plans. In Canada, for example, if all required inspections have been carried out and the building is deemed substantially complete and fit for occupancy, the certificate of occupancy is issued on the spot. Singapore has an integrated online system through which builders can request the final inspection and the occupancy certificate without delay. In Portugal the Municipality of Lisbon adopted a tracking system that is automatically updated once the final inspection has taken place. The certificate of occupancy is available immediately after the final inspection. Implementing this reform should be relatively simple for counties like Kisumu, Mombasa and Nairobi, as electronic systems are already in place.

Identify opportunities to streamline requirements and review the cost structure of building plan approvals for low-risk buildings

Obtaining approvals of the structural and architectural plans takes almost 33% of the total time and 42% of the total cost, on average. Too many departments are involved, even for low risk cases. For instance, the public health department has to inspect the plans for a commercial warehouse meant to store non-hazardous goods. Additionally, there are duplications in the process: in 2012, the Ministry of Local Government allowed local authorities to delegate approvals to technical officers. Nonetheless, in reality the final approval still tends to be taken in executive committees—which are often political bodies that meet less often, creating delays and duplications in a primarily technical process.

Along with removing duplications, the adoption of service-delivery standards and compliance-tracking systems could help reduce delays. The government of Azerbaijan adopted a new urban planning and construction code in September 2012. It simplified the process of obtaining a building permit by streamlining several procedures and establishing official time limits. Streamlining approval procedures, workflows and administrative requirements could be done through a sound risk-based approach, maintaining safety standards. Ukraine also provides a good example. In mid-2012, by adopting a risk-based approval system and classifying construction projects into five categories based on their complexity, the permitting process was simplified; the procedures required for less complex buildings, like warehouses, were streamlined.

Overly high costs of compliance with building regulations may discourage businesses from following formal procedures. In economies that have adopted good practices in this area, building permit fees are generally set based on cost recovery for the service provided rather than set to fulfill a tax purpose.[24] Nonetheless, in some countries, fee levels fluctuate depending on the size or complexity of the project. In Germany, fees for small residential construction are set lower than cost recovery, while fees for larger projects may exceed cost recovery. This is part of a boarder policy to make housing more affordable by cross subsidizing smaller projects through the fees imposed on larger projects. The agencies involved in the issuance of building permits could assess the direct and indirect costs of reviewing plans and conducting inspections, and calculate fee rates accordingly. Additional brackets can be added based on risk categories.

Introduce a risk classification matrix as a first step towards applying risk-based approaches to plan reviews, inspections and environmental approvals

Regulators pursuing a robust reform agenda consistently integrate risk management into their building-control systems to improve outcomes.[25] Kenya could look at economies that have developed a risk classification matrix for buildings and adopted risk-based approaches for each building category. In particular, the approvals required for low-risk building plans could be reviewed to assess their relevance. This approach could be applied to inspections. By taking risk levels into consideration, clearing and enforcement departments could prioritize and focus their resources on higher risk projects, such as high-rises or factories, without compromising safety.[26] The effectiveness of risk-based regulation depends on several factors, including a comprehensive classification of risks for building categories, typically defined by size, construction method and final use. Classification by risk determines requirements for each building type and creates a transparent framework for enforcement agencies and building practitioners.

Kenya should also consider implementing a risk-based approach for environmental approvals. Currently, all commercial construction must obtain project approval from the NEMA, which is costly (30% of the total cost) and causes delays (32% of the total time). However, not all building projects represent the same environmental risks, as is reflected in regulations seen elsewhere. For example, a simplified environmental impact assessment for less complex commercial buildings was introduced in Mali in 2011, reducing the time required for the permitting process by 9% and lowering the total cost by 32.7%. Botswana also eliminated the requirement for an environmental impact assessment for low-risk projects. In April 2013, the United Kingdom's Environment Agency introduced a risk assessment tool called Opra (operational risk appraisal). The U.K. approach to authorizing business activities under its environmental permitting regulations has 3 tiers: businesses that belong to tier one (the category for registrations of the simplest activities with the lowest environmental risks) are not required to obtain an environmental permit.

Introduce stricter standards for the professionals supervising on-site construction and require key building professionals to carry insurance

The professionals who supervise a construction site need a technical background in architecture or engineering to understand whether the construction meets safety standards. Seventy-three economies benchmarked by *Doing Business* require these professionals to have a university degree in engineering, construction or construction management. Kenya could align itself to international best practice and improve the professional standards in the building sector by requiring such university degrees.

In Kenya, the law is silent on who—architect, engineer, construction company, supervisor and/or project owner—is liable for structural flaws or problems in the building. Furthermore, latent defect liability insurance policies (to cover possible structural flaws or problems in the building once it is in use) are not mandatory.[27] A functioning liability regime—delineating roles and responsibilities—should be coupled with a compulsory insurance system for owners, designers, and contractors. However, insurance companies may need some time to price the risks associated with each of the professions and offer suitable insurance schemes.

Use electronic platforms throughout the entire construction permitting process

Technology can help cut delays, reorganize the approval of building plans, and support inspections during and after construction. The use of information and communications technology (ICT) to submit plans not only speeds up the process, but also increases transparency, allows applicants to monitor the status of their applications, and lowers the number of opportunities for corruption in the development control process.[28] Electronic platforms are helpful throughout the process: during construction, they allow for better coordination of the inspection taskforce and enhance inspections reports. After construction, they save time when producing final reports and delivering the certificate of occupancy. Kisumu, Mombasa and Nairobi have been the first three Kenyan counties to set up electronic platforms for construction permitting; other counties should follow suit. Since 2013, applicants in Kigali (Rwanda) have been able to submit a single application online[29] for a building permit along with the environmental impact certificate and the water connection. A similar ICT solution is currently being implemented elsewhere in Rwanda.

Automating the construction permitting process from scratch can be a daunting task. Such an overhaul is typically linked to larger regulatory reforms and e-government programs. Core staff must be trained to operate and maintain electronic systems. The right technological infrastructure and high levels of internet connectivity are important prerequisites. Also, a review of the process is a necessary preliminary step to ensure an optimal number of requirements, without duplications. Electronic platforms can be implemented without a one-stop shop through a basic computerized workflow across key agencies—with the possibility of gradually opening up the system to integrating more services in the permitting process. Finally, bigger counties may try to develop a geographical information system (GIS) as a medium-term goal to complement the online permitting system.[30]

Update and clarify the legislative framework

Over the years, Kenya has made efforts to improve its legislative framework and build the capacity of construction industry practitioners. The new NCA regulation requiring registration of building contractors and projects is a step in the right direction and ensures proper maintenance of construction records, improves quality assurance and encourages standardization. Nonetheless, legislation affecting the construction industry in Kenya is fragmented[31] and involves many parties whose work is often uncoordinated—for instance the counties, the NEMA and the NCA all potentially inspect the construction site but do not necessarily keep each other informed about its status. This has resulted in misinterpretation of laws and lack of public awareness about development control procedures—leading some developers to proceed without development permission, and perceived conflict in the overlapping mandates of the NCA and counties over them.

Kenya's building code dates back to 1968 and is based on the British building regulations from 1948. The code should be updated to set a standard for builders, owners, planning and building officials. Through an inclusive, consultative and transparent process with all the relevant stakeholders from the public, private sector and academia, Kenya could review and consolidate its existing laws and regulations—and the development controls they inspire—at different levels of government, to ensure good governance and counter corruption practices in the construction sector.[32] Best practice economies tend to institutionalize the process of updating their building code and related functional and technical requirements almost every decade.

Introduce joint responsibility of the permitting process by moving toward practitioner-focused enforcement of building regulations

In Kenya, certified private sector consultants are involved in plan design and quality control during construction, while contractors are in charge of building.[33] As for public oversight, most counties lack sufficiently qualified staff to put in place for effective development control.[34] In the long term, private sector resources and specialized skills could help Kenyan counties gradually shift away from public enforcement practices and toward practitioner-focused strategies. As building codes become more complex, the global trend of sharing the workload for regulatory control functions, and hence leveraging expertise, has led to more private sector involvement. Private sector involvement can help alleviate bottlenecks associated with resource-constrained public building authorities.

There is no single path to success, but all significant reform experiences worldwide have involved some degree of delegation to private building professionals or some form of joint responsibility in the permitting process. Austria, Colombia and New Zealand, for example, are increasingly cooperating with private sector engineers at different stages of the permitting and inspection processes. One model of collaboration can consist of private sector engineers carrying out third-party plan reviews and inspections for local authorities (as in Germany and Austria). Alternatively, builders in some jurisdictions directly hire accredited private independent engineers to review construction plans and inspect buildings during construction (as in the United Kingdom). A third model, now in place in France, is associated with an insurance-driven regulatory regime in which insurance and warranty firms hire private inspection firms for third-party review.[35] This third approach is less common than the first two.

A robust system of qualification, supervision and licensing of professionals and appropriate liability and insurance regimes are crucial conditions for the success of such strategies to deal with construction permits. Shifting some responsibility to the private sector should be a long-term focus, but it will first require an in-depth assessment, including dialogue with private sector practitioners to identify incentives, as well as gaps and loopholes in the current legislation.

NOTES

1. Mutambo, Aggrey, "Four-storey building collapses in Zimmerman – photos," Nairobi News, March 9, 2016, http://nairobinews.nation.co.ke/news/building-collapses-zimmerman/.
2. Reuters, "Death toll in Kenya building collapse rises to 49: police," Reuters.com, May 8, 2016, http://af.reuters.com/article/topNews/idAFKCNOXZOK6.
3. Fire safety is one of the most updated indicators relating to safety of buildings. The World Health Organization (WHO) and the International Association of Fire and Rescue Services (CTIF) provide most of the statistics.
4. Moullier, Thomas. 2015. "Building Regulation for Resilience: Managing Risks for Safer Cities," World Bank Report No. ACS15966, Washington, DC: World Bank Group.
5. The National Building Code is available online at https://law.resource.org/pub/ke/ibr/ke.building.1997.pdf.
6. The Physical Planning Act (PPA), available for download at http://www.kenyalaw.org.
7. Section 30 (1) of the PPA provides that "no person shall carry out development within the area of a local authority without development permission granted by the local authority."
8. A structural drawing is a plan or set of plans of how a building will be built—load-carrying of a structure, the types of materials to be used, and general connections. It is generally prepared by structural engineers and informed by architectural drawings, which are technical drawings made according to a set of conventions (views, sheet sizes, scales, etc.).
9. These are Busia (Malaba), Kisumu, Mombasa, Nairobi, Kiambu (Thika), and Uasin Gishu (Eldoret).
10. These are Isiolo, Kakamega, Machakos, Narok and Nyeri.
11. These are Busia (Malaba), Isiolo, Kakamega, Machakos, Nairobi, Narok and Nyeri.
12. These are Busia (Malaba), Isiolo, Kakamega, Narok, Nyeri and Uasin Gishu (Eldoret).
13. The National Environmental Management Authority would inspect for the environmental approval and National Construction Authority would inspect for registration certificates, structural flaws and on-site safety.
14. For a total of $213 for scrutiny fees of architectural plans and $142 for scrutiny fees of structural plans for the case study warehouse assessed by *Doing Business*.
15. For a total of $1,313 for scrutiny fees of architectural plans and $657 for scrutiny fees of structural plans for the case study warehouse assessed by *Doing Business*.
16. The e-platform became operational in October 2015 and by early 2016 approximately 130 applications had been processed.
17. Nairobi County Self Service Portal: https://epayments.nairobi.go.ke/selfservice/login.
18. Due to the rise in the income per capita in Kenya since 2012, the cost increase is not fully detected, when expressed as a function of the warehouse value. Per the *Doing Business* methodology, cost is recorded as a percentage of the warehouse value, assumed to be equivalent to 50 times income per capita.
19. The National Construction Authority Act, Law No. 41 of 2011. http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/NationalConstructionAuthorityAct_No41of2011.pdf.
20. The National Construction Authority Regulations 2014, Kenya Gazette Supplement No. 84 (Legislative Supplement No. 29). https://kenya.eregulations.org/media/74-NationalConstructionAuthorityRegulations2014final.pdf.
21. The National Construction Authority Regulation of Projects. http://nca.go.ke/down/project_registration_form.pdf.
22. KES 29,358 ($320) for the case study warehouse assessed by *Doing Business*. The total project cost of the warehouse is assumed to be KES 5,871,649 ($64,031).
23. The National Environmental Management Authority lowered its fees in 2009 from 0.1% to 0.05% of the warehouse value.
24. New Zealand set the fees at a level that will cover the costs associated with the review of plans and any inspections, along with overhead costs.
25. World Bank Group, Investment Climate Department. 2013. *Good Practices for Construction Regulation and Enforcement Reform: Guidelines for Reformers*. Washington, DC: World Bank Group.
26. Delion, Marie Lily and Joyce Ibrahim. 2013. "What Role Should Risk-Based Inspections Play in Construction?" *Doing Business 2014: Understanding Regulations for Small and Medium-Size Enterprises*. Washington, DC: World Bank Group.
27. In Kenya, the only insurance that is mandatory to obtain is the insurance to protect the site workers.
28. Numerous cases of corruption and substandard practices have tarnished the perception of transparency in the licensing process. According to the World Bank's *Enterprise Surveys*, Kenyan firms rank corruption in day-to-day operations as the second biggest obstacle to doing business after practices of competitors in the informal sector. Transparency International ranks Kenya 139th out of 168 countries on its Corruption Perceptions Index. In November 2015, Kenya's President Uhuru Kenyatta declared on television that corruption had become a national security threat.
29. City of Kigali Construction Permit System, online at http://www.kcps.gov.rw.
30. A GIS is an integrated system of computer hardware, software and trained personnel capable of assembling, storing, manipulating and displaying topographic, demographic, utility, facility, image and other resource data that is geographically referenced.
31. Such as the County Governments Act, the Physical Planning Act and the National Land Commission Act.
32. Lenient penalties stated in the Physical Planning Act 1996 may not provide adequate deterrence for offenders and defaulters (up to KES 50,000—$545—or an imprisonment not exceeding two years). Such a punishment may not be prohibitive for developers. Singapore has used the strategy of severe penalties to act as disincentives for corruption.
33. The Architects and Quantity Surveyors Act Chapter 525, available at http://www.boraqs.or.ke/userfiles/CAP%20525(1).pdf, and the Engineers Registration Act Chapter 530, available at http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/EngineersRegistrationActCap530.pdf.
34. Development control is the process by which authorities manage growth in local areas.
35. Moullier, Thomas. 2015. "Building Regulation for Resilience: Managing Risks for Safer Cities," World Bank Report No. ACS15966, Washington, DC: World Bank Group.

Registering property

In Kenya, "[land] is the principal source of livelihood and material wealth, and invariably carries cultural significance for many Kenyans," explains one of the founding documents of the government's national land policy.[1] Since the ratification of its new constitution, Kenya's legislature has passed new acts and repealed others in an effort to come to a sound, comprehensive and transparent land administration policy.[2] This is a high priority, yet implementing the new policies has proven challenging: reforms take time, benefits are slow to trickle down and the government's reorganization, resulting from devolution[3] remains a source of confusion for many.

Around the globe, property rights are important to support investment, productivity and growth.[4] Research suggests that property owners with secure ownership are more likely to invest in private enterprises and transfer property to more efficient users. The ability to access authoritative information on ownership also reduces transaction costs in financial markets and makes it easier to use property as collateral.[5] Land registries, together with cadasters that identify the location of a property, are tools used around the world to map, prove and secure property rights. These are part of the land information system of an economy. With real property (land and buildings) accounting for between half and three-quarters of the wealth in most economies, having an up-to-date land information system matters.[6] For governments, having reliable, up-to-date information in cadasters and land registries is essential to correctly assess and collect tax revenues. With up-to-date land information, governments can map out the varying requirements location by location and strategically plan the provision of services and infrastructure in the areas where they are most needed.[7]

WHAT DOES REGISTERING PROPERTY MEASURE?

Doing Business records the full sequence of procedures necessary for a business to purchase an immovable property from another business and formally transfer the property title to the buyer's name. The process starts with obtaining the required documents, such as a copy of the seller's title, and ends when the buyer is registered as the new property owner. Every procedure required by law or necessary in practice—including the associated time and cost—is recorded, whether it is the responsibility of the seller or buyer and even if it must be completed by a third party on their behalf.

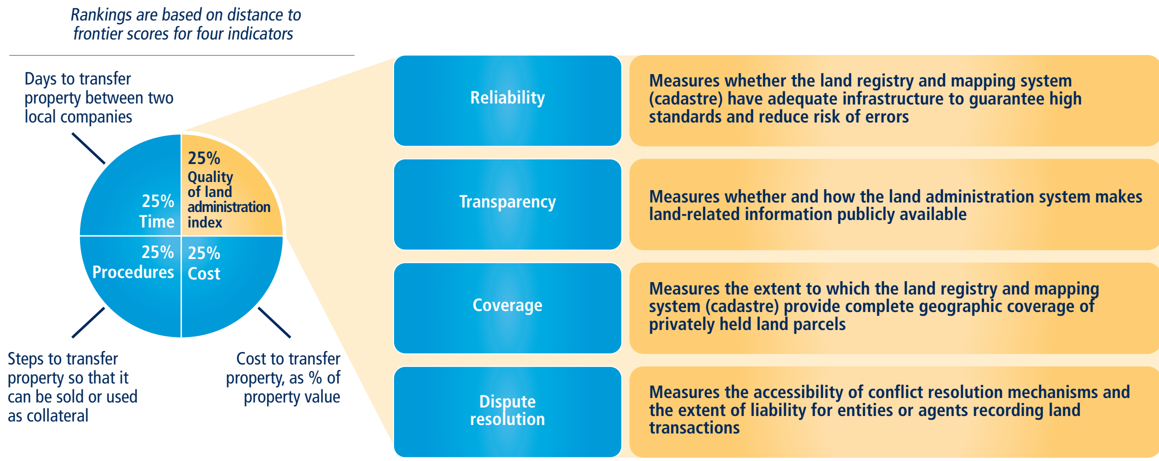
In 2015 *Doing Business* added an index on the quality of the land administration system to the indicator in order to measure the systems' reliability, transparency, and coverage, as well as the availability of dispute resolution mechanisms (figure 5.1).

HOW DOES REGISTERING PROPERTY WORK IN KENYA?

The Ministry of Land, Housing and Urban Development, set up in 2014, consolidates five ministries under one

- Nairobi became the first county in Kenya to digitize most of its lands records, allowing Kenya to become one of the top 10 global improvers in *Doing Business 2016*.
- In 2016 Kenya's Ministry of Land, Housing and Urban Development made its service charter available online, making Kenya one of the top performers in Sub-Saharan Africa on the transparency component of the quality of land administration index.
- Transferring property involves nine procedures for all 11 Kenyan counties measured, which is three times the number of procedures needed in Rwanda. The average cost in Kenya is on par with South Africa and lower than the average for Sub-Saharan Africa.
- Forty-one days are required for property registration in Mombasa, while 73 days are required in Isiolo. The average delay across the 11 counties in Kenya is 58 days, which is nearly five times the 12 days needed in Botswana.
- Nairobi and Isiolo remain the easiest and most difficult places to transfer property, respectively.

FIGURE 5.1 The quality of land administration index adds a new dimension to the registering property indicator



umbrella.[8] It carries out many of the duties of the former Ministry of Lands, including the registration of titles.[9] The process of transferring property[10] between two companies remains largely unchanged since 2012—with the exception that the new county governments are now responsible for issuing the rates clearance certificates, which verifies that property taxes have been paid. In sum, transferring a property in Kenya requires nine procedures, involving the central and local branches of the Lands Office, the county governments, the Kenya Revenue Authority (KRA) and a designated commercial bank (figure 5.2).[11]

The first step is to conduct the title search at the local Lands Office,[12] to confirm who the rightful owner is and ensure there are no liens or encumbrances against the property. Next, the seller obtains a land rent clearance certificate[13] from the central Lands Office in Nairobi and a rates clearance certificate[14] from the county government to prove there are no outstanding rent payments[15] or property taxes. A lawyer draws up the transfer instrument and files it at the Lands Office and requests an appointment for property valuation. The seller then files the agreement and clearance certificates, along with an application for consent to transfer the property, with the local Lands Office.

FIGURE 5.2 Procedural requirements to transfer property are identical across Kenya

PROCEDURE	AGENCY
Preregistration	
▪ Conduct title search	Local Lands Office
▪ Obtain land rent clearance certificate	Central Lands Office (Nairobi)
▪ Obtain rates clearance certificate	County Government
▪ Draft transfer instrument and file at Lands Office	Lawyer's Office
▪ Obtain consent to transfer	Local Lands Office
▪ Receive site inspection by government valuer	Local Lands Office
▪ Receive stamp duty assessment	Local Lands Office/Huduma Center
▪ Pay stamp duty*	Commercial Bank/Huduma Center
Registration	
▪ Lodge documents for registration	Local Lands Office

Source: Doing Business database.

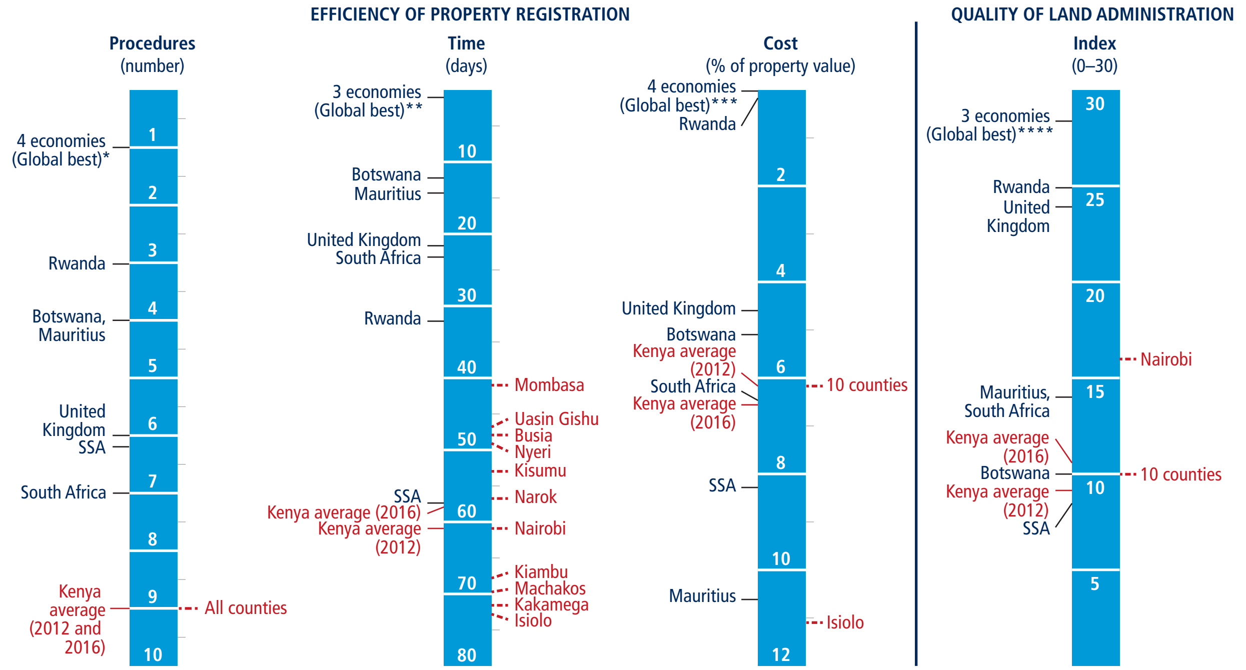
* The assumed property value in the *Doing Business* case study is KES 5,871,649 ($64,000). The 4% stamp duty amounts to KES 234,866 ($2,561). For the case study, the stamp duty must be paid at a commercial bank, because Huduma Centers do not accept payments greater than KES 90,000 ($981).

Once the Lands Office grants consent, they send a land valuer to the site to produce a valuation report used to assess the stamp duty. The stamp duty is paid at a commercial bank. Upon the KRA's confirmation of receipt of payment, the seller files the registration documents with the local Lands Office. Lastly, the local Lands Office registers the property in the name of the new owner.

Across the 11 counties measured in Kenya, the nine requirements to transfer property from one company to another take, on average, 58 days and cost 6.54% of the property value. The cost is lower than in Mauritius and on par with South Africa (figure 5.3), but property registration requires three times as many procedures as in Rwanda and spans nearly five times the 12 days needed in Botswana. Boasting 16 points on the quality of land information index, Nairobi puts Kenya ahead of Mauritius and South Africa, and the average for the 11 Kenyan counties measured here is higher than the average for Sub-Saharan Africa and Botswana's score.

Nairobi—where it takes 61 days and costs 6.13% of property value—remains the easiest place to register property in Kenya. Nairobi benefits from being the best performer on the quality of land administration index (box 5.1). Mombasa

FIGURE 5.3 Registering property across Kenya is more affordable, but less efficient than in other economies



Source: Doing Business database.

Note: Data for Kenya for 2012 and 2016 represent the average for all 11 counties. The averages indicated for Kenya in 2012 reflect revisions to the data and capture the change in the sample (Garissa, Kilifi and Nakuru were discontinued and Machakos added). Data for SSA represent the average for the 48 Sub-Saharan African economies.

* These are Georgia, Norway, Portugal and Sweden.

** These are Georgia, New Zealand and Portugal.

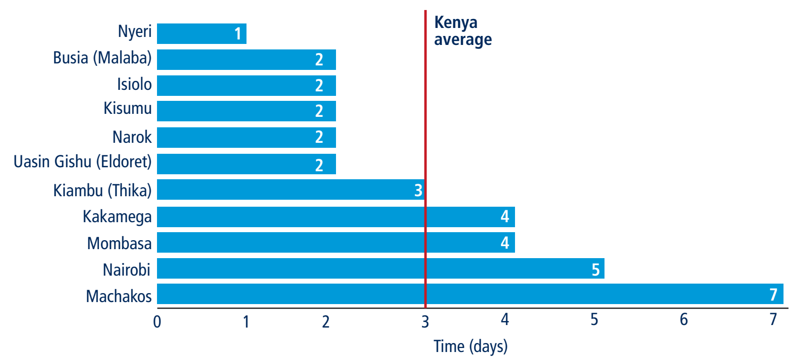
***These are Belarus, Kiribati, Saudi Arabia and the Slovak Republic.

****These are Lithuania, the Netherlands and Taiwan (China).

continues to hold the Kenyan record for the fastest time (41 days). Isiolo remains the most difficult place to register property with a cost (11.03% of property value) that is nearly double the average for all other Kenyan counties (6.09% of property value) and the longest delays (73 days). Meanwhile, Machakos, which is included in the report for the first time, enters the ranking at 9 out of 11 (table 5.1).

The total time needed to register a property varies from 41 days in Mombasa to 73 days in Isiolo. Obtaining the land rent clearance certificate takes 19 days and can only be done at the central Lands Office in Nairobi, imposing a travel requirement on anyone based outside the capital. Obtaining a rates clearance certificate from the respective county government takes from one day in Nyeri to seven days in Machakos (figure 5.4). Although counties use the Local Authorities Integrated Financial Operations Management System (LAIFOMS)—an electronic platform to track rates payments—the databases are seldom updated. Often, paper-based payment records must be used to check that the account is current. These files are sometimes mislabeled, misfiled, or

FIGURE 5.4 The time needed to get a rates clearance certificate hinges on county governments' efficiency



Source: Doing Business database.

BOX 5.1 The quality of land administration index, going beyond efficiency

Good land administration is not just efficient. It ensures property owners a secure title, backed by a reliable land administration system. The quality of such a system, as measured by *Doing Business*, depends on four main factors—(i) the reliability of infrastructure (8 points); (ii) the transparency and public availability of records (6 points); (iii) geographic coverage of the registry and mapping agency (8 points); and (iv) access to conflict resolutions mechanisms for land-related disputes (8 points).

A reliable system provides clear information on property ownership and prevents fraudulent transactions.[a] Adequate infrastructure—how property records are kept—is key to ensuring reliability. A paper-based system often increases the time needed to conduct a property search, but also lends itself to document misplacement, loss and opportunities for fraud. Mozambique, where a flood destroyed land records in 2000, scanned most of its titles in 2013. This year, Nairobi joined the ranks of 36 other economies that computerized their land registries over the past five years. Nairobi is the sole county in Kenya with a computerized and fully digital registry and geographic information system. Scoring 5 out of 8 points for reliability, Nairobi is globally competitive for this area.

Transparency—whether and how the land administration system makes land-related information (fee schedules, time limits, statistics, etc.) publicly available—helps simplify the process for clients and reduces the opportunities for bribery. The Ministry of Land, Housing and Urban Development made its service charter available online in 2016, providing clients in all counties with critical information on how to estimate the duration and cost of transactions. Kenya scores 4 points and is among the top performers in Sub-Saharan Africa on transparency.

Where land registries fall short of complete geographic coverage, companies and individuals cannot be sure whether the areas not covered are relevant to their interests.[b] Globally, only 27% of economies have a registry with full coverage of private land—and 34% have a cadaster with complete coverage.[c] In 2014 Rwanda achieved its goal of registering all land in the country and may serve as a model to follow. It registered 10.3 million parcels through a low-cost, community-based process starting in 2010.[d] Kenya has not achieved full coverage in any county and thus scores 0 points.

Accuracy of information in land registries and property transactions helps avoid potential disputes. Kenya and 148 other economies provide a state guarantee over property registration, but there is no compensation for registration errors in Kenya. When disputes do arise, having in place a specialized dispute resolution mechanism ensures faster resolutions.[e] In 2011 Kenya established the Environment and Land Court,[f] which has jurisdiction over property disputes. In all counties across Kenya, such cases take over two years to resolve, thus alternative dispute resolution (e.g., mediation) could help alleviate the burden on congested courts. The Environment and Land Court has not yet established court-annexed mediation for property disputes. Scoring 5 points, Kenya's performance in this area matches South Africa's.

a. UN-Habitat. 2013. Tools to Support Transparency in Land Administration. Nairobi: UN-Habitat.

b. Deininger, Klaus, Harris Selod and Anthony Burns. 2012. *The Land Governance Assessment Framework: Identifying and Monitoring Good Practice in the Land Sector.* Washington, DC: World Bank.

c. "Registering Property: Measuring the Quality of Land Administration Systems." World Bank. 2014. *Doing Business 2015: Going Beyond Efficiency.* Washington, DC: World Bank Group.

d. Gillingham, Polly, and Felicity Buckle. 2014. "Rwanda Land Tenure Regularization Case Study." Evidence on Demand. doi:10.12774/eod_hd.march2014.

e. "Registering Property: Measuring the Quality of Land Administration Systems." World Bank. 2014. *Doing Business 2015: Going Beyond Efficiency.* Washington, DC: World Bank Group.

f. Environment and Land Court Act, 2011.

missing, thus delaying the process. In Nyeri, where the process is fastest, the county accepts the client's latest rates payment receipts as sufficient proof to issue the rates clearance certificate.

The Ministry of Land, Housing and Urban Development updated the service charter with new time limits for the delivery of key services—three days for title search, two for consent to transfer, 20 for valuation, "on the spot" for stamp duty assessment and seven days for registration. In practice, many local Lands Offices do not abide by these time limits, causing varying delays across counties. For example, applicants can obtain a title search within the prescribed timeframe in all counties, except in Isiolo and Machakos, where it takes one day longer. No local branch issues consent in two days; it takes from five days in Busia (Malaba), Kiambu (Thika), Mombasa and Nyeri to 14 days in Machakos. The time to obtain a property valuation varies from two days in Kisumu to 27 in Kakamega, depending on the available valuation staff in each locality and the geographic area they cover. For example, in Isiolo—where the process takes 21 days—the designated government valuer is based in another county (Meru) and covers Isiolo, Meru, Tharaka-Nithi and Marsabit counties.

The stamp duty assessments range from one day in Isiolo, Kisumu and Narok up to five days in Kakamega and Kiambu (Thika). Finally, lodging documents for registration takes only one day in Mombasa but 15 in Isiolo, Kiambu (Thika) and Machakos. The Lands Offices distribute and track documents lodged for registration manually, using a logbook called the A-Book. The logbook makes it difficult for the Registry Superintendent to determine each officer's workload and track files to identify and address bottlenecks in real time. In many branches, files are moved between registration officers in batches, allowing one person to hold

TABLE 5.1 Where is it easy to register property in Kenya—and where not?

County (City/Town)	Rank 2016	Rank 2012	Distance to frontier (score)	Procedures (number)	Time (days)	Cost (% of property value)	Quality of land administration index (0–30)
Nairobi *(Nairobi)*	1	1	54.27	9	61	6.13	16
Mombasa *(Mombasa)*	2	2	51.62	9	41	6.16	10
Uasin Gishu *(Eldoret)*	3	3	51.03	9	47	6.08	10
Busia *(Malaba)*	4	4	50.91	9	48	6.08	10
Nyeri *(Nyeri)*	5	5	50.68	9	49	6.15	10
Kisumu *(Kisumu)*	6	7	50.31	9	53	6.08	10
Narok *(Narok)*	7	6	49.89	9	57	6.05	10
Kiambu *(Thika)*	8	9	48.63	9	68	6.01	10
Machakos *(Machakos)*	9	10	48.33	9	70	6.05	10
Kakamega *(Kakamega)*	10	8	47.98	9	72	6.12	10
Isiolo *(Isiolo)*	11	11	39.67	9	73	11.03	10

Source: Doing Business database.

Note: Rankings are based on the average distance to frontier (DTF) score of procedures, time, cost and quality of land administration index associated with registering property. The DTF measure is normalized to range between 0 and 100, with 100 representing the frontier of best practices (the higher the score, the better). The 2012 rankings are adjusted: they capture the change in the sample (Garissa, Kilifi and Nakuru were discontinued and Machakos added), data revisions and changes in the method of calculating the ranking. For more details, see the *About Doing Business and Doing Business in Kenya 2016* chapter.

up the entire process until the batch is done.

The cost of transferring property varies from 6.01% of property value in Kiambu (Thika) to almost double in Isiolo (11.03%). The largest share of the cost is the national stamp duty (4% of property value). Cost differences across counties are driven by the rates clearance certificate fees. Obtaining the certificate is most expensive in Isiolo, where the fee is a percentage of the property value (5%), rather than a flat fee. In other counties, fees vary from KES 500 ($5) in Busia (Malaba) to KES 10,000 ($109) in Nairobi, while the average is KES 4,550 ($50).

WHAT HAS CHANGED?

The most significant change in the property registration regulatory framework was brought on by the Kenyan Constitution of 2010, which triggered the creation of new institutions to carry out the country's new land policy. Setting up the prescribed institutions and defining their powers has proved challenging.

BOX 5.2 Establishing and defining the powers of institutions under the new land policy

"Land, as a factor in social and economic activity in Kenya, has been a subject of constant interest, and of controversy, especially from a political standpoint. Thus the importance of Chapter Five of the Constitution [(Land and Environment)]," Kenya's supreme court stated.[a] Chapter Five is the legal basis for the creation of the National Land Commission (NLC)—an independent government body tasked with the management and administration of land.[b]

The precise meaning of management and administration has been a source of contention between the NLC and the Ministry of Land, Housing and Urban Development and some confusion for Kenyans. Which government entity has the authority to register property and issue titles was among the most contested subjects. The dispute resulted in an unclear map of the property registration system, until recently, when the NLC sought an advisory opinion from the supreme court to resolve the matter.

In December 2015 the supreme court found that only the Ministry of Land, Housing and Urban Development has authority to register titles.[c] In its opinion, the supreme court explained that the NLC and this ministry have an interdependent relationship, in which the former advises on land policy and the latter implements said policy. Most importantly, it held that the NLC has authority over the sale and disposal of public lands, whereas the majority of commercial property is categorized as private land and administered by the Ministry of Land, Housing and Urban Development.

a. Supreme Court of Kenya, Advisory Opinion Reference No 2. of 2014. In the Matter of the National Land Commission [2015] eKLR. http://kenyalaw.org/caselaw/cases/view/116512/.

b. The Constitution of Kenya, 2010; National Land Commission Act, 2012.

c. Supreme Court of Kenya, Advisory Opinion Reference No 2. of 2014. In the Matter of the National Land Commission [2015] eKLR. http://kenyalaw.org/caselaw/cases/view/116512/.

It has also resulted in some confusion about who bears the responsibility for land registration (box 5.2).

Since the publication of *Doing Business in Kenya 2012*, Busia (Malaba), Isiolo and Nairobi introduced local improvements making it easier to register property, while Kakamega made it more difficult (table 5.2).

The Nairobi Lands Office achieved digitization of the majority of its land records, cutting the time to transfer property by one week. The Lands Office also introduced a unified form to apply for the land rent certificate, consent to transfer, and stamp duty valuation. Although the form has yet to combine procedures, it enables the client to file the transfer instrument and request a valuation appointment in parallel with the title search and application for the land rent clearance certificate. This increased administrative efficiency at the Nairobi Lands Office and reduced time by an additional four days. Digitization also enhanced the security and reliability of the registry's data, which is reflected in an improvement on the quality of land administration index. These notable reforms contributed significantly to Kenya becoming one of the top 10 global improvers according to *Doing Business 2016*.[16]

In 2012, the Lands Office opened a branch in Isiolo. Previously local land titles were housed with the central Lands Office in Nairobi, imposing a travel requirement on anyone seeking to transfer property in Isiolo. Registration time was cut in half—from one month to nearly two weeks. The opening of a local branch also saves clients over a week of back-and-forth travel to Nairobi, and KES 16,000 ($174) in travel costs. In addition, Isiolo's Huduma Center opened in June 2015 and found widespread acceptance. The stamp duty assessment is now conducted there,[17] saving an additional three days. Despite these reforms, Isiolo continues to lag behind other counties.

Meanwhile, in Kakamega, the Huduma Center has been less successful. The secondment of Lands Office staff to the Huduma Center, to conduct stamp duty assessment, has resulted in a slowdown of processes at the Lands Office branch itself. In addition, the county government is facing difficulties in establishing its post-devolution structure. Many positions are still not filled and the new workflow is not fully operationalized. These two setbacks have increased the time to transfer property in Kakamega by two days.

With respect to fees, Busia (Malaba) cut the rates clearance certificate fee by KES 1,000 ($11)—from KES 1,500 ($16).

At the national level, the Ministry of Land, Housing and Urban Development put its service charter online in the spring of 2016, increasing transparency.[18] In March 2016 the government of Kenya started to offer e-payment of the stamp duty through the online government service portal eCitizen. However, the online payment option is not yet widely used.

WHAT CAN BE IMPROVED?

Enforce time limits

The Lands Office has established time limits—applicable nationwide and publicly accessible online—yet only Isiolo, Kisumu and Narok manage to meet the same-day delivery standard for stamp duty assessment and no local office is able to issue consent within the time limit. In Kakamega valuation takes one week longer than the limit and nearly half the counties[19] tend to exceed the maximum time for registration. Time standards are only effective when enforced, and the

TABLE 5.2 Who has made it easier to transfer property since 2012?

	Efficiency of property registration					Quality of land administration	
County *(City/Town)*	Increased administrative efficiency at local Lands Office	Increased administrative efficiency at county government	Introduced new rates clearance certificate fee	Opened local Lands Office	Made effective use of Huduma Center	Computerized land records	Made service charter available online
National reform							✔
Busia *(Malaba)*			*				
Isiolo *(Isiolo)*				✔	✔		
Kakamega *(Kakamega)*	✘	✘					
Nairobi *(Nairobi)*	✔					✔	

Source: Doing Business database.
Note: This table records all local and national *Doing Business* reforms and changes that occurred between March 2012 and April 15, 2016.
✔ *Doing Business* reform making it easier to register property
✘ *Doing Business* change making it more difficult to register property
* Denotes a fee change

Ministry of Land, Housing and Urban Development should explore ways to hold Lands Offices accountable to delivery deadlines. For instance, in Spain, the Registry's fees are discounted by 30% if the registration takes longer than 15 days and no objective justification for the delay is given.

A study of why the existing time limits have been inefficient—i.e., finding and proposing remedial actions for any bottlenecks—should precede enforcement. For instance, in Isiolo—where valuation exceeds the time limit and a single valuer serves four counties—following such a study, authorities would be able to determine if additional staff could resolve the delays. Additionally, collecting client feedback on transactions could reveal where there are quality and efficiency shortfalls. If client feedback is used in conjunction with other performance metrics (e.g., time elapsed from start to conclusion of a transaction), it could also help keep staff accountable for meeting time limits and quality standards.

Use a unified form for Lands Office requirements

Two-thirds of the procedures required to transfer property are executed at the Lands Office. At the Nairobi Lands Office, the applicant interacts with six different counters in the same room to transfer property. In 2014/15 the Nairobi Lands Office introduced a unified form to apply for the land rent certificate, consent to transfer and stamp duty valuation. However, in practice, clients are still required to complete the form in triplicate and file each copy at a different counter. The Lands Office should enforce the proper implementation of the unified form and roll it out to their local branches.

Replace the rates clearance certificate with online payment confirmation or accept payment receipts as proof of payment

Kenyan counties already use an electronic platform—LAIFOMS—to track property tax payments, known as rates payments. Rather than issuing separate rates clearances, which takes time, counties could explore the possibility of replacing rates clearance certificates with online payment confirmation. Property owners could then print the confirmation and submit it with the application to transfer property at the Lands Office. For example, in 2014 Cape Town rolled out an Automated Rates Clearance system. The program enables conveyancers—professionals who facilitate property transactions—to request and receive rates clearance certificates online. In cases where there is an outstanding balance, conveyancers can pay and receive payment confirmation needed for registration.

Replacing rates clearance certificates with online confirmation of payments has proven effective in other economies as well. In 2012, Rwanda eliminated the requirement to obtain a separate tax clearance certificate, formerly the longest part of its property registration process. Combined with other reforms, this reduced the time to register property by 13 days.

For online confirmation to be functional, records must be up-to-date. Where up-to-date and reliable records are not available, the Lands Office could accept clients' rates payment receipts as sufficient proof. For instance, in Nyeri the county already accepts the client's latest rates payment receipt as sufficient proof to issue the rates clearance certificate. Removing the more onerous rates clearance certificate requirements may also mean amending Kenya's Land Registration Act of 2012, which makes obtaining the certificate mandatory for all property transfers.

Simplify the process of obtaining a land rent clearance certificate

As the repository of the master land rent files, the central Lands Office in Nairobi, alone, is empowered to issue land rent clearance certificates for properties across Kenya. Payment records are kept in paper format and searching them is time consuming. This is why obtaining the land rent clearance certificate takes nearly three weeks—one of the main bottlenecks when transferring property in Kenya.

The Lands Office has already started building an electronic database of payment records. As it continues to implement this project, it should ensure the database will be accessible nationwide, from all local Lands Offices. This would remove the travel requirement for property owners based outside of Nairobi. It would also cut the time to verify payment records, by reducing the central Lands Office's workload.

In the long term, information from the electronic database of rent payments could be fed into an online platform, like eCitizen. This would enable clients to ascertain their annual rent dues online, make regular rent payments electronically, and obtain online confirmation of payment. With each payment, the rent payment database would be updated automatically. When processing a property transfer application, land registration officers would thus be able to check whether there are any outstanding payments due on a given property, without requiring a separate land rent clearance certificate.

Consider replacing on-site inspections with a property-value assessment based on a standardized schedule of property values

The on-site valuation of property can be a source of delays, depending on the availability of land valuers and the geographic area they cover. To avoid these delays, a standardized schedule of property values could be established, which would also ensure uniformity and consistency in the valuation process and help transacting parties anticipate their stamp duty liabilities.

A property valuation schedule should be developed and subsequently published online and made available at the Lands Office. In economies where improvements on the property are not systematically recorded in the cadaster, an inspector may be dispatched during the property valuation process to ensure that the property is as described on the title or deed and does not have any unrecorded construction/structure. This takes time. In other economies, valuation is based solely on the published schedule and does not require a physical evaluation by an inspector. This saves time. For instance, prior to 2010, a buyer in Ethiopia had to hire a private valuer to estimate the true value of a property. Then, to reduce administrative bottlenecks and simplify the valuation process, Ethiopia reformed its property valuation system and developed a valuation schedule accompanied by procedures that do not require a physical assessment for transfer transactions. At the same time, Addis Ababa started decentralizing its property registration services by opening 10 sub-city offices. Now, each sub-city branch estimates the value of properties in its respective locale, using a master table denoting property values for various zones throughout the city. Now, registering a property in Ethiopia is faster.

Continue the digitization of land records and move towards more online services

Economies that invest in a digital land registration systems benefit in several ways.[20] One way is through greater efficiency. Computerization helps reduce duplication in the storage of information and makes it possible to consolidate a large amount of information in one database. It optimizes processes by streamlining workflows and helps compile information in ways not possible with manual systems. It also allows a land registry to set up tracking mechanisms to assess its performance and improve its services for customers. An equally important benefit of improved infrastructure is increased reliability of land records; computerization makes it possible to make backup copies of records, to counteract misplacement and loss of paper records, and inhibits fraudulent actions.[21] Having in place an efficient paper-based system is a necessary precursor to digitization, because computerizing an inefficient paper-based system may result in a more expensive system that remains inefficient.[22]

Over the past five years, 37 economies measured by *Doing Business* computerized land records. Among them are Rwanda and Kenya (represented by Nairobi). Ten years ago, transferring property in Rwanda took more than a year. Today, thanks to the web-based Land Administration Information System implemented in Kigali, the process takes only a month. Rwanda's case is not unique. As of May 2015, the Nairobi registry had digitized most of its land records. Nairobi's Lands Office has made notable gains in security and efficiency—reducing registration time by one week. In terms of security, digitization has curbed the risk of document loss and misplacement. As for efficiency, staff can now access files stored in a single electronic database in less time. In 2015, Kenya's national government launched the National Titling Center—intended to facilitate title digitization process—and it recently started digitizing Mombasa's land records. In tandem with a continuing review of the budgetary and resource implications of national digitization, the Ministry of Land, Housing and Urban Development should maintain efforts to digitize land records in counties beyond Nairobi.

Going digital is a step-by-step process and land registries do not need to abandon paper all at once. Land registries can start by shifting from paper to digital record keeping (like Nairobi) and then move to fully online registration. For example, in the United Kingdom, the process of digitization started in 1997 and spanned more than a decade. As a result of computerization, in 2013/14 the land registry increased its productivity by 21% despite a 16% rise in applications. Some 76% of substantive applications were submitted electronically in 2014, and today about 24 million titles are registered. Starting in Nairobi and then moving to other counties, the eventual integration of a fully online registration system would make it easier to organize the workflow, and identify and remedy bottlenecks in real time. As the Ministry of Land, Housing and Urban Development continues to develop and introduce online services—through eCitizen and other platforms—it should better promote their use by ensuring all stakeholders are kept informed of developments and trained on how to use the systems.

NOTES

1. Ministry of Lands of the Republic of Kenya. 2009. Sessional Paper No. 3 of 2009 on National Land Policy. http://www1.uneca.org/Portals/lpi/CrossArticle/1/Land%20Policy%20Documents/Sessional-paper-on-Kenya-National-Land-Policy.pdf.
2. Supreme Court of Kenya. 2015. Advisory Opinion Reference No 2 of 2014. In the Matter of the National Land Commission [2015] eKLR. http://kenyalaw.org/caselaw/cases/view/116512/.
3. The Constitution of Kenya 2010 decentralized the country's government structure and established counties. The devolution of certain central government powers to 47 new counties is an ongoing effort. World Bank Brief, "Kenya's Devolution," http://www.worldbank.org/en/country/kenya/brief/kenyas-devolution.
4. Claessens, Stijn and Luc Laeven, "Financial Development, Property Rights, and Growth", *Journal of Finance*, 58 (6): 2401—36, 2003.
5. Johnson, Simon, John McMillan, and Christopher Woodruff, "Property Rights and Finance," *The American Economic Review* Volume 92, Issue 5, Pages 1335-1356, December 2002.
6. World Bank. 1989. *World Development Report 1989*. New York: Oxford University Press.
7. Property information held in cadasters and land registries is part of the land information available to governments. Land information also includes other geographic, environmental and socioeconomic data related to land that are useful for urban planning and development.
8. "[The former] ministries of Land, Housing, Urban Development and Nairobi Metropolitan Development, were joined together to form the Ministry of Land, Housing and Urban Development." Ministry of Land, Housing and Urban Development of the Republic of Kenya. 2016. http://www.lands.go.ke/ .

9. Land Registration Act, 2012. http://www.kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/Land_Registration_Act___No_3_of_2012_.pdf.
10. Section 37, Land Registration Act, 2012.
11. Public Notice: List of KRA Bank Account Details. http://www.kra.go.ke/index.php/notices/kra-news/notice03-20052015.
12. For purposes of this study, the assumed property is leasehold private land registered under the Registered Land Act regime, as such titles are the most common and readily accessible titles at the local Lands Offices.
13. Section 39, Land Registration Act, 2012.
14. Section 38, Land Registration Act, 2012.
15. In Kenya the majority of private property is leasehold. Property owners must thus obtain a lease from the national government and make regular rent payments.
16. The 10 economies showing the most notable improvement in performance on the *Doing Business* indicators in 2014/15 were Costa Rica, Uganda, Kenya, Cyprus, Mauritania, Uzbekistan, Kazakhstan, Jamaica, Senegal and Benin. World Bank. 2016. *Doing Business 2016: Measuring Regulatory Quality and Efficiency*. Washington, DC: World Bank Group.
17. Of the counties benchmarked, stamp duty assessment at the Huduma Center has only become widely used in Isiolo.
18. http://www.ardhi.go.ke/wp-content/uploads/2016/04/MOLHUD_Service_Charter_Modified_5th-April.pdf.
19. These are Isiolo, Kiambu (Thika), Kisumu, Machakos and Nyeri.
20. World Bank. 2016. *Doing Business 2016: Measuring Regulatory Quality and Efficiency*. "Registering Property: The Paths to Digitization." Washington, DC: World Bank.
21. World Bank. 2014. *Doing Business 2015: Going Beyond Efficiency*. "Registering Property: Measuring the Quality of Land Administration Systems." Washington, DC: World Bank Group.
22. World Bank. 2016. *Doing Business 2016: Measuring Regulatory Quality and Efficiency*. "Registering Property: The Paths to Digitization." Washington, DC: World Bank.

Doing Business in Kenya 2016

Enforcing contracts

- Many judiciary improvements in Kenya have been initiated since 2012 under the umbrella of the formally titled Judiciary Transformation Framework, but a palpable impact on commercial litigation remains to be seen.
- Since late 2015, the judiciary has been generating case progress and clearance rate reports as part of its new performance management and measurement initiative. The goal is to identify bottlenecks in Kenya's dispute resolution system and improve judges and magistrates' performances.
- Across the 11 Kenyan counties measured, resolving a commercial dispute takes 427 days, on average, which is more than six months faster than the regional average for Sub-Saharan Africa. Within Kenya, the time needed to enforce a contract varies from 390 days in Busia (Malaba) to 465 days in Nairobi, where courts deal with a larger caseload.
- The cost to enforce a contract in Kenya ranges from 36.2% of the claim value in Uasin Gishu (Eldoret) to 41.8% in Nairobi. On average, enforcing contracts is 10% less costly than in Sub-Saharan Africa.
- The average score in Kenya on the quality of judicial processes index—7.8 out of 18 possible points—is 1.4 point higher than the average for Sub-Saharan Africa.
- The county that has reduced the time for trial and judgment the most since 2012 is Nyeri, which sped the process up by 50 days. The 2010 rules on pretrial conferences have been more strictly applied in recent years. In addition, new magistrates were appointed, which helped clear out some of the backlog of cases.

When Chief Justice Willy Mutunga launched Kenya's Judiciary Transformation Framework in May 2012,[1] one of his top priorities was to tackle case delays and backlogs, which constituted the "single most important source of public frustration with the judiciary." To this end, the Judiciary Transformation Framework pledged a gradual, year-over-year quickening of the pace for hearing and deciding court cases. Since then, case backlogs have also been reduced considerably. However, more remains to be done: Looking at Kenya's magistrates' courts alone, there were 209,919 civil cases still pending in 2014.[2]

A well-functioning judiciary—one that resolves cases in a reasonable time, in a predictable manner and that is accessible to the public—is essential to achieve economic and social progress. Efficient contract enforcement, in particular, matters for the business climate.[3] It contributes to economic development by improving access to credit and increasing trade.[4] Transparent courts give companies the confidence that they will have judicial recourse in case of contract disputes. Studies examining court efficiency found that firms in Brazil, Peru and the Philippines were more likely to invest when they had greater confidence in their courts.[5]

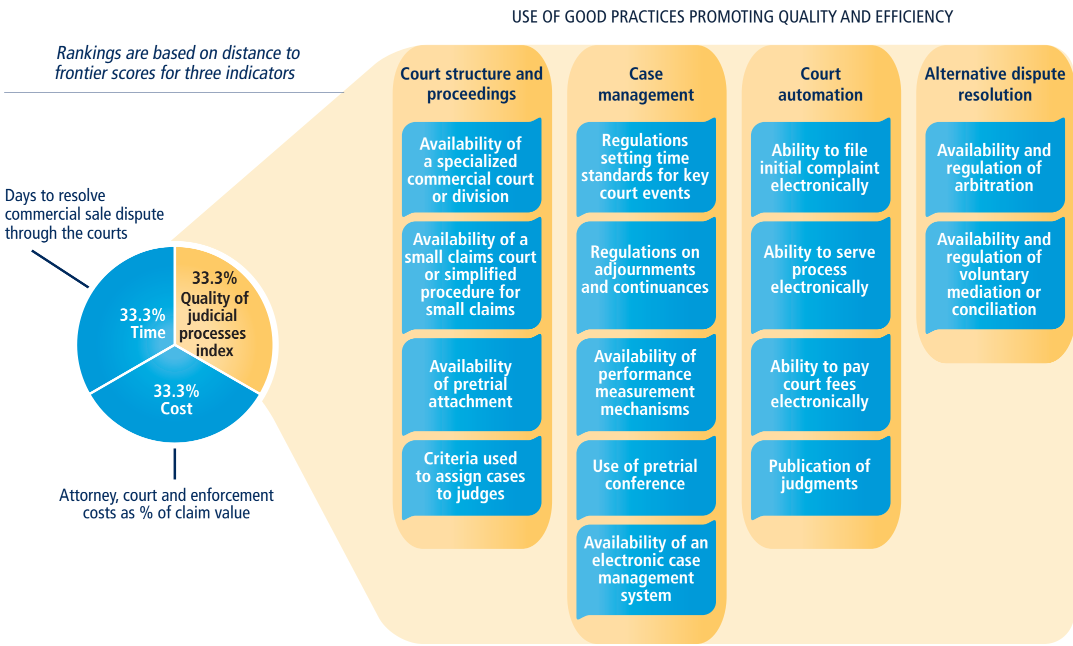
For commercial judicial systems, quality and efficiency go hand in hand. In economies that score well on the enforcing contracts indicators—with good practices for structuring courts and their proceedings, for case management, court automation and alternative dispute resolution—and where the quality of judicial process is high, the level of domestic credit available for the private sector tends to be higher.[6]

WHAT DOES ENFORCING CONTRACTS MEASURE?

Doing Business measures the time and cost for resolving a commercial dispute through a local first instance court. The case study assumes that a seller delivers custom-made goods to a buyer who refuses delivery, alleging that the goods are of inadequate quality. To enforce the sales agreement, the seller files a claim with a local court, which hears arguments on the merits of the case. Before reaching a decision in favor of the seller, an expert is appointed to provide an opinion on the quality of the goods in dispute, which distinguishes the case from simple debt enforcement.[7]

In addition, an index measuring the underlying quality of the judicial processes was introduced in 2015 (figure 6.1). This new index replaces the indicator on the number of procedures to enforce a contract. The aim is to provide a picture of judicial efficiency that goes beyond the time and cost associated with resolving a dispute.

FIGURE 6.1 The quality of judicial processes index adds a new dimension to the enforcing contracts indicator



HOW DOES ENFORCING CONTRACTS WORK IN KENYA?

On average, across the 11 Kenyan counties measured, resolving a commercial dispute takes 427 days and costs 38.8% of the claim value. To put the time spent in an international context, this is more than six months faster than the regional average for Sub-Saharan Africa, but almost twice as long as in Rwanda, a regional good-practices standout. In terms of cost, enforcing contracts is nearly three times as expensive in Kenya as it is in Tanzania, but still 10% less costly than the average Sub-Saharan Africa average. The average score in Kenya on the quality of judicial processes index—7.8 out of 18 possible points—is 1.4 point higher than the average for Sub-Saharan Africa, but approximately half as high as the United Kingdom, at 15 points (figure 6.2).

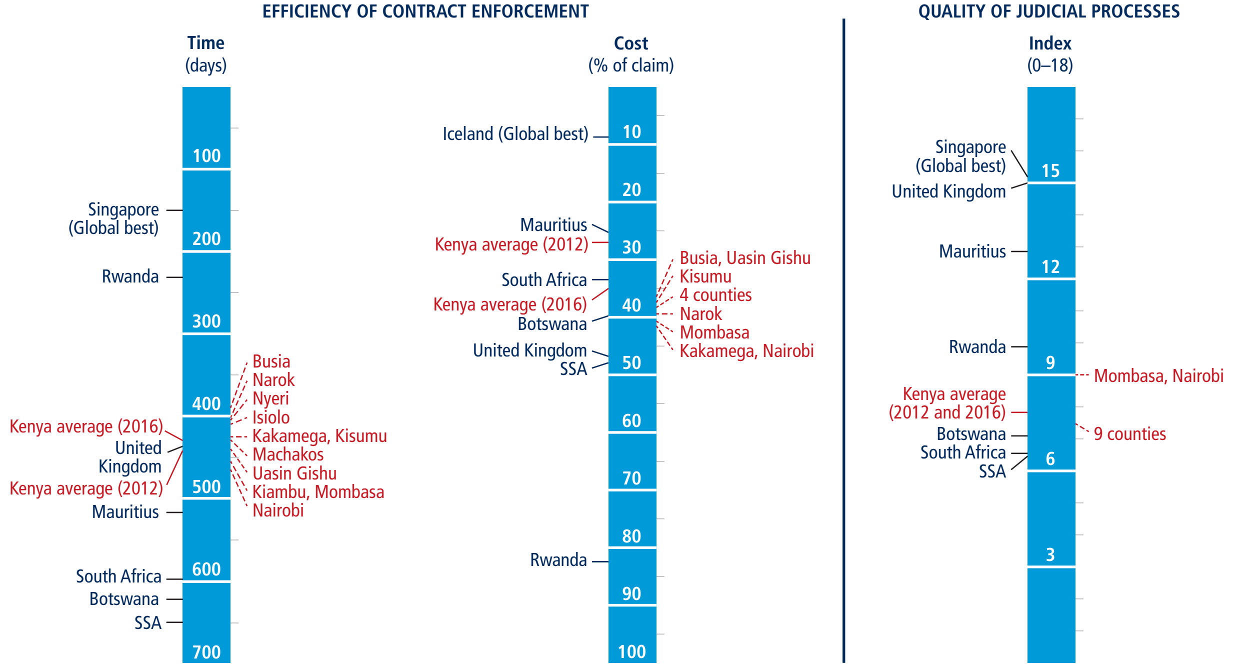
Although laws and regulations relating to contract enforcement are the same across Kenya, the ease of enforcing contracts varies from one county to another. For example, there are differences in the duration and cost of civil litigation depending on the magistrates' court. Enforcing a contract is easier in Busia (Malaba) and Mombasa, and more difficult in Kiambu (Thika) and Kakamega (table 6.1). In Kiambu (Thika), it takes 455 days and costs 38.6% of the claim value to enforce a contract, while in Busia (Malaba) it is two months faster (390 days) and almost 2 percentage points cheaper (36.7% of the claim value). On the quality of the judicial processes index, Nairobi and Mombasa both score 9 points as compared to 7.5 in the other counties. This is due to their jurisdictions' availability of a specialized court dealing with commercial cases (box 6.1).

The time needed to enforce a contract varies from 390 days in Busia (Malaba) to 465 days in Nairobi. Across the 11 counties measured, the filing and service phase takes less than 10% of the total time. Under Kenya's civil procedure rules, personal service is not required for businesses if the process server is unable to find a corporate secretary, director or other principal; it is sufficient to leave the summons at the registered office of the firm.[8] In the majority of cases involving businesses, one service attempt is sufficient. This process is fastest in Narok where, with a lighter caseload, 21 days are needed for an attorney to prepare the claim, for the court to issue the summons, and for plaintiff to serve the defendant. In Nairobi, the same process takes 40 days.

Trial time is shortest in Busia (Malaba) (just under 10 months), where two magistrates have recently been appointed, increasing the number to four. It takes one year in five counties.[9] Of those five, delays in Nairobi and Mombasa can be explained by larger caseloads, while lawyers in Kisumu reported waiting for a typed version of the judgment after a decision is made.

Since 2010, the Civil Procedures Rules require parties to attend a pretrial

FIGURE 6.2 Enforcing contracts across Kenya is faster and cheaper than in the average Sub-Saharan African economy



Source: Doing Business database.

Note: Data for Kenya for 2012 and 2016 represents the average for all 11 counties. The averages indicated for Kenya in 2012 reflect revisions to the data and capture the change in the sample (Garissa, Kilifi and Nakuru were discontinued and Machakos was added). Data for SSA represent the average for the 48 Sub-Saharan African economies.

conference in part to encourage settlement. In most jurisdictions, pretrial hearings will take place approximately one month after the application for a pretrial date is received. Obtaining a trial date is a different story. Due to case backlogs, after the pretrial conference, parties can wait between three to six months (and sometimes longer) for their day in court, depending on the availability of the magistrate and the time of the year. For example, a new case filed in early March 2016 in Mombasa was set to have the pretrial conference in late April 2016. When the pretrial conference is unsuccessful, parties are asked to fix a date at the registry, where they are likely to be told to wait for the "call over,"[10] which only happens twice a year (in June and December), thereby delaying the process further.

Enforcing a judgment across Kenya takes, on average, 54 days—four times faster than the Sub-Saharan African economies' average of 215 days. This phase, which includes the sale of the attached goods of the losing party through public auction, is regulated by the Auctioneers' Act and the Civil Procedure Rules. Auctioneers have a strong incentive to find a buyer for the seized goods, because they get paid with the proceeds of the public sale.

The cost to enforce a contract ranges from 36.2% of the claim value in Uasin Gishu (Eldoret) to 41.8% in Nairobi. Attorney fees make up on average almost two-thirds of the total cost, and vary from 24.2% in Narok to 27.5% in Nairobi. The legal market is highly competitive among litigators in Kenya and, although lawyers refer to the Advocates Remuneration Order of 2014 to set their fees, they tend to charge less in smaller rural towns, where most clients are small-scale farmers and businessmen. Conversely, lawyers in bigger cities, like the capital Nairobi, tend to charge more, due to higher demand.

Court fees have not changed since 1995, and the same fee scale applies across the country. Charges for the filing of the case, issuance of judgment, hearings, adjournments, and service are the main costs. Differences between the counties result mainly from the varying fees charged by expert witnesses. Expert witnesses' fees range from 3.0% of the claim value, in Busia (Malaba) and Uasin Gishu (Eldoret), to 6.5% in Narok.

For enforcement fees, the winning parties will pay small amounts to obtain the judgment registration or an attachment order. They usually do not have to advance any fees to auctioneers; they may only be required to make a deposit to cover for some costs incurred ahead of the public sale—including removal, storage, advertisement, and organization of the public sale of the goods of the debtor. As a result, enforcement fees in Kenya (2.4% on average) are much lower than the global average (5.8%).

TABLE 6.1 Where is it easy to enforce a contract in Kenya—and where not?

County *(City/Town)*	Rank 2016	Rank 2012	Distance to frontier (score)	Time (days)	Cost (% of claim)	Quality of judicial processes index (0–18)
Busia *(Malaba)*	1	1	59.46	390	36.7	7.5
Mombasa *(Mombasa)*	2	2	58.96	455	40.7	9.0
Nyeri *(Nyeri)*	3	7	58.37	405	38.5	7.5
Isiolo *(Isiolo)*	4	9	58.35	410	38.2	7.5
Uasin Gishu *(Eldoret)*	5	4	58.28	440	36.2	7.5
Nairobi *(Nairobi)*	6	6	58.27	465	41.8	9.0
Kisumu *(Kisumu)*	7	3	58.24	425	37.4	7.5
Narok *(Narok)*	8	5	58.01	402	39.7	7.5
Machakos *(Machakos)*	9	11	57.90	429	38.0	7.5
Kiambu *(Thika)*	10	8	56.97	455	38.6	7.5
Kakamega *(Kakamega)*	11	10	56.74	425	41.4	7.5

Source: Doing Business database.
Note: Rankings are based on the average distance to frontier (DTF) score of the time and cost associated with enforcing contracts and the quality of judicial processes index. The DTF measure is normalized to range between 0 and 100, with 100 representing the frontier of best practices (the higher the score, the better). The 2012 rankings are adjusted: they capture the change in the sample (Garissa, Kilifi and Nakuru were discontinued and Machakos added), data revisions and changes in the method of calculating the ranking. For more details, see the *About Doing Business and Doing Business in Kenya 2016* chapter.

WHAT HAS CHANGED?

Three counties have sped up the time for contract enforcement since 2012: Nyeri, Isiolo and Kakamega. Nyeri improved the most, reducing the time involved by 50 days (figure 6.3). Lawyers in Nyeri and Isiolo reported that the 2010 rules on pretrial conferences—where parties exchange evidence, winnow down their legal issues and discard minor ones—have been more strictly applied. In addition, new magistrates were appointed in Kakamega, which helped reduce the case backlog, decreasing the time required to reach a judgment.

Another important local reform effort underway involves court automation in Uasin Gishu (Eldoret) and the Milimani law courts of Nairobi. The pilot program for a case management system for the chief magistrates' court of Uasin Gishu (Eldoret) started in February 2011. The registry was to be automated and customers were able to search documents by case number, the names of parties, or the case title. It was also possible to make queries through an SMS service: by texting a case number to a dedicated phone number, an instant SMS reply provided the case title, parties concerned, date, time and location of next hearing. However, despite an encouraging start, the system does not yet operate in the desired way and the case recording database is not up-to-date. According to a knowledgeable source, one of the problems seems to be that the original system was developed without a proper framework for knowledge transfer. As a result, when the designer of the system left, court employees were not able to take over, update and maintain the system.[11]

A more recent project computerizing the commercial division of the high court in Milimani is promising, as various automated solutions have already been piloted. Several innovations have been tested, including a queue management system, an "e-diary," and a judiciary audio-transcription system to improve service delivery. The e-diary and the queue management system help ensure that customers are served in the right order, and that cases may be scheduled on a continuous basis. The judiciary audio-transcription system records proceedings as they happen in court and ensures that transcripts are available within 48 hours. This is an improvement over proceedings that are recorded by hand (mostly illegibly), as heard by the judge/magistrate, and which then have to be typed by a third party (which can take up to a year) before they can be used in the appeal process. Although the e-court features in Milimani are not covered by *Doing Business*, they represent the first step towards a full-fledged e-court that could offer additional features in the future (e.g., e-filing of court claims).

In addition to these local improvements, a number of major reform initiatives have taken place at the national level and are in various stages of implementation.

The Judiciary Transformation Framework

Launched in 2012, the Judiciary Transformation Framework is a blueprint to reform Kenya's judiciary based on four pillars: people-focused delivery of justice; transformative leadership; adequate infrastructure and resources; and information technology as an enabler for justice. Some hard numbers illustrate the level of commitment to this ambitious project: between 2011 and 2015, the judiciary's budget more than quadrupled, from KES 3.9 billion ($42.5 million) to more than KES 16 billion ($174 million). At the same time, the number of judges

BOX 6.1 The quality of judicial processes index, going beyond efficiency

The quality of judicial processes index measures whether a county has adopted a series of good practices in its court system in four areas: (1) court structure and proceedings, (2) case management, (3) court automation and (4) alternative dispute resolution.

On court structure and proceedings, everywhere in Kenya procedural requirements are lighter for claims under KES 49,999 ($545) (Order 3, CAP. 21 of the Civil Procedure Act), and self-representation is allowed in magistrates' courts (a score of 1.5).[a] Plaintiffs can obtain pretrial attachment of the defendant's movable assets if they fear the assets might be dissipated during trial (a score of 1), and cases are assigned randomly among judges, but not through an electronic case management system (a score of 0.5 out of 1). In addition, Nairobi and Mombasa have specialized commercial courts (a score of 1.5), which makes them globally competitive on this index.

Case management refers to a set of principles and techniques intended to ensure the timely and organized flow of cases through the court, from initial filing through disposition. Case management enhances court efficiency and promotes better record-keeping.[b] All Kenyan counties score 2 points out of 6 on this index, because time standards for at least three key court events are included in the Civil Procedure Rules and respected in more than 50% of cases, and because a pretrial conference is among the case management techniques available in Kenyan courts. The judiciary has started to generate statistics and reports, but such reports are only internal for the moment, and they rely on the manual reporting of cases.

Court automation increases the speed of the litigation process, improves quality of data recording and limits interactions between litigants and court personnel, thus limiting the opportunities for bribery. Kenya is piloting some level of computerization within its courts at this time and scores 0.5 of 4 points on this index, because selected court decisions at the appellate and supreme court levels are already made publicly available on http://kenyalaw.org.

Alternative dispute resolution, including arbitration or mediation/conciliation, provides litigants with different options for effectively resolving disputes. They can reduce caseload and backlog by diverting cases that would otherwise have to go through the courts; streamline trials; and ultimately reduce cost.[c] In Kenya, arbitration is regulated through the Arbitration Act of 1995 (a score of 0.5); all relevant commercial disputes can be submitted to arbitration (a score of 0.5); and valid arbitration clauses are usually enforced by the courts (a score of 0.5). Voluntary mediation is a recognized way of resolving commercial disputes in the Constitution of Kenya, Article 159 (2)(c) (a score of 0.5), but it is not yet operationalized nor regulated through a dedicated statute (a potential score of 0.5), and there are no financial incentives for the parties to pick mediation over litigation (a potential score of 0.5). Adding these numbers gives Kenyan counties a score of 2 out of a possible 3 for the alternative dispute resolution index.

Note: For more information on the quality of judicial processes index, see the data notes.

a. A more formal venue for small claims is currently considered (small claims court, draft bill of 2015).

b. State Court Administrative Office. 2004. Case Flow Management Guide. Lansing, MI, United States; Gramckow, Heike P., and Valerie Nussenblatt. 2013. "Caseflow Management: Key Principles and the Systems to Support Them." Justice & Development Working Paper 23/2013, Legal Vice Presidency, World Bank, Washington, DC.

c. Jorquiera, Carlos Eugenio, and Gabriel Dabdoub Alvarez. 2005. "The Cost of Disputes in Companies and the Use of ADR Methods: Lessons from Nine Latin American Countries." MIF Study, Multilateral Investment Fund, Washington, DC.

more than tripled (from 43 to 143) and the number of high courts throughout the country doubled (from 17 to 34). Since then, notable efforts have continued, as illustrated by the hiring of 30 new magistrates across Kenya in March 2016.[12]

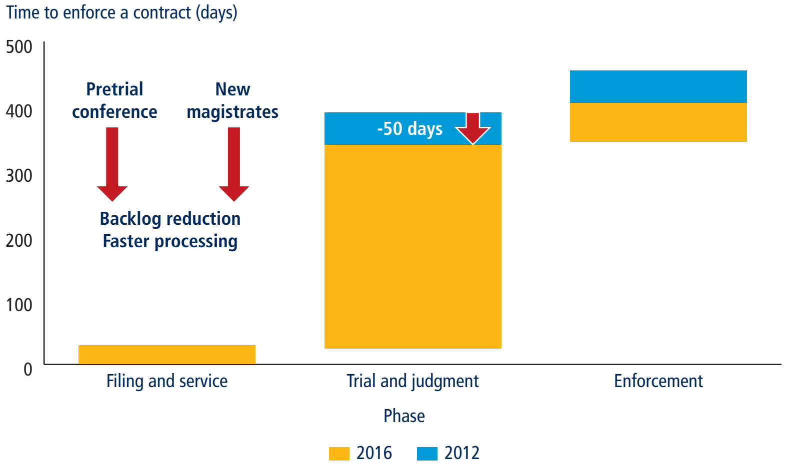
One of the main objectives is to steer the organizational culture away from ad-hoc problem solving toward models of modern management science. Chief Justice Mutunga admitted that, just four years ago, the judiciary did not know how many cases were pending, the duration of a case, the clearance rate or the number of rulings per court or judge.[13] Without such information, the judiciary was not able to optimize the allocation of its resources, to decide where to build a new court or where to add more judges. Kenya has since been increasing its use of data and standards in decision-making through this "big data" initiative.

Performance management and measurement

The April 2015 signing of the Performance Management and Measurement Understandings between the chief registrar of the judiciary, the chief justice and the heads of the courts was a major step to help monitor courts' performances. Specific targets were set for courts and for judicial officers, such as hearing a case within 360 days, delivering judgments within 60 days of the end of a trial, and delivering a minimum of 20 rulings per month. How is Kenya's judiciary intending to reach those targets and monitor the performance of the courts and officers? By collecting daily data on each case and each court and by making judicial officers and managers aware and accountable for their progress.

On October 1, 2015, the judiciary introduced a case-tracking template to record the daily progress of any case and keep tabs on the date of a specific hearing, outcome from that hearing and the date for the next activity. A policy circular

FIGURE 6.3 Nyeri cut the time for trial and judgment to speed up contract enforcement



Source: *Doing Business* database.

was released making this template the official court-reporting tool for judges, magistrates, kadhis,[14] registrars and judicial staff—and allowing the judiciary to issue single case progress reports. Also in October 2015, a clearance rate report was generated for the first time using the judiciary's monthly court statistics. The next step will be to improve the quality of reporting and make those reports publicly available, which will be reflected in an improved score on the quality of judicial processes index.

Transparency and accountability measures

When Kenya adopted its new constitution in 2010, it was decided that all judges and magistrates in office should go through a vetting process to ensure that they serve in accordance with the values and principles set out by the new text. Since then, the Judges and Magistrates Vetting Board has issued 19 determinations, finding dozens of judges and magistrates unsuitable. Staffs shifted, affecting many counties in different ways. For example, in Mombasa, the number of magistrates dropped from 14 to nine, as Mombasa lost magistrates to other counties in need of replacements for suspended magistrates.[15] Despite an automatic increase in the workload for Mombasa's remaining nine magistrates, the time for contract enforcement remained stable. This is mainly due to a stricter approach towards adjournment imposed by the new chief resident.

Another measure to increase transparency in the judiciary was to make court fee schedules readily available in public domains. As reported in *Doing Business in Kenya 2012*, lawyers had previously complained that they did not have access to court fees schedules. Having the fees posted in each court building has been an improvement, saving both money and time—and making it harder for court registry officers to be arbitrary in fee assessments.

Magistrate court proceedings and management

Two major texts have recently affected dispute resolution at the magistrates' court level: the first is the enactment of the Magistrates' Courts Act, 2015, which entered into force on January 2, 2016. This expands the jurisdiction of the magistrates' courts and provides them with more functions and powers. One of the most notable changes is the threefold increase of the pecuniary jurisdiction for civil procedures. Before, magistrates' courts heard disputes with a claim value not exceeding KES 7 million (approximately $76,000). Under the new law, a chief magistrate has jurisdiction to entertain a claim of up to KES 20 million (approximately $218,000). Hence magistrates, whose courts are the ones measured by the *Doing Business in Kenya* series, will hear more commercial disputes going forward, as the majority of commercial claims are below KES 20 million. The impact of the change in the jurisdiction threshold has yet to be fully felt: cases filed under the new thresholds had not reached the hearing stage at the time of this report. The impact on the backlog of cases and on the time it takes to resolve a commercial dispute in Kenyan courts will be reflected in future single case progress reports.

The second important text, the Magistrates and Kadhis Courts Registry Manual, was launched on February 15, 2016. It provides a guide to court registry staff on how to perform their duties, which include: assisting the judge, keeping a record of the list of all cases and calling out each case in turn, so that the parties can identify themselves to the court. The manual provides practical recommendations on how registrars and courts should be organized. For example, it discusses how and when the daily list of matters to be heard should be established, and where it should be displayed. It also recommends that cases are filed in alpha-numerical order, that a checklist should be followed before each case is filed, and that file movement registers should exist at each registry, so that the registrars know who has retrieved a file and for what purpose (e.g., if a magistrate checked out a file for a hearing). This could reduce the number of adjournments for misplaced files in future cases, therefore speeding up the process.

Updated fee schedule for lawyers

Lawyers in Kenya refer to the Advocates Remuneration Order to set their legal fees. For many years, the fee schedule had remained unchanged, but the order of 2014[16] provides for a general fee increase of about 40% across the board. The new rates entered into force on April 11, 2014. Filing a new civil suit similar to the case study used by *Doing Business* now costs KES 65,000 ($709), a 50% jump compared to the pre-2014 fees of KES 42,000 ($458).

WHAT CAN BE IMPROVED?

The judiciary has been very active over the past four years. In addition to the reforms already being piloted (court-annexed mediation and court automation), other improvements are in the pipeline, notably the establishment of a small claims court. Changing the legal framework is only a first step in the journey towards improved court management and efficient case processing. Kenya will also have to tackle other challenges, such as changing the mindset of the stakeholders involved in the dispute resolution process.

Enforce rules to limit adjournments

In Kenya, having a hearing date scheduled does not necessarily mean that your case will be heard on that day. Delays are often caused by unjustified adjournments, either requested by advocates or due to the no-show of a party (in case of self-representation) or the lawyer.[17] In most cases, when a case is adjourned, it will be heard two to three months later. But experienced lawyers in Kakamega noted that delays can be as long as six months, depending on the diary of a particular magistrate.

The judiciary should ensure that the number of adjournments is limited. Although adjournments are regulated in the Civil Procedure Rules of 2010, they continue to be granted liberally by magistrates.

The judicial attitude and accountability for timelines and limiting adjournments is key. Judges have to actively monitor judicial proceedings to make sure they comply with the reasonable time requirements. Heads of jurisdictions and magistrates should go beyond the general guidance of the Civil Procedure Rules, which provide wide and unfettered discretion to the courts to grant adjournments. Magistrates should communicate clearly to parties and their lawyers that court business will go ahead unless there is a genuine reason not to do so. In the Slovak Republic (Bratislava District Court) it is considered an obligation to try and to decide a case on the first hearing; adjournments are only allowed for serious reasons, announced by the judge to the parties and put on the record. In Latvia (Riga Central District Court), hearings cannot be postponed without fixing new dates.[18]

Local bar associations should also be involved. They should help establish the court process rules and ensure that lawyers understand the need for—and benefit of—case-processing time standards and limits to adjournments.

No-shows in the courtroom are often caused by improper notification of the hearing date and venue. To prevent such miscommunication, registries should consider improving their communication technology to notify parties of a forthcoming hearing. Around the world, there are successful examples of courts using technology tools to ensure fast and reliable communication. In Turkey's UYAP e-justice system, for example, the courts send SMS messages containing legal information, such as updates of court hearings, thereby limiting the risk of an absence by one of the parties. This system not only sends prompt, timely reminders of court hearings, it also saves on postage. In Turkey, in 2011, savings in postage alone were estimated to be in the range of 3.3 million euros ($3.7 million) per year.[19]

Another solution might follow the Norwegian example, where only one main hearing/trial is held in each case. The main hearing is scheduled within days once the case has been registered by the court. In civil cases a preparatory meeting, usually a telephone conference, is held between the judge and the parties' counsel soon after the case is registered.[20]

Establish a mediation culture

The Constitution of Kenya recognizes mediation and encourages it as a form of dispute resolution to be applied by the courts. The judiciary initiated a six-month pilot program on April 4, 2016 at Milimani law courts of Nairobi. The next step would be to roll out court-annexed mediation in court stations across the country. The first case was concluded in May 2016.

To fully benefit from the implementation of the court-annexed mediation, it should be used by parties, advocates and magistrates alike. Establishing a mediation culture requires a multi-pronged approach. First, it requires an awareness-raising campaign targeting all actors in the commercial justice system: litigants, lawyers and judges must be made aware of the existence of mediation as well as its benefits. Second, it requires enhanced professionalization of mediators and mediation centers by establishing a quality accreditation process for mediators combined with training, continuing education and professional standards. Third, incentives toward mediation must be created. Advocates are more likely to turn to mediation if it is seen as a recognized field for legal professionals. With respect to litigants, rules of procedure can provide incentives. These can be, for example, a fast track with reduced time limits (including for delivery of judgment), provided the mediator confirms that serious attempts to mediate were made. Rules can also be coercive: the United Kingdom's civil procedure rules provide for a halt in proceedings for parties to consider mediation—and in Hong Kong, the court can penalize a party who unreasonably fails to engage in mediation.

The Chief Registrar of the Judiciary, Anne Amadi, has already announced an initial incentive for court-annexed mediation: during its pilot stage, the judiciary will cover the mediation cost and parties will not be required to pay the mediator's fee. The judiciary could go a step further and waive court fees to approve out-of-court settlements, like Poland does, make mediation free for low-income litigants, or provide incentives for judges to encourage mediation by rewarding them for successful mediations.

Expand court automation at the magistrates' courts

Kenya has made great strides in the use of technology; it now needs to consolidate its gains. A first step would be to provide magistrates with better information and communication technologies, as well as with connectivity. For example, it is already possible to pay court fees through the M-pesa system (the mobile phone-based money technology) in Kenya, but to be valid, such payment must be accompanied by a receipt from the court, thus defeating some of the purpose of online payment. Just as for electronic filing of the initial summons, this feature would streamline and speed up the process of commencing a lawsuit. And it would have broader benefits: Electronic records tend to be more convenient and reliable. Reducing in-person interactions with court officers minimizes the chances for corruption and results in speedier trials, better access to courts and more reliable service of process. The cost to enforce a contract could also be reduced—court users save in courthouse visits, while courts themselves save on storage, archiving and court officers' costs.

Budgetary, technological, administrative, and legal constraints are common obstacles to establishing electronic systems. Look at Mombasa: except for a few desktop computers and personal mobile phones, there are no electronic case management tools in place within the Mombasa magistrates' court. There is no access to the internet, no wi-fi within the court, and power outages are common.[21] Before successful court automation can be achieved, these foundational issues need to be addressed, as well as the standardization of processes across courts. The World Bank-backed Judicial Performance Improvement Project is supporting the judiciary with hardware and software, connectivity and skills training, as well as process improvements, including through the adoption of registry manuals and its daily court-returns template.[22] These efforts are focusing on the magistrates' courts, which serve the bulk of justice seeking citizens.

NOTES

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6. World Bank. 2016. *Doing Business 2016: Measuring Regulatory Quality and Efficiency*. Washington, DC: World Bank Group.
7. The case study used to measure the time and cost indicators remains the same as in 2012, but the value of the claim has been updated. While in *Doing Business in Kenya 2012* the dispute involved the breach of a sales contract worth $1,860, this year's study, in line with the recent changes in the *Doing Business* methodology, has set the value of the claim at KES 457,156 (approximately $5,000).
8. 2010 Civil Procedure Rules. Order 5, Rule 3 regulating service on corporation.
9. These are Kiambu (Thika), Kisumu, Mombasa, Nairobi and Uasin Gishu (Eldoret).
10. The call over is the reading out in court of a list of cases yet to be dealt with, in order that hearing dates may be arranged.
11. Correspondence with Lyna Sarapai, Magistrate, Judiciary of Kenya. March—May 2016.
12. Chief Justice Mutunga. 2016. Remarks during the swearing-in of the new Magistrates at the Supreme Court gardens. Available at: http://www.judiciary.go.ke/portal/page/speeches.
13. Chief Justice Mutunga. 2015. Speech at the launch of the Performance Management and Measurement report. Available at: http://www.judiciary.go.ke/portal/page/speeches.
14. In Kenya, as established by its constitution, Kadhis' courts have a jurisdiction "limited to the determination of questions of Muslim Law relating to personal status, marriage, divorce or inheritance in proceedings in which all the parties profess the Muslim Religion and submit to the jurisdiction of the Kadhis' courts." http://www.judiciary.go.ke/portal/page/kadhis.
15. Interview with Mombasa delegation during the right-of-reply meetings of February 2016 in Karen (Nairobi).
16. A meaningful review of the fees chargeable by advocates had been undertaken in the year 1997; a marginal review was done in 2006.
17. According to the Impact Evaluation Diagnostic Study report, cases with legal representation take longer to be decided on average than those without legal representation, because many adjournments are requested by lawyers who are not ready to proceed.
18. Although Order 17 (2) of the Civil Procedure Rules provides that "When the court grants an adjournment it shall give a date for further hearing or directions," in practice no hearing date is given immediately.
19. World Bank. 2010. *Doing Business: Making a Difference for Entrepreneurs*. Washington, DC: World Bank Group.
20. Fabri, Marco, and Nadia Carboni. 2015. "European Commission for the Efficiency of Justice (CEPEJ). Saturn Guidelines for Judicial Time Managements." Strasbourg.
21. Interview with Mombasa delegation during the right-of-reply meetings of February 2016 in Karen (Nairobi).
22. World Bank Group. Judicial Performance Improvement Project: http://www.worldbank.org/en/news/loans-credits/2012/11/15/kenya-judicial-performance-improvement-project.

Data notes

The indicators presented and analyzed in *Doing Business in Kenya 2016* measure business regulation and the protection of property rights—and their effect on businesses, especially small and medium-size domestic firms. First, the indicators document the complexity of regulation, such as the number of procedures to start a business or to register a transfer of commercial property. Second, they gauge the time and cost to achieve a regulatory goal or comply with regulation, such as the time and cost to enforce a contract, go through bankruptcy or trade across borders.

This report presents *Doing Business* indicators for 11 counties in Kenya. The data for all sets of indicators in *Doing Business in Kenya 2016* are current as of April 15, 2016. The data for Nairobi and 188 other economies used for comparison are based on the indicators in *Doing Business 2016: Measuring Regulatory Quality and Efficiency*, the 13th in a series of annual reports published by the World Bank Group.[1]

METHODOLOGY

The *Doing Business in Kenya 2016* data were collected in a standardized way. To start, the team customized the *Doing Business* questionnaires for the specific study in Kenya. The questionnaires use a simple business case to ensure comparability across counties and economies and over time—with assumptions about the legal form of the business, its size, its location and the nature of its operations. Questionnaires are administered to local experts, including lawyers, business consultants, architects, engineers, public officials, magistrates and other professionals routinely administering or advising on legal and regulatory requirements. These experts have several rounds of interaction with the *Doing Business in Kenya* team, involving conference calls, written correspondence and visits by the team. The data from questionnaires were subjected to numerous rounds of verification, leading to revisions or expansions of the information collected.

The *Doing Business* methodology offers several advantages. It is transparent, using factual information about what laws and regulations say and allowing multiple interactions with local respondents to clarify potential misinterpretations of questions. Having representative samples of respondents is not an issue; *Doing Business* is not a statistical survey, and the texts of the relevant laws and regulations are collected and answers checked for accuracy. The methodology is inexpensive and easily replicable, so data can be collected in a large sample of locations and economies. Because standard assumptions are used in the data collection, comparisons and benchmarks are valid across locations. Finally, the data not only highlight the extent of specific regulatory obstacles to business but also identify their source and point to what might be reformed.

Economy characteristics

Gross national income per capita

Doing Business in Kenya 2016 reports 2014 income per capita as published in the World Bank's *World Development Indicators 2015*. Income is calculated using the Atlas method (in current U.S. dollars). For cost indicators expressed as a percentage of income per capita, 2014 gross national income (GNI) per capita in current U.S. dollars is used as the denominator. Kenya's income per capita for 2014 is $1,280 (KES 117,433).

Region and income group

Doing Business uses the World Bank regional and income group classifications, available at http://data.worldbank.org/about/country-and-lending-groups. Regional averages presented in figures and tables in the *Doing Business in Kenya 2016* report include economies from all income groups (low, lower middle, upper middle and high income), though high-income OECD economies are assigned the "regional" classification *OECD high income*.

Exchange rate

The exchange rate used in the *Doing Business in Kenya 2016* report is: $1 = 91.7 Kenyan Shilling (KES).

LIMITS TO WHAT IS MEASURED

The *Doing Business* methodology has four limitations that should be considered when interpreting the data. First, the data often focus on a specific business form—generally a limited liability company (or its legal equivalent) of a specified size—and may not be representative of the regulation on other businesses (for example, sole proprietorships). Second, transactions described in a standardized case scenario refer to a specific set of issues and may not represent the full set of issues that a business encounters. Third, the measures of time involve an element of judgment by the expert respondents. When sources indicate different estimates, the time indicators reported in *Doing Business* represent the median values of several responses given under the assumptions of the standardized case.

Finally, the methodology assumes that a business has full information on what is required and does not waste time when completing procedures. In practice, completing a procedure may take longer if the business lacks information or is unable to follow up promptly. Alternatively, the business may choose to disregard some burdensome procedures. For both reasons the time delays reported in *Doing Business* would differ from the recollection of entrepreneurs reported in the World Bank Enterprise Surveys or other firm-level surveys.

CHANGES IN WHAT IS MEASURED

As part of a two-year update in methodology, *Doing Business 2016* expanded the focus of five indicator sets, three of which (dealing with construction permits, registering property and enforcing contracts) are reflected in *Doing Business in Kenya 2016*.

The indicators on dealing with construction permits now include an index of the quality of building regulation and its implementation. Starting this year, the registering property indicators include an index of the quality of the land administration system in each economy in addition to the indicators on the number of procedures and the time and cost to transfer property. And for enforcing contracts an index of the quality and efficiency of judicial processes has been added while the indicator on the number of procedures to enforce a contract has been dropped.

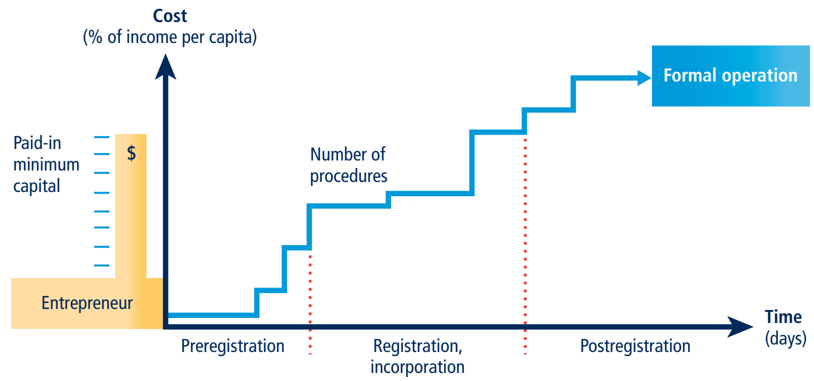
Despite the changes in methodology introduced in *Doing Business 2016*, the data under the old and new methodologies are highly correlated.[2]

STARTING A BUSINESS

Doing Business records all procedures officially required, or commonly done in practice, for an entrepreneur to start up and formally operate an industrial or commercial business, as well as the time and cost to complete these procedures and the paid-in minimum capital requirement (figure 7.1). These procedures include obtaining all necessary licenses and permits and completing any required notifications, verifications or inscriptions for the company and employees with relevant authorities. The ranking of counties on the ease of starting a business is determined by sorting their distance to frontier scores for starting a business. These scores are the simple average of the distance to frontier scores for each of the component indicators (figure 7.2). The distance to frontier score shows the distance of a county to the "frontier," which is derived from the most efficient practice or highest score achieved on each indicator.

After a study of laws, regulations and publicly available information on business entry, a detailed list of procedures is developed, along with the time and cost to

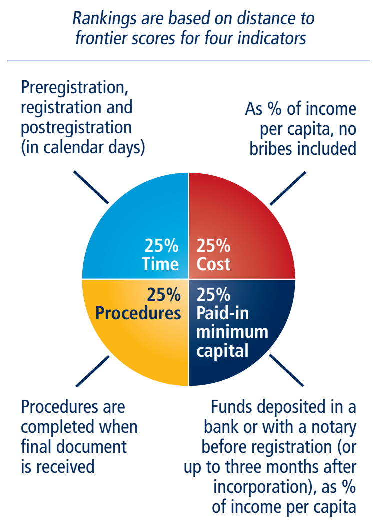
FIGURE 7.1 What are the time, cost, paid-in minimum capital and number of procedures to get a local limited liability company up and running?



comply with each procedure under normal circumstances and the paid-in minimum capital requirement. Subsequently, local incorporation lawyers, notaries and government officials complete and verify the data.

Information is also collected on the sequence in which procedures are to be completed and whether procedures may be carried out simultaneously. It is assumed that any required information is readily available and that the entrepreneur will pay no bribes. If answers by local experts differ, inquiries continue until the data are reconciled.

FIGURE 7.2 Starting a business: getting a local limited liability company up and running



To make the data comparable across counties and economies, several assumptions about the business and the procedures are used.

Assumptions about the business

The business:

- Is a limited liability company (or its legal equivalent).
- Operates in the selected city or town.
- Is 100% domestically owned and has five owners, none of whom is a legal entity.
- Has start-up capital of 10 times income per capita.
- Performs general industrial or commercial activities, such as the production or sale to the public of products or services. The business does not perform foreign trade activities and does not handle products subject to a special tax regime, for example, liquor or tobacco. It is not using heavily polluting production processes.
- Leases the commercial plant or offices and is not a proprietor of real estate.
- Does not qualify for investment incentives or any special benefits.
- Has at least 10 and up to 50 employees one month after the commencement of operations, all of them domestic nationals.
- Has a turnover of at least 100 times income per capita.
- Has a company deed 10 pages long.

Procedures

A procedure is defined as any interaction of the company founders with external parties (for example, government agencies, lawyers, auditors or notaries). Interactions between company founders or company officers and employees are not counted as procedures. Procedures that must be completed in the same building but in different offices or at different counters are counted as separate procedures. If founders have to visit the same office several times for different sequential procedures, each is counted separately. The founders are assumed to complete all procedures themselves, without middlemen, facilitators, accountants or lawyers, unless the use of such a third party is mandated by law or solicited by the majority of entrepreneurs. If the services of professionals are required, procedures conducted by such professionals on behalf of the company are counted as separate procedures. Each electronic procedure is counted as a separate procedure.

Both pre- and postincorporation procedures that are officially required for an entrepreneur to formally operate a business are recorded (table 7.1).

Procedures required for official correspondence or transactions with public agencies are also included. For example, if a company seal or stamp is required on official documents, such as tax declarations, obtaining the seal or stamp is counted. Similarly, if a company must open a bank account in order to complete any subsequent procedure—such as registering for value added tax or showing proof of minimum capital deposit—this transaction is included as a procedure. Shortcuts are counted only if they fulfill four criteria: they are legal, they are available to the general public, they are used by the majority of companies, and avoiding them causes delays. Shortcuts

TABLE 7.1 What do the starting a business indicators measure?
Procedures to legally start and operate a company (number)
Preregistration (for example, name verification or reservation, notarization)
Registration in the selected city or town
Postregistration (for example, social security registration, company seal)
Time required to complete each procedure (calendar days)
Does not include time spent gathering information
Each procedure starts on a separate day (two procedures cannot start on the same day)—though procedures that can be fully completed online are an exception to this rule
Registration process considered completed once final incorporation document is received or company can start operating
No prior contact with officials takes place
Cost required to complete each procedure (% of income per capita)
Official costs only, no bribes
No professional fees unless services required by law or commonly used in practice
Paid-in minimum capital (% of income per capita)
Funds deposited in a bank or with a notary before registration (or up to three months after incorporation)

are counted only if they fulfill four criteria: they are legal, they are available to the general public, they are used by the majority of companies, and avoiding them causes delays.

Only procedures required of all businesses are covered. Industry-specific procedures are excluded. For example, procedures to comply with environmental regulations are included only when they apply to all businesses conducting general commercial or industrial activities. Procedures that the company undergoes to connect to electricity, water, gas and waste disposal services are not included in the starting a business indicators.

Time

Time is recorded in calendar days. The measure captures the median duration that incorporation lawyers or notaries indicate is necessary in practice to complete a procedure with minimum follow-up with government agencies and no unofficial payments. It is assumed that the minimum time required for each procedure is one day, except for procedures that can be fully completed online, for which the time required is recorded as half a day. Although procedures may take place simultaneously, they cannot start on the same day (that is, simultaneous procedures start on consecutive days), again with the exception of procedures that can be fully completed online. A registration process is considered completed once the company has received the final incorporation document or can commence business operations. If a procedure can be accelerated legally for an additional cost, the fastest procedure is chosen if that option is more beneficial to the county's ranking. It is assumed that the entrepreneur does not waste time and commits to completing each remaining procedure without delay. The time that the entrepreneur spends on gathering information is ignored. It is assumed that the entrepreneur is aware of all entry requirements and their sequence from the beginning but has had no prior contact with any of the officials involved.

Cost

Cost is recorded as a percentage of the economy's income per capita. It includes all official fees and fees for legal or professional services if such services are required by law or commonly used in practice. Fees for purchasing and legalizing company books are included if these transactions are required by law. Although value added tax registration can be counted as a separate procedure, value added tax is not part of the incorporation cost. The company law, the commercial code and specific regulations and fee schedules are used as sources for calculating costs. In the absence of fee schedules, a government officer's estimate is taken as an official source. In the absence of a government officer's estimate, estimates by incorporation lawyers are used. If several incorporation lawyers provide different estimates, the median reported value is applied. In all cases the cost excludes bribes.

Paid-in minimum capital

The paid-in minimum capital requirement reflects the amount that the entrepreneur needs to deposit in a bank or with a notary before registration or up to three months after incorporation and is recorded as a percentage of the economy's income per capita. The amount is typically specified in the commercial code or the company law. Many counties and economies require minimum capital but allow businesses to pay only a part of it before registration, with the rest to be paid after the first year of operation. In Turkey in June 2015, for example, the minimum capital requirement was 10,000 Turkish liras, of which one-fourth needed to be paid before registration. The paid-in minimum capital recorded for Turkey is therefore 2,500 Turkish liras, or 11.0% of income per capita.

The data details on starting a business can be found for each economy at http://www.doingbusiness.org. This methodology was developed by Djankov and others (2002) and is adopted here with minor changes.

DEALING WITH CONSTRUCTION PERMITS

Doing Business records all procedures required for a business in the construction industry to build a warehouse along with the time and cost to complete each procedure. In addition, *Doing Business 2016* introduced a new measure, the building quality control index, evaluating the quality of building regulations, the strength of quality control and safety mechanisms, liability and insurance regimes, and professional certification requirements. Information is collected through a questionnaire administered to experts in construction licensing, including architects, civil engineers, construction lawyers, construction firms, utility service providers and public officials who deal with building regulations, including approvals, permit issuance and inspections.

The ranking of counties on the ease of dealing with construction permits is determined by sorting their distance to frontier scores for dealing with construction permits. These scores are the simple average of the distance to frontier scores for each of the component indicators (figure 7.3).

EFFICIENCY OF CONSTRUCTION PERMITTING

Doing Business divides the process of building a warehouse into distinct procedures in the questionnaire and solicits data for calculating the time and cost to complete each procedure (figure 7.4). These procedures include obtaining and submitting all relevant project-specific documents (for example, building plans, site maps and certificates of urbanism) to the authorities; hiring external third-party supervisors, engineers or inspectors (if necessary); obtaining all necessary clearances, licenses, permits and certificates; submitting all required notifications; and requesting and receiving all necessary inspections (unless completed by a private, third-party inspector). *Doing Business* also records procedures for obtaining connections for water and sewerage. Procedures necessary to register the warehouse so that it can be used as collateral or transferred to another entity are also counted.

FIGURE 7.3 Dealing with construction permits: efficiency and quality of building regulation

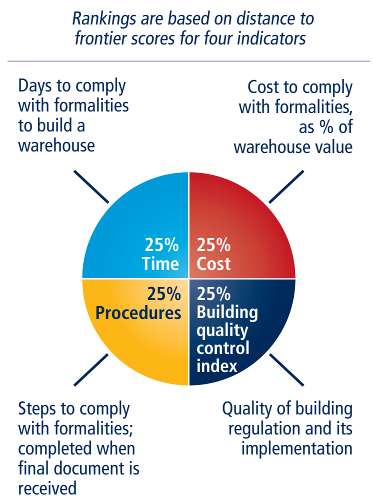
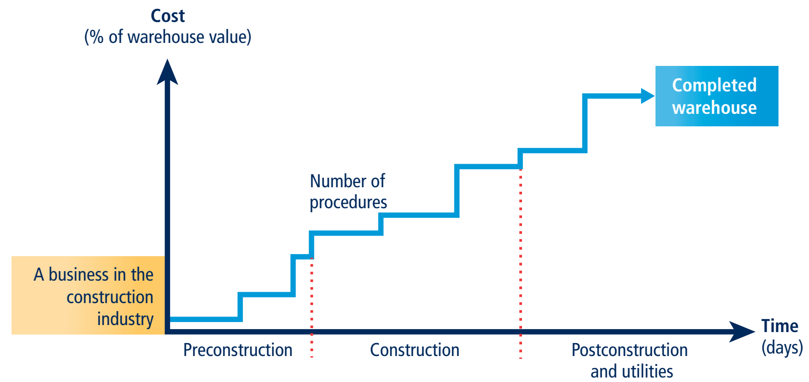


FIGURE 7.4 What are the time, cost and number of procedures to comply with formalities to build a warehouse?



To make the data comparable across counties and economies, several assumptions about the construction company, the warehouse project and the utility connections are used.

Assumptions about the construction company

The construction company (BuildCo):

- Is a limited liability company (or its legal equivalent).
- Operates in the selected city or town.
- Is 100% domestically and privately owned.
- Has five owners, none of whom is a legal entity.
- Is fully licensed and insured to carry out construction projects, such as building warehouses.
- Has 60 builders and other employees, all of them nationals with the technical expertise and professional experience necessary to obtain construction permits and approvals.
- Has at least one employee who is a licensed architect or engineer and registered with the local association of architects or engineers. BuildCo is not assumed to have any other employees who are technical or licensed experts, such as geological or topographical experts.
- Has paid all taxes and taken out all necessary insurance applicable to its general business activity (for example, accidental insurance for construction workers and third-person liability).
- Owns the land on which the warehouse will be built and will sell the warehouse upon its completion.

Assumptions about the warehouse

The warehouse:

- Will be used for general storage activities, such as storage of books or stationery. The warehouse will not be used for any goods requiring special conditions, such as food, chemicals or pharmaceuticals.
- Will have two stories, both above ground, with a total constructed area of approximately 1,300.6 square meters (14,000 square feet). Each floor will be 3 meters (9 feet, 10 inches) high.
- Will have road access and be located in the periurban area of the selected city or town (that is, on the fringes of the city or town but still within its official limits).
- Will not be located in a special economic or industrial zone.
- Will be located on a land plot of approximately 929 square meters

(10,000 square feet) that is 100% owned by BuildCo and is accurately registered in the cadastre and land registry.
- Is valued at 50 times income per capita.
- Will be a new construction (there was no previous construction on the land), with no trees, natural water sources, natural reserves or historical monuments of any kind on the plot.
- Will have complete architectural and technical plans prepared by a licensed architect. If preparation of the plans requires such steps as obtaining further documentation or getting prior approvals from external agencies, these are counted as procedures.
- Will include all technical equipment required to be fully operational.
- Will take 30 weeks to construct (excluding all delays due to administrative and regulatory requirements).

Assumptions about the utility connections

The water and sewerage connections:
- Will be 150 meters (492 feet) from the existing water source and sewer tap. If there is no water delivery infrastructure in the city or town, a borehole will be dug. If there is no sewerage infrastructure, a septic tank in the smallest size available will be installed or built.
- Will not require water for fire protection reasons; a fire extinguishing system (dry system) will be used instead. If a wet fire protection system is required by law, it is assumed that the water demand specified below also covers the water needed for fire protection.
- Will have an average water use of 662 liters (175 gallons) a day and an average wastewater flow of 568 liters (150 gallons) a day. Will have a peak water use of 1,325 liters (350 gallons) a day and a peak wastewater flow of 1,136 liters (300 gallons) a day.
- Will have a constant level of water demand and wastewater flow throughout the year.
- Will be 1 inch in diameter for the water connection and 4 inches in diameter for the sewerage connection.

Procedures

A procedure is any interaction of the company's employees or managers, or any party acting on behalf of the company, with external parties, including government agencies, notaries, the land registry, the cadastre, utility companies and public inspectors—or the hiring of private inspectors and technical experts apart from in-house architects and engineers. Interactions between company employees, such as development of the warehouse plans and inspections conducted by employees, are not counted as procedures. However, interactions with external parties that are required for the architect to prepare the plans and drawings (such as obtaining topographic or geological surveys), or to have such documents approved or stamped by external parties, are counted as procedures. Procedures that the company undergoes to connect the warehouse to water and sewerage are included. All procedures that are legally required, or that are done in practice by the majority of companies, to build a warehouse are counted, even if they may be avoided in exceptional cases (table 7.2).

Time

Time is recorded in calendar days. The measure captures the median duration that local experts indicate is necessary to complete a procedure in practice. It is assumed that the minimum time required for each procedure is one day, except for procedures that can be fully completed online, for which the time required is recorded as half a day. Although procedures may take place simultaneously, they cannot start on the same day (that is, simultaneous procedures start on consecutive days), again with the exception of procedures that can be fully completed online. If a procedure can be accelerated legally for an additional cost and the accelerated procedure is used by the majority of companies, the fastest procedure is chosen. It is assumed that BuildCo does not waste time and commits to completing each remaining procedure without delay. The time that BuildCo spends on gathering information is not taken into account. It is assumed that BuildCo is aware of all building requirements and their sequence from the beginning.

TABLE 7.2 What do the indicators on the efficiency of construction permitting measure?

Procedures to legally build a warehouse (number)
Submitting all relevant documents and obtaining all necessary clearances, licenses, permits and certificates
Submitting all required notifications and receiving all necessary inspections
Obtaining utility connections for water and sewerage
Registering the warehouse after its completion (if required for use as collateral or for transfer of the warehouse)
Time required to complete each procedure (calendar days)
Does not include time spent gathering information
Each procedure starts on a separate day—though procedures that can be fully completed online are an exception to this rule
Procedure considered completed once final document is received
No prior contact with officials
Cost required to complete each procedure (% of warehouse value)
Official costs only, no bribes

Cost

Cost is recorded as a percentage of the warehouse value (assumed to be 50 times income per capita). Only official costs are recorded. All the fees associated with completing the procedures to legally build a warehouse are recorded, including those associated with obtaining land use approvals and preconstruction design clearances; receiving inspections before, during and after construction; obtaining utility connections; and registering the warehouse property. Nonrecurring taxes required for the completion of the warehouse project are also recorded. Sales taxes (such as value added tax) or capital gains taxes are not recorded. Nor are deposits that must be paid up front and are later refunded. The building code, information from local experts, and specific regulations and fee schedules are used as sources for costs. If several local partners provide different estimates, the median reported value is used.

BUILDING QUALITY CONTROL

The building quality control index is based on six other indices—the quality of building regulations, quality control before construction, quality control during construction, quality control after construction, liability and insurance regimes, and professional certifications indices (table 7.3). The indicator is based on the same case study assumptions as the measures of efficiency.

Quality of building regulations index

The quality of building regulations index has two components:

- How easily accessible the building regulations are. A score of 1 is assigned if any building regulations (including the building code) or any regulations dealing with construction permits are available on a website that is updated as soon as the regulations change; 0.5 if the building regulations are available free of charge (or for a nominal fee) at the relevant permit-issuing authority; 0 if the building regulations are distributed to building professionals through an official gazette free of charge (or for a nominal fee), if they must be purchased or if they are not made easily accessible anywhere.
- How clearly specified the requirements for obtaining a building permit are. A score of 1 is assigned if the building regulations (including the building code) or any accessible website, brochure or pamphlet clearly specifies the list of required documents to submit, the fees to be paid and all required preapprovals of the drawings or plans by the relevant agencies; 0 if none of these sources specify any of these requirements or if these sources specify fewer than the three requirements.

TABLE 7.3 What do the indicators on building quality control measure?

Quality of building regulations index (0–2)
Accessibility of building regulations
Clarity of requirements for obtaining a building permit
Quality control before construction index (0–1)
Whether licensed or technical experts approve building plans
Quality control during construction index (0–3)
Types of inspections legally mandated during construction
Implementation of legally mandated inspections in practice
Quality control after construction index (0–3)
Final inspection legally mandated after construction
Implementation of legally mandated final inspection in practice
Liability and insurance regimes index (0–2)
Parties held legally liable for structural flaws after building occupancy
Parties legally mandated to obtain insurance to cover structural flaws after building occupancy or insurance is commonly obtained in practice
Professional certifications index (0–4)
Qualification requirements for individual who approves building plans
Qualification requirements for individual who supervises construction or conducts inspections
Building quality control index (0–15)
Sum of the quality of building regulations, quality control before construction, quality control during construction, quality control after construction, liability and insurance regimes, and professional certifications indices

The index ranges from 0 to 2, with higher values indicating clearer and more transparent building regulations. In the United Kingdom, for example, all relevant legislation can be found on an official government website (a score of 1). The legislation specifies the list of required documents to submit, the fees to be paid and all required preapprovals of the drawings or plans by the relevant agencies (a score of 1). Adding these numbers gives the United Kingdom a score of 2 on the quality of building regulations index.

Quality control before construction index

The quality control before construction index has one component:

- Whether a licensed architect or licensed engineer is part of the committee or team that reviews and approves building permit applications. A score of 1 is assigned if the national association of architects or engineers (or its equivalent) must review the building plans, if an independent firm or expert who is a licensed architect or engineer must review the plans, if the architect or engineer who prepared the plans must submit an attestation to the permit-issuing authority stating that the plans are in compliance with the building regulations or if a licensed architect or engineer is part of the committee or team that approves the plans at the relevant permit-issuing authority; 0 if no licensed architect or engineer is involved in the review of the plans to ensure their compliance with building regulations.

The index ranges from 0 to 1, with higher values indicating better quality control in the review of the building plans. In Rwanda, for example, the City Hall in Kigali must review the building permit application, including the plans and drawings, and both a licensed architect and a licensed engineer are part of the team that reviews the plans and drawings. Rwanda therefore receives a score of 1 on the quality control before construction index.

Quality control during construction index

The quality control during construction index has two components:

- Whether inspections are mandated by law during the construction process. A score of 2 is assigned if both of the following conditions are met: first, an in-house supervising engineer (that is, an employee of the building company), an external supervising engineer or an external inspections firm is legally mandated to oversee the construction of the building throughout the entire construction period, or a government agency is legally mandated to conduct phased inspections; and second, at least one party is legally mandated to conduct risk-based inspections. A score of 1 is assigned if an in-house supervising engineer (that is, an employee of the building company), an external supervising engineer or an external inspections firm is legally mandated to oversee the construction of the building throughout the entire construction period, or if a government agency is legally mandated to conduct phased or risk-based inspections alone, with no mandate for having risk-based inspections with another type of inspection as well. A score of 0 is assigned if a government agency is legally mandated to conduct unscheduled inspections, if legally mandated inspections are to inspect only the safety of the construction site and not the safety of the building itself, or if no inspections are mandated by law during construction.

- Whether inspections during construction are implemented in practice. A score of 1 is assigned if the legally mandated inspections during construction always occur in practice (including if a supervising engineer or firm must be hired); 0 if the legally mandated inspections do not occur in practice, if the inspections occur most of the time but not always, if inspections commonly occur in practice even if not mandated by law or if the inspections that occur in practice are unscheduled inspections.

The index ranges from 0 to 3, with higher values indicating better quality control during the construction process. In Antigua and Barbuda, for example, the Development Control Authority is legally mandated to conduct phased inspections under the Physical Planning Act of 2003 (a score of 1). However, the Development Control Authority rarely conducts these inspections in practice (a score of 0). Adding these numbers gives Antigua and Barbuda a score of 1 on the quality control during construction index.

Quality control after construction index

The quality control after construction index has two components:

- Whether a final inspection is mandated by law in order to verify that the building was built in accordance with the approved plans and existing building regulations. A score of 2 is assigned if an in-house supervising engineer (that is, an employee of the building company), an external supervising engineer or an external inspections firm is legally mandated to take responsibility for verifying that the building has been built in accordance with the approved plans and existing building regulations or if a government agency is legally mandated to conduct a final inspection upon completion of the building; 0 if no final inspection is mandated by law after construction and no third party is required to take responsibility for verifying that the building has been built in accordance with the approved plans and existing building regulations.
- Whether the final inspection is implemented in practice. A score of 1 is assigned if the legally mandated final inspection after construction always occurs in practice or if a supervising engineer or firm takes responsibility for verifying that the building has been built in accordance with the approved plans and existing building regulations; 0 if the legally mandated final inspection does not occur in practice, if the legally mandated final inspection occurs most of the time but not always or if a final inspection commonly occurs in practice even if not mandated by law.

The index ranges from 0 to 3, with higher values indicating better quality control after the construction process. In Belize, for example, the Central Building Authority is legally mandated to conduct a final inspection under the Belize Building Act of 2003 (a score of 2). However, most of the time the final inspection does not occur in practice (a score of 0). Adding these numbers gives Belize a score of 2 on the quality control after construction index.

Liability and insurance regimes index

The liability and insurance regimes index has two components:

- Whether any parties involved in the construction process are held legally liable for structural flaws or problems in the building once it is occupied. A score of 1 is assigned if at least two of the following parties are held legally liable for structural flaws or problems in the building once it is occupied: the architect or engineer who designed the plans for the building, the professional in charge of supervising the construction, the professional or agency that conducted the inspections or the construction company; 0.5 if one of the parties is held legally liable for structural flaws or problems in the building once it is occupied; 0 if no party is held legally liable for structural flaws or problems in the building once it is occupied, if the project owner or investor is the only party held liable, if the liability must be determined by the court or if the liability must be stipulated in a contract.

- Whether any parties involved in the construction process are legally required to obtain an insurance policy to cover possible structural flaws or problems in the building once it is occupied. A score of 1 is assigned if the architect or engineer who designed the plans for the building, the professional in charge of supervising the construction, the professional or agency that conducted the inspections, the construction company, or the project owner or investor is required by law to obtain an insurance policy to cover possible structural flaws or problems in the building once it is occupied or if an insurance policy is commonly obtained in practice by the majority of any of these parties even if not required by law; 0 if no party is required by law to obtain insurance and insurance is not commonly obtained in practice by any party, if the requirement to obtain an insurance policy is stipulated in a contract and not in the law, if any party must obtain workers' safety insurance to cover the safety of workers during construction but not insurance that would cover defects after building occupancy or if any party is required to pay for any damages caused on their own without having to obtain an insurance policy.

The index ranges from 0 to 2, with higher values indicating more stringent liability and insurance regimes. In Madagascar, for example, under article 1792 of the Civil Code both the architect who designed the plans and the construction company are held liable for 10 years after the completion of the building (a score of 1). However, there is no legal requirement for any party to obtain an insurance policy, nor do most parties obtain insurance in practice (a score of 0). Adding these numbers gives Madagascar a score of 1 on the liability and insurance regimes index.

Professional certifications index

The professional certifications index has two components:

- What the qualification requirements are for the professional responsible for verifying that the architectural plans or drawings are in compliance with the building regulations. A score of 2 is assigned if this professional must have a minimum number of years of practical experience, must have a university degree (a minimum of a bachelor's) in architecture or engineering and must also either be a registered member of the national order (association) of architects or engineers or pass a qualification exam. A score of 1 is assigned if the professional must have a university degree (a minimum of a bachelor's) in architecture or engineering and must also either have a minimum number of years of practical experience or be a registered member of the national order (association) of architects or engineers or pass a qualification exam. A score of 0 is assigned if the professional must meet only one of the requirements, if the professional must meet two of the requirements but neither of the two is to have a university degree, or if the professional is subject to no qualification requirements.
- What the qualification requirements are for the professional who supervises the construction on-site or conducts inspections. A score of 2 is assigned if this professional must have a minimum number of years of practical experience, must have a university degree (a minimum of a bachelor's) in architecture or engineering and must also either be a registered member of the national order (association) of architects or engineers or pass a qualification exam. A score of 1 is assigned if the professional must have a university degree (a minimum of a bachelor's) in architecture or engineering and must also either have a minimum number of years of practical experience or be a registered member of the national order (association) of architects or engineers or pass a qualification exam. A score of 0 is assigned if the professional must meet only one of the requirements, if the professional must meet two of the requirements but neither of the two is to have a university degree, or if the professional is subject to no qualification requirements.

The index ranges from 0 to 4, with higher values indicating greater professional certification requirements. In Cambodia, for example, the professional responsible for verifying that the architectural plans or drawings are in compliance with the building regulations must have a relevant university degree and must pass a qualification exam (a score of 1). However, the professional supervising construction must only have a university degree (a score of 0). Adding these numbers gives Cambodia a score of 1 on the professional certifications index.

Building quality control index

The building quality control index is the sum of the scores on the quality of building regulations, quality control before construction, quality control during construction, quality control after construction, liability and insurance regimes, and professional certifications indices. The index ranges from 0 to 15, with higher values indicating better quality control and safety mechanisms in the construction permitting system.

The data details on dealing with construction permits can be found for each economy at http://www.doingbusiness.org.

REGISTERING PROPERTY

Doing Business records the full sequence of procedures necessary for a business (the buyer) to purchase a property from another business (the seller) and to transfer the property title to the buyer's name so that the buyer can use the property for expanding its business, use the property as collateral in taking new loans or, if necessary, sell the property to another business. It also measures the time and cost to complete each of these procedures.

In addition, *Doing Business 2016* added a new measure to the set of registering property indicators, an index of the quality of the land administration system in each economy. The quality of land administration index has four dimensions: reliability of infrastructure, transparency of information, geographic coverage and land dispute resolution.

The ranking of counties on the ease of registering property is determined by sorting their distance to frontier scores for registering property. These scores are the simple average of the distance to frontier scores for each of the component indicators (figure 7.5).

EFFICIENCY OF TRANSFERRING PROPERTY

As recorded by *Doing Business*, the process of transferring property starts with obtaining the necessary documents, such as a copy of the seller's title if necessary, and conducting due diligence if required. The transaction is considered complete when it is opposable to third parties and when the buyer can use the property, use it as collateral for a bank loan or resell it (figure 7.6). Every procedure required by law or necessary in practice is included, whether it is the responsibility of the seller or the buyer or must be completed by a third party on their behalf. Local property lawyers, notaries and property registries provide information on procedures as well as the time and cost to complete each of them.

To make the data comparable across counties and economies, several assumptions about the parties to the transaction, the property and the procedures are used.

Assumptions about the parties

The parties (buyer and seller):

- Are limited liability companies (or the legal equivalent).
- Are located in the periurban area of the selected city or town.
- Are 100% domestically and privately owned.
- Have 50 employees each, all of whom are nationals.
- Perform general commercial activities.

Assumptions about the property

The property:

- Has a value of 50 times income per capita. The sale price equals the value.
- Is fully owned by the seller.
- Has no mortgages attached and has been under the same ownership for the past 10 years.
- Is registered in the land registry or cadastre, or both, and is free of title disputes.
- Is located in a periurban commercial zone, and no rezoning is required.
- Consists of land and a building. The land area is 557.4 square meters (6,000 square feet). A two-story warehouse of 929 square meters (10,000 square feet) is located on the land. The warehouse is 10 years old, is in good condition and complies with all safety standards, building codes and other legal requirements. It has no heating system. The property of land and building will be transferred in its entirety.
- Will not be subject to renovations or additional building following the purchase.
- Has no trees, natural water sources, natural reserves or historical monuments of any kind.
- Will not be used for special purposes, and no special permits, such as for residential use, industrial plants, waste storage or certain types of agricultural activities, are required.
- Has no occupants, and no other party holds a legal interest in it.

Procedures

A procedure is defined as any interaction of the buyer or the seller, their agents (if an agent is legally or in practice required) or the property with external parties, including government agencies, inspectors, notaries and lawyers. Interactions between company officers and employees are not considered. All procedures that are legally or in practice required for registering property are recorded, even if they may be avoided in exceptional cases (table 7.4). It is assumed that the buyer follows the fastest legal option available and used by the majority of property owners. Although the buyer may use lawyers or other professionals where necessary in the registration process, it is assumed that the buyer does not employ an outside facilitator in the registration process unless legally or in practice required to do so.

Time

Time is recorded in calendar days. The measure captures the median duration

FIGURE 7.5 Registering property: efficiency and quality of land administration system

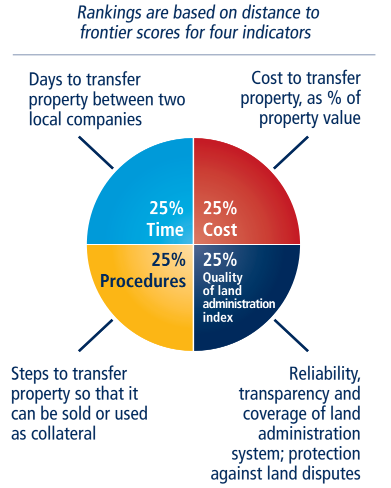


FIGURE 7.6 What are the time, cost and number of procedures required to transfer property between two local companies?

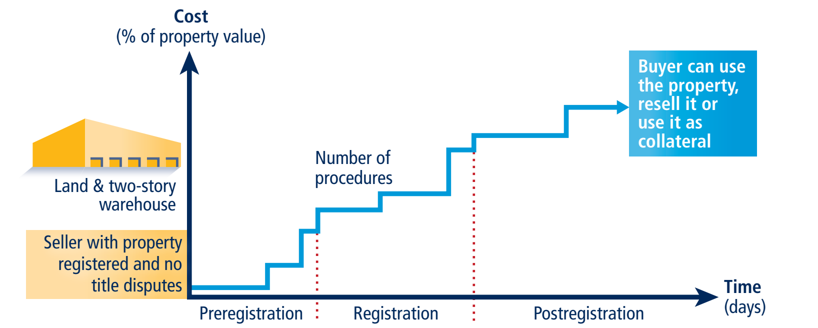


TABLE 7.4 What do the indicators on the efficiency of transferring property measure?

Procedures to legally transfer title on immovable property (number)
Preregistration procedures (for example, checking for liens, notarizing sales agreement, paying property transfer taxes)
Registration procedures in the selected city or town
Postregistration procedures (for example, filing title with municipality)
Time required to complete each procedure (calendar days)
Does not include time spent gathering information
Each procedure starts on a separate day—though procedures that can be fully completed online are an exception to this rule
Procedure considered completed once final document is received
No prior contact with officials
Cost required to complete each procedure (% of property value)
Official costs only, no bribes
No value added or capital gains taxes included

that property lawyers, notaries or registry officials indicate is necessary to complete a procedure. It is assumed that the minimum time required for each procedure is one day, except for procedures that can be fully completed online, for which the time required is recorded as half a day. Although procedures may take place simultaneously, they cannot start on the same day, again with the exception of procedures that can be fully completed online. It is assumed that the buyer does not waste time and commits to completing each remaining procedure without delay. If a procedure can be accelerated for an additional cost, the fastest legal procedure available and used by the majority of property owners is chosen. If procedures can be undertaken simultaneously, it is assumed that they are. It is assumed that the parties involved are aware of all requirements and their sequence from the beginning. Time spent on gathering information is not considered.

Cost

Cost is recorded as a percentage of the property value, assumed to be equivalent to 50 times income per capita. Only official costs required by law are recorded, including fees, transfer taxes, stamp duties and any other payment to the property registry, notaries, public agencies or lawyers. Other taxes, such as capital gains tax or value added tax, are excluded from the cost measure. Both costs borne by the buyer and those borne by the seller are included. If cost estimates differ among sources, the median reported value is used.

QUALITY OF LAND ADMINISTRATION

The quality of land administration index is measured as the sum of the scores on four other indices: the reliability of infrastructure, transparency of information, geographic coverage and land dispute resolution indices (table 7.5). Data are collected for each of the selected cities or towns.

Reliability of infrastructure index

The reliability of infrastructure index has six components:

- How land titles are kept at the registry of the selected city or town. A score of 2 is assigned if the majority of land titles are fully digital; 1 if the majority are scanned; 0 if the majority are kept in paper format.
- Whether there is an electronic database for checking for encumbrances. A score of 1 is assigned if yes; 0 if no.
- How maps of land plots are kept at the mapping agency of the selected city or town. A score of 2 is assigned if the majority of maps are fully digital; 1 if the majority are scanned; 0 if the majority are kept in paper format.
- Whether there is a geographic information system—an electronic database for recording boundaries, checking plans and providing cadastral information. A score of 1 is assigned if yes; 0 if no.
- How the land ownership registry and mapping agency are linked. A score of 1 is assigned if information about land ownership and maps are kept in a single database or in linked databases; 0 if there is no connection between the different databases.
- How immovable property is identified. A score of 1 is assigned if there is a unique number to identify properties; 0 if there are multiple identifiers.

The index ranges from 0 to 8, with higher values indicating a higher quality of infrastructure for ensuring the reliability of information on property titles and boundaries. In Turkey, for example, the land registry offices in Istanbul maintain titles in a fully digital format (a score of 2) and have a fully electronic database to check for encumbrances (a score of 1). The Cadastral Directorate offices in Istanbul have digital maps (a score of 2), and the Geographical Information Directorate has a public portal allowing users to check the plans and cadastral information on parcels along with satellite images (a score of 1). Databases about land ownership and maps are linked to each other through the TAKBIS system, an integrated information system for the land registry offices and cadastral offices (a score of 1). Finally, there is a unique identifying number for properties (a score of 1). Adding these numbers gives Turkey a score of 8 on the reliability of infrastructure index.

Transparency of information index

The transparency of information index has 10 components:

- Whether information on land ownership is made publicly available. A score of 1 is assigned if information on land ownership is accessible by anyone; 0 if access is restricted.
- Whether the list of documents required for completing any type of property transaction is made publicly available. A score of 0.5 is assigned if the list of documents is accessible online or on a public board; 0 if it is not made available to the public or if it can be obtained only in person.
- Whether the fee schedule for completing any type of property

TABLE 7.5 What do the indicators on the quality of land administration measure?
Reliability of infrastructure index (0–8)
Type of system for archiving information on land ownership
Availability of electronic database to check for encumbrances
Type of system for archiving maps
Availability of geographic information system
Link between property ownership registry and mapping system
Transparency of information index (0–6)
Accessibility of information on land ownership
Accessibility of maps of land plots
Publication of fee schedules, lists of registration documents, service standards
Availability of a specific and separate mechanism for complaints
Publication of statistics about the number of property transactions
Geographic coverage index (0–8)
Coverage of land registry at the level of the selected city or town and the economy
Coverage of mapping agency at the level of the selected city or town and the economy
Land dispute resolution index (0–8)
Legal framework for immovable property registration
Mechanisms to prevent and resolve land disputes
Quality of land administration index (0–30)
Sum of the reliability of infrastructure, transparency of information, geographic coverage and land dispute resolution indices

transaction is made publicly available. A score of 0.5 is assigned if the fee schedule is accessible online or on a public board or is free of charge; 0 if it is not made available to the public or if it can be obtained only in person.

- Whether the agency in charge of immovable property registration commits to delivering a legally binding document that proves property ownership within a specific time frame. A score of 0.5 is assigned if the service standard is accessible online or on a public board; 0 if it is not made available to the public or if it can be obtained only in person.
- Whether there is a specific and separate mechanism for filing complaints about a problem that occurred at the agency in charge of immovable property registration. A score of 1 is assigned if there is a specific and separate mechanism for filing a complaint; 0 if there is only a general mechanism or no mechanism.
- Whether there are publicly available official statistics tracking the number of transactions at the immovable property registration agency. A score of 0.5 is assigned if statistics are published about property transfers in the selected city or town in the past calendar year; 0 if no such statistics are made publicly available.
- Whether maps of land plots are made publicly available. A score of 0.5 is assigned if maps are accessible by anyone; 0 if access is restricted.
- Whether the fee schedule for accessing maps is made publicly available. A score of 0.5 is assigned if the fee schedule is accessible online or on a public board or free of charge; 0 if it is not made available to the public or if it can be obtained only in person.
- Whether the mapping agency commits to delivering an updated map within a specific time frame. A score of 0.5 is assigned if the service standard is accessible online or on a public board; 0 if it is not made available to the public or if it can be obtained only in person.
- Whether there is a specific and separate mechanism for filing complaints about a problem that occurred at the mapping agency. A score of 0.5 is assigned if there is a specific and separate mechanism for filing a complaint; 0 if there is only a general mechanism or no mechanism.

The index ranges from 0 to 6, with higher values indicating greater transparency in the land administration system. In the Netherlands, for example, anyone who pays a fee can consult the land ownership database (a score of 1). Information can be obtained at the office, by mail or online using the Kadaster website (http://www.kadaster.nl). Anyone can also get information online about the list of documents to submit for property registration (a score of 0.5), the fee schedule for registration (a score of 0.5) and the service standards (a score of 0.5). And anyone facing a problem at the land registry can file a complaint or report an error by filling in a specific form online (a score of 1). In addition, the Kadaster makes statistics about land transactions available to the public, reporting a total of 110,094 property transfers in Amsterdam in 2014 (a score of 0.5). Moreover, anyone who pays a fee can consult online cadastral maps (a score of 0.5). It is also possible to get public access to the fee schedule for map consultation (a score of 0.5), the service standards for delivery of an updated plan (a score of 0.5) and a specific mechanism for filing a complaint about a map (a score of 0.5). Adding these numbers gives the Netherlands a score of 6 on the transparency of information index.

Geographic coverage index

The geographic coverage index has four components:

- How complete the coverage of the land registry is at the level of the selected city or town. A score of 2 is assigned if all privately held land

plots in the city or town are formally registered at the land registry; 0 if not.
- How complete the coverage of the land registry is at the level of the economy. A score of 2 is assigned if all privately held land plots in the economy are formally registered at the land registry; 0 if not.
- How complete the coverage of the mapping agency is at the level of the selected city or town. A score of 2 is assigned if all privately held land plots in the city or town are mapped; 0 if not.
- How complete the coverage of the mapping agency is at the level of the economy. A score of 2 is assigned if all privately held land plots in the economy are mapped; 0 if not.

The index ranges from 0 to 8, with higher values indicating greater geographic coverage in land ownership registration and cadastral mapping. In the Republic of Korea, for example, all privately held land plots are formally registered at the land registry in Seoul (a score of 2) and in the economy as a whole (a score of 2). In addition, all privately held land plots are mapped in Seoul (a score of 2) and in the economy as a whole (a score of 2). Adding these numbers gives Korea a score of 8 on the geographic coverage index.

Land dispute resolution index

The land dispute resolution index assesses the legal framework for immovable property registration and the accessibility of dispute resolution mechanisms. The index has eight components:

- Whether the law requires that all property sale transactions be registered at the immovable property registry to make them opposable to third parties. A score of 1.5 is assigned if yes; 0 if no.
- Whether the formal system of immovable property registration is subject to a guarantee. A score of 0.5 is assigned if either a state or private guarantee over immovable property registration is required by law; 0 if no such guarantee is required.
- Whether there is a specific compensation mechanism to cover for losses incurred by parties who engaged in good faith in a property transaction based on erroneous information certified by the immovable property registry. A score of 0.5 is assigned if yes; 0 if no.
- Whether the legal system requires verification of the legal validity of the documents necessary for a property transaction. A score of 0.5 is assigned if there is a review of legal validity, either by the registrar or by a professional (such as a notary or lawyer); 0 if there is no review.
- Whether the legal system requires verification of the identity of the parties to a property transaction. A score of 0.5 is assigned if there is verification of identity, either by the registrar or by a professional (such as a notary or lawyer); 0 if there is no verification.
- Whether there is a national database to verify the accuracy of identity documents. A score of 1 is assigned if such a national database is available; 0 if not.
- How much time it takes to obtain a decision from a court of first instance (without appeal) in a standard land dispute between two local businesses over tenure rights worth 50 times income per capita and located in the selected city or town. A score of 3 is assigned if it takes less than one year; 2 if it takes between one and two years; 1 if it takes between two and three years; 0 if it takes more than three years.
- Whether there are publicly available statistics on the number of land disputes in the first instance. A score of 0.5 is assigned if statistics are published about land disputes in the economy in the past calendar year; 0 if no such statistics are made publicly available.

The index ranges from 0 to 8, with higher values indicating greater protection against land disputes. In Lithuania, for example, according to the Civil Code and the Law on the Real Property Register, property transactions must be registered at the land registry to make them opposable to third parties (a score of 1.5). The property transfer system is guaranteed by the state (a score of 0.5) and has a compensation mechanism to cover for losses incurred by parties who engaged in good faith in a property transaction based on an error by the registry (a score of 0.5). A notary verifies the legal validity of the documents in a property transaction (a score of 0.5) and the identity of the parties (a score of 0.5), in accordance with the Law on the Notary Office (Law I-2882). Lithuania has a national database to verify the accuracy of identity documents (a score of 1). In a land dispute between two Lithuanian companies over the tenure rights of a property worth $745,000, the Vilnius District Court gives a decision in less than one year (a score of 3). Finally, statistics about land disputes are collected and published; there were a total of 71 land disputes in the country in 2014 (a score of 0.5). Adding these numbers gives Lithuania a score of 8 on the land dispute resolution index.

Quality of land administration index

The quality of land administration index is the sum of the scores on the reliability of infrastructure, transparency of information, geographic coverage and land dispute resolution indices. The index ranges from 0 to 30, with higher values indicating better quality of the land administration system.

The data details on registering property can be found for each economy at http://www.doingbusiness.org.

ENFORCING CONTRACTS

Doing Business measures the time and cost for resolving a commercial dispute through a local first-instance court. In addition, *Doing Business 2016* introduced a new measure, the quality of judicial processes index, evaluating whether each economy has adopted a series of good practices that promote quality and efficiency in the court system. This new index replaced the indicator on procedures, which was eliminated in *Doing Business 2016*. The data are collected through study of the codes of civil procedure and other court regulations as well as questionnaires completed by local litigation lawyers and judges. The ranking of counties on the ease of enforcing contracts is determined by sorting their distance to frontier scores for enforcing contracts. These scores are the simple average of the distance to frontier scores for each of the component indicators (figure 7.7).

EFFICIENCY OF RESOLVING A COMMERCIAL DISPUTE

The data on time and cost are built by following the step-by-step evolution of a commercial sale dispute (figure 7.8). The data are collected for a specific court for each city or town covered, under the assumptions about the case described below (table 7.6). The court is the one with jurisdiction over disputes worth 200% of income per capita or $5,000, whichever is greater.

FIGURE 7.7 Enforcing contracts: efficiency and quality of commercial dispute resolution

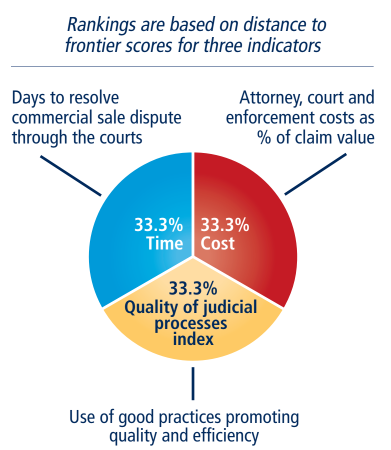
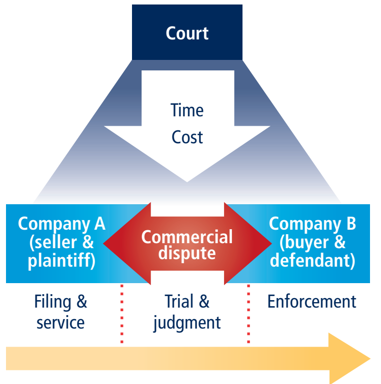


FIGURE 7.8 What are the time and cost to resolve a commercial dispute through the courts?



Assumptions about the case

- The value of the claim is equal to 200% of the economy's income per capita or $5,000, whichever is greater.
- The dispute concerns a lawful transaction between two businesses (Seller and Buyer), both located in the selected city or town. Pursuant to a contract between the businesses, Seller sells some custom-made furniture to Buyer worth 200% of the economy's income per capita or $5,000, whichever is greater. After Seller delivers the goods to Buyer, Buyer refuses to pay the contract price, alleging that the goods are not of adequate quality. Because they were custom-made, Seller is unable to sell them to anyone else.
- Seller (the plaintiff) sues Buyer (the defendant) to recover the amount under the sales agreement. The dispute is brought before the court located in the selected city or town with jurisdiction over commercial cases worth 200% of income per capita or $5,000, whichever is greater.
- At the outset of the dispute, Seller decides to attach Buyer's movable assets (for example, office equipment and vehicles) because Seller fears that Buyer may hide its assets or otherwise become insolvent.
- The claim is disputed on the merits because of Buyer's allegation that the quality of the goods was not adequate. Because the court cannot decide the case on the basis of documentary evidence or legal title alone, an expert opinion is given on the quality of the goods. If it is standard practice in the economy for each party to call its own expert witness, the parties each call one expert witness. If it is standard practice for the judge to appoint an independent expert, the judge does so. In this case the judge does not allow opposing expert testimony.
- Following the expert opinion, the judge decides that the goods delivered by Seller were of adequate quality and that Buyer must pay the contract price. The judge thus renders a final judgment that is 100% in favor of Seller.
- Buyer does not appeal the judgment. Seller decides to start enforcing the judgment as soon as the time allocated by law for appeal lapses.
- Seller takes all required steps for prompt enforcement of the judgment. The money is successfully collected through a public sale of Buyer's movable assets (for example, office equipment and vehicles).

Time

Time is recorded in calendar days, counted from the moment the plaintiff decides to file the lawsuit in court until

TABLE 7.6 What do the indicators on the efficiency of resolving a commercial dispute measure?

Time required to enforce a contract through the courts (calendar days)
Time to file and serve the case
Time for trial and to obtain the judgment
Time to enforce the judgment
Cost required to enforce a contract through the courts (% of claim)
Average attorney fees
Court costs
Enforcement costs

payment. This includes both the days when actions take place and the waiting periods in between. The average duration of three different stages of dispute resolution is recorded: the completion of service of process (time to file and serve the case), the issuance of judgment (time for trial and to obtain the judgment) and the recovery of the claim value through a public sale (time for enforcement of the judgment).

Cost

Cost is recorded as a percentage of the claim, assumed to be equivalent to 200% of income per capita or $5,000, whichever is greater. Three types of costs are recorded: court costs, enforcement costs and average attorney fees.

Court costs include all costs that Seller (plaintiff) must advance to the court, regardless of the final cost borne by Seller. Court costs include the fees that must be paid to obtain an expert opinion. Enforcement costs are all costs that Seller (plaintiff) must advance to enforce the judgment through a public sale of Buyer's movable assets, regardless of the final cost borne by Seller. Average attorney fees are the fees that Seller (plaintiff) must advance to a local attorney to represent Seller in the standardized case. Bribes are not taken into account.

QUALITY OF JUDICIAL PROCESSES

The quality of judicial processes index measures whether each city or town has adopted a series of good practices in its court system in four areas: court structure and proceedings, case management, court automation and alternative dispute resolution (table 7.7).

Court structure and proceedings index

The court structure and proceedings index has four components:

- Whether a specialized commercial court or a section dedicated solely to hearing commercial cases is in place. A score of 1.5 is assigned if yes; 0 if no.
- Whether a small claims court or a fast-track procedure for small claims is in place. A score of 1 is assigned if such a court or procedure is in place, it is applicable to all civil cases and the law sets a cap on the value of cases that can be handled through this court or procedure. If small claims are handled by a stand-alone court, the point is assigned only if this court applies a simplified procedure. An additional score of 0.5 is assigned if parties can represent themselves before this court or during this procedure. If no small claims court or simplified procedure is in place, a score of 0 is assigned.
- Whether plaintiffs can obtain pretrial attachment of the defendant's movable assets if they fear the assets may be moved out of the jurisdiction or otherwise dissipated. A score of 1 is assigned if yes; 0 if no.
- Whether cases are assigned randomly and automatically to judges throughout the competent court. A score of 1 is assigned if the assignment of cases is random and automated; 0.5 if it is random but not automated; 0 if it is neither random nor automated.

The index ranges from 0 to 5, with higher values indicating a more sophisticated and streamlined court structure. In Bosnia and Herzegovina, for example, a specialized commercial court is in place (a score of 1.5), and small claims can be resolved through a dedicated court in which self-representation is allowed (a score of 1.5). Plaintiffs can obtain pretrial attachment

TABLE 7.7 What do the indicators on the quality of judicial processes measure?

Court structure and proceedings index (0–5)
Availability of specialized commercial court, division or section
Availability of small claims court or simplified procedure for small claims
Availability of pretrial attachment
Criteria used to assign cases to judges
Case management index (0–6)
Regulations setting time standards for key court events
Regulations on adjournments and continuances
Availability of performance measurement mechanisms
Use of pretrial conference
Availability of electronic case management system for judges
Availability of electronic case management system for lawyers
Court automation index (0–4)
Ability to file initial complaint electronically
Ability to serve process electronically
Ability to pay court fees electronically
Publication of judgments
Alternative dispute resolution index (0–3)
Arbitration
Voluntary mediation or conciliation
Quality of judicial processes index (0–18)
Sum of the court structure and proceedings, case management, court automation and alternative dispute resolution indices

of the defendant's movable assets if they fear dissipation during trial (a score of 1). Cases are assigned randomly through an electronic case management system (a score of 1). Adding these numbers gives Bosnia and Herzegovina a score of 5 on the court structure and proceedings index.

Case management index

The case management index has six components:

- Whether any of the applicable laws or regulations on civil procedure contain time standards for at least three of the following key court events: (i) service of process; (ii) first hearing; (iii) filing of the statement of defense; (iv) completion of the evidence period; and (v) submission of the final judgment. A score of 1 is assigned if such time standards are available and respected in more than 50% of cases; 0.5 if they are available but not respected in more than 50% of cases; 0 if there are time standards for less than three of these key court events.
- Whether there are any laws regulating the maximum number of adjournments or continuances that can be granted, whether adjournments are limited by law to unforeseen and exceptional circumstances and whether these rules are respected in more than 50% of cases. A score of 1 is assigned if all three conditions are met; 0.5 if only two of the three conditions are met; 0 if only one of the conditions is met or if none are.
- Whether there are any performance measurement reports that can be generated about the competent court to monitor the court's performance, to monitor the progress of cases through the court and to ensure compliance with established time standards. A score of 1 is assigned if at least two of the following four reports are made publicly available: (i) time to disposition report; (ii) clearance rate report; (iii) age of pending cases report; and (iv) single case progress report. A score of 0 is assigned if only one of these reports is available or if none are.
- Whether a pretrial conference is among the case management techniques used before the competent court and at least three of the following issues are discussed during the pretrial conference: (i) scheduling (including the time frame for filing motions and other documents with the court); (ii) case complexity and projected length of trial; (iii) possibility of settlement or alternative dispute resolution; (iv) exchange of witness lists; (v) evidence; (vi) jurisdiction and other procedural issues; and (vii) the narrowing down of contentious issues. A score of 1 is assigned if a pretrial conference in which at least three of these events are discussed is held within the competent court; 0 if not.
- Whether judges within the competent court can use an electronic case management system for at least four of the following purposes: (i) to access laws, regulations and case law; (ii) to automatically generate a hearing schedule for all cases on their docket; (iii) to send notifications (for example, e-mails) to lawyers; (iv) to track the status of a case on their docket; (v) to view and manage case documents (briefs, motions); (vi) to assist in writing judgments; (vii) to semiautomatically generate court orders; and (viii) to view court orders and judgments in a particular case. A score of 1 is assigned if an electronic case management system is available that judges can use for at least four of these purposes; 0 if not.
- Whether lawyers can use an electronic case management system for at least four of the following purposes: (i) to access laws, regulations and case law; (ii) to access forms to be submitted to the court; (iii) to receive notifications (for example, e-mails); (iv) to track the status of a case; (v) to view and manage case documents (briefs, motions); (vi) to file briefs and documents with the court; and (vii) to view court orders and decisions in a particular case. A score of 1 is assigned if an electronic case management system is available that lawyers can use for at least four of these purposes; 0 if not.
- The index ranges from 0 to 6, with higher values indicating a more qualitative and efficient case management system. In Croatia, for example, time standards for at least three key court events are contained in applicable civil procedure instruments and are respected in more than 50% of cases (a score of 1). The law stipulates that adjournments can be granted only for unforeseen and exceptional circumstances and this rule is respected in more than 50% of cases (a score of 0.5). A time to disposition report and a clearance rate report can be generated about the competent court (a score of 1). A pretrial conference is among the case management techniques used before the Zagreb Commercial Court (a score of 1). An electronic case management system satisfying the criteria outlined above is available to judges (a score of 1) and to lawyers (a score of 1). Adding these numbers gives Croatia a score of 5.5 on the case management index, the highest score attained by any economy on this index.

Court automation index

The court automation index has four components:

- Whether the initial complaint can be filed electronically through a dedicated platform (not e-mail or fax) within the relevant court. A score of 1 is assigned if yes; 0 if no.
- Whether the initial complaint can be served on the defendant electronically, through a dedicated system or by e-mail, fax or SMS (short message service). A score of 1 is assigned if yes; 0 if no.
- Whether court fees can be paid electronically, either through a dedicated platform or through online banking. A score of 1 is assigned if yes; 0 if no.
- Whether judgments rendered by local courts are made available to the

general public through publication in official gazettes, in newspapers or on the internet. A score of 1 is assigned if judgments rendered in commercial cases at all levels are made available to the general public; 0.5 if only judgments rendered at the appeal and supreme court level are made available to the general public; 0 in all other instances.

The index ranges from 0 to 4, with higher values indicating a more automated, efficient and transparent court system. In Korea, for example, the initial summons can be filed online (a score of 1), it can be served on the defendant electronically (a score of 1), and court fees can be paid electronically as well (a score of 1). In addition, judgments in commercial cases at all levels are made publicly available through the internet (a score of 1). Adding these numbers gives Korea a score of 4 on the court automation index.

Alternative dispute resolution index

The alternative dispute resolution index has six components

- Whether domestic commercial arbitration is governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all its aspects. A score of 0.5 is assigned if yes; 0 if no.
- Whether commercial disputes of all kinds—aside from those dealing with public order, public policy, bankruptcy, consumer rights, employment issues or intellectual property—can be submitted to arbitration. A score of 0.5 is assigned if yes; 0 if no.
- Whether valid arbitration clauses or agreements are enforced by local courts in more than 50% of cases. A score of 0.5 is assigned if yes; 0 if no.
- Whether voluntary mediation, conciliation or both are a recognized way of resolving commercial disputes. A score of 0.5 is assigned if yes; 0 if no.
- Whether voluntary mediation, conciliation or both are governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all their aspects. A score of 0.5 is assigned if yes; 0 if no.
- Whether there are any financial incentives for parties to attempt mediation or conciliation (for example, if mediation or conciliation is successful, a refund of court filing fees, an income tax credit or the like). A score of 0.5 is assigned if yes; 0 if no.

The index ranges from 0 to 3, with higher values associated with greater availability of mechanisms of alternative dispute resolution. In Israel, for example, arbitration is regulated through a dedicated statute (a score of 0.5), all relevant commercial disputes can be submitted to arbitration (a score of 0.5), and valid arbitration clauses are usually enforced by the courts (a score of 0.5). Voluntary mediation is a recognized way of resolving commercial disputes (a score of 0.5), it is regulated through a dedicated statute (a score of 0.5), and part of the filing fees is reimbursed if the process is successful (a score of 0.5). Adding these numbers gives Israel a score of 3 on the alternative dispute resolution index.

Quality of judicial processes index

The quality of judicial processes index is the sum of the scores on the court structure and proceedings, case management, court automation and alternative dispute resolution indices. The index ranges from 0 to 18, with higher values indicating better and more efficient judicial processes.

The data details on enforcing contracts can be found for each economy at http://www.doingbusiness.org. This methodology was initially developed by Djankov and others (2003) and is adopted here with several changes. The quality of judicial processes index was introduced in Doing Business 2016. *The good practices tested in this index were developed on the basis of internationally recognized good practices promoting judicial efficiency.*

NOTES

1. The *Doing Business 2016* data for Nairobi for starting a business, dealing with construction permits, registering property and enforcing contracts have been revised since the publication of *Doing Business 2016*. The complete data set can be found on the *Doing Business* website at http://www.doingbusiness.org.
2. For more information, please refer to the data notes chapter in the *Doing Business 2016* report.

County snapshots

BUSIA *(MALABA)*

Starting a business (rank)	7	**Registering property** (rank)	4
Distance to frontier score (0–100)	82.26	Distance to frontier score (0–100)	50.91
Procedures (number)	7	Procedures (number)	9
Time (days)	24	Time (days)	48
Cost (% of income per capita)	24.1	Cost (% of property value)	6.1
Minimum capital (% of income per capita)	0.0	Quality of land administration index (0–30)	10
Dealing with construction permits (rank)	2	**Enforcing contracts** (rank)	1
Distance to frontier score (0–100)	70.35	Distance to frontier score (0–100)	59.46
Procedures (number)	16	Time (days)	390
Time (days)	72	Cost (% of claim)	36.7
Cost (% of warehouse value)	2.9	Quality of judicial processes index (0–18)	7.5
Building quality control index (0–15)	8		

ISIOLO *(ISIOLO)*

Starting a business (rank)	6	**Registering property** (rank)	11
Distance to frontier score (0–100)	82.44	Distance to frontier score (0–100)	39.67
Procedures (number)	7	Procedures (number)	9
Time (days)	25	Time (days)	73
Cost (% of income per capita)	20.6	Cost (% of property value)	11.0
Minimum capital (% of income per capita)	0.0	Quality of land administration index (0–30)	10
Dealing with construction permits (rank)	3	**Enforcing contracts** (rank)	4
Distance to frontier score (0–100)	70.18	Distance to frontier score (0–100)	58.35
Procedures (number)	18	Time (days)	410
Time (days)	75	Cost (% of claim)	38.2
Cost (% of warehouse value)	2.6	Quality of judicial processes index (0–18)	7.5
Building quality control index (0–15)	9		

KAKAMEGA *(KAKAMEGA)*

Starting a business (rank)	11	**Registering property** (rank)	10
Distance to frontier score (0–100)	81.57	Distance to frontier score (0–100)	47.98
Procedures (number)	7	Procedures (number)	9
Time (days)	26	Time (days)	72
Cost (% of income per capita)	25.6	Cost (% of property value)	6.1
Minimum capital (% of income per capita)	0.0	Quality of land administration index (0–30)	10
Dealing with construction permits (rank)	10	**Enforcing contracts** (rank)	11
Distance to frontier score (0–100)	63.02	Distance to frontier score (0–100)	56.74
Procedures (number)	18	Time (days)	425
Time (days)	130	Cost (% of claim)	41.4
Cost (% of warehouse value)	2.5	Quality of judicial processes index (0–18)	7.5
Building quality control index (0–15)	7		

KIAMBU *(THIKA)*

Starting a business (rank)	2	**Registering property** (rank)	8
Distance to frontier score (0–100)	83.64	Distance to frontier score (0–100)	48.63
Procedures (number)	7	Procedures (number)	9
Time (days)	21	Time (days)	68
Cost (% of income per capita)	19.1	Cost (% of property value)	6.0
Minimum capital (% of income per capita)	0.0	Quality of land administration index (0–30)	10
Dealing with construction permits (rank)	9	**Enforcing contracts** (rank)	10
Distance to frontier score (0–100)	63.87	Distance to frontier score (0–100)	56.97
Procedures (number)	14	Time (days)	455
Time (days)	160	Cost (% of claim)	38.6
Cost (% of warehouse value)	6.0	Quality of judicial processes index (0–18)	7.5
Building quality control index (0–15)	9		

KISUMU *(KISUMU)*

Starting a business (rank)	7	**Registering property** (rank)	6
Distance to frontier score (0—100)	82.26	Distance to frontier score (0–100)	50.31
Procedures (number)	7	Procedures (number)	9
Time (days)	25	Time (days)	53
Cost (% of income per capita)	22.1	Cost (% of property value)	6.1
Minimum capital (% of income per capita)	0.0	Quality of land administration index (0–30)	10
Dealing with construction permits (rank)	1	**Enforcing contracts** (rank)	7
Distance to frontier score (0–100)	70.49	Distance to frontier score (0–100)	58.24
Procedures (number)	15	Time (days)	425
Time (days)	98	Cost (% of claim)	37.4
Cost (% of warehouse value)	3.5	Quality of judicial processes index (0–18)	7.5
Building quality control index (0–15)	9		

MACHAKOS *(MACHAKOS)*

Starting a business (rank)	3	**Registering property** (rank)	9
Distance to frontier score (0–100)	83.41	Distance to frontier score (0–100)	48.33
Procedures (number)	7	Procedures (number)	9
Time (days)	21	Time (days)	70
Cost (% of income per capita)	20.9	Cost (% of property value)	6.0
Minimum capital (% of income per capita)	0.0	Quality of land administration index (0–30)	10
Dealing with construction permits (rank)	5	**Enforcing contracts** (rank)	9
Distance to frontier score (0–100)	67.11	Distance to frontier score (0–100)	57.90
Procedures (number)	18	Time (days)	429
Time (days)	96	Cost (% of claim)	38.0
Cost (% of warehouse value)	3.9	Quality of judicial processes index (0–18)	7.5
Building quality control index (0–15)	9		

MOMBASA *(MOMBASA)*

Starting a business (rank)	4	**Registering property** (rank)	2
Distance to frontier score (0–100)	82.91	Distance to frontier score (0–100)	51.62
Procedures (number)	7	Procedures (number)	9
Time (days)	20	Time (days)	41
Cost (% of income per capita)	26.9	Cost (% of property value)	6.2
Minimum capital (% of income per capita)	0.0	Quality of land administration index (0–30)	10
Dealing with construction permits (rank)	8	**Enforcing contracts** (rank)	2
Distance to frontier score (0–100)	66.22	Distance to frontier score (0–100)	58.96
Procedures (number)	17	Time (days)	455
Time (days)	107	Cost (% of claim)	40.7
Cost (% of warehouse value)	3.4	Quality of judicial processes index (0–18)	9.0
Building quality control index (0–15)	8		

NAIROBI *(NAIROBI)*

Starting a business (rank)	5	**Registering property** (rank)	1
Distance to frontier score (0–100)	82.76	Distance to frontier score (0–100)	54.27
Procedures (number)	7	Procedures (number)	9
Time (days)	22	Time (days)	61
Cost (% of income per capita)	24.1	Cost (% of property value)	6.1
Minimum capital (% of income per capita)	0.0	Quality of land administration index (0–30)	16
Dealing with construction permits (rank)	11	**Enforcing contracts** (rank)	6
Distance to frontier score (0–100)	56.17	Distance to frontier score (0–100)	58.27
Procedures (number)	17	Time (days)	465
Time (days)	160	Cost (% of claim)	41.8
Cost (% of warehouse value)	7.1	Quality of judicial processes index (0–18)	9.0
Building quality control index (0–15)	7		

NAROK *(NAROK)*

Starting a business (rank)	10	**Registering property** (rank)	7
Distance to frontier score (0–100)	81.92	Distance to frontier score (0–100)	49.89
Procedures (number)	7	Procedures (number)	9
Time (days)	27	Time (days)	57
Cost (% of income per capita)	20.8	Cost (% of property value)	6.0
Minimum capital (% of income per capita)	0.0	Quality of land administration index (0–30)	10
Dealing with construction permits (rank)	7	**Enforcing contracts** (rank)	8
Distance to frontier score (0–100)	66.33	Distance to frontier score (0–100)	58.01
Procedures (number)	17	Time (days)	402
Time (days)	91	Cost (% of claim)	39.7
Cost (% of warehouse value)	4.3	Quality of judicial processes index (0–18)	7.5
Building quality control index (0–15)	8		

NYERI *(NYERI)*

Starting a business (rank)	7	**Registering property** (rank)	5
Distance to frontier score (0–100)	82.26	Distance to frontier score (0–100)	50.68
Procedures (number)	7	Procedures (number)	9
Time (days)	27	Time (days)	49
Cost (% of income per capita)	18.1	Cost (% of property value)	6.1
Minimum capital (% of income per capita)	0.0	Quality of land administration index (0–30)	10
Dealing with construction permits (rank)	4	**Enforcing contracts** (rank)	3
Distance to frontier score (0–100)	68.86	Distance to frontier score (0–100)	58.37
Procedures (number)	17	Time (days)	405
Time (days)	82	Cost (% of claim)	38.5
Cost (% of warehouse value)	2.8	Quality of judicial processes index (0–18)	7.5
Building quality control index (0–15)	8		

UASIN GISHU *(ELDORET)*

Starting a business (rank)	1	**Registering property** (rank)	3
Distance to frontier score (0–100)	83.73	Distance to frontier score (0–100)	51.03
Procedures (number)	7	Procedures (number)	9
Time (days)	20	Time (days)	47
Cost (% of income per capita)	20.4	Cost (% of property value)	6.1
Minimum capital (% of income per capita)	0.0	Quality of land administration index (0–30)	10
Dealing with construction permits (rank)	6	**Enforcing contracts** (rank)	5
Distance to frontier score (0–100)	66.34	Distance to frontier score (0–100)	58.28
Procedures (number)	17	Time (days)	440
Time (days)	120	Cost (% of claim)	36.2
Cost (% of warehouse value)	2.6	Quality of judicial processes index (0–18)	7.5
Building quality control index (0–15)	8		

Indicator snapshots

STARTING A BUSINESS						
County *(City/Town)*	**Procedures** (number)	**Time** (days)	**Cost** (% of income per capita)	**Paid-in minimum capital** (% of income per capita)	**Distance to frontier score** (0–100)	**Ease of starting a business** (rank)
Busia *(Malaba)*	7	24	24.1	0.0	82.26	7
Isiolo *(Isiolo)*	7	25	20.6	0.0	82.44	6
Kakamega *(Kakamega)*	7	26	25.6	0.0	81.57	11
Kiambu *(Thika)*	7	21	19.1	0.0	83.64	2
Kisumu *(Kisumu)*	7	25	22.1	0.0	82.26	7
Machakos *(Machakos)*	7	21	20.9	0.0	83.41	3
Mombasa *(Mombasa)*	7	20	26.9	0.0	82.91	4
Nairobi *(Nairobi)*	7	22	24.1	0.0	82.76	5
Narok *(Narok)*	7	27	20.8	0.0	81.92	10
Nyeri *(Nyeri)*	7	27	18.1	0.0	82.26	7
Uasin Gishu *(Eldoret)*	7	20	20.4	0.0	83.73	1

DEALING WITH CONSTRUCTION PERMITS						
County *(City/Town)*	**Procedures** (number)	**Time** (days)	**Cost** (% of warehouse value)	**Building quality control index** (0–15)	**Distance to frontier score** (0–100)	**Ease of dealing with construction permits** (rank)
Busia *(Malaba)*	16	72	2.9	8	70.35	2
Isiolo *(Isiolo)*	18	75	2.6	9	70.18	3
Kakamega *(Kakamega)*	18	130	2.5	7	63.02	10
Kiambu *(Thika)*	14	160	6.0	9	63.87	9
Kisumu *(Kisumu)*	15	98	3.5	9	70.49	1
Machakos *(Machakos)*	18	96	3.9	9	67.11	5
Mombasa *(Mombasa)*	17	107	3.4	8	66.22	8
Nairobi *(Nairobi)*	17	160	7.1	7	56.17	11
Narok *(Narok)*	17	91	4.3	8	66.33	7
Nyeri *(Nyeri)*	17	82	2.8	8	68.86	4
Uasin Gishu *(Eldoret)*	17	120	2.6	8	66.34	6

REGISTERING PROPERTY						
County *(City/Town)*	**Procedures** (number)	**Time** (days)	**Cost** (% of property value)	**Quality of land administration index** (0–30)	**Distance to frontier score** (0–100)	**Ease of registering property** (rank)
Busia *(Malaba)*	9	48	6.1	10	50.91	4
Isiolo *(Isiolo)*	9	73	11.0	10	39.67	11
Kakamega *(Kakamega)*	9	72	6.1	10	47.98	10
Kiambu *(Thika)*	9	68	6.0	10	48.63	8
Kisumu *(Kisumu)*	9	53	6.1	10	50.31	6
Machakos *(Machakos)*	9	70	6.0	10	48.33	9
Mombasa *(Mombasa)*	9	41	6.2	10	51.62	2
Nairobi *(Nairobi)*	9	61	6.1	16	54.27	1
Narok *(Narok)*	9	57	6.0	10	49.89	7
Nyeri *(Nyeri)*	9	49	6.1	10	50.68	5
Uasin Gishu *(Eldoret)*	9	47	6.1	10	51.03	3

ENFORCING CONTRACTS					
County *(City/Town)*	**Time** (days)	**Cost** (% of claim)	**Quality of judicial processes index** (0–18)	**Distance to frontier score** (0–100)	**Ease of enforcing contracts** (rank)
Busia *(Malaba)*	390	36.7	7.5	59.46	1
Isiolo *(Isiolo)*	410	38.2	7.5	58.35	4
Kakamega *(Kakamega)*	425	41.4	7.5	56.74	11
Kiambu *(Thika)*	455	38.6	7.5	56.97	10
Kisumu *(Kisumu)*	425	37.4	7.5	58.24	7
Machakos *(Machakos)*	429	38.0	7.5	57.90	9
Mombasa *(Mombasa)*	455	40.7	9.0	58.96	2
Nairobi *(Nairobi)*	465	41.8	9.0	58.27	6
Narok *(Narok)*	402	39.7	7.5	58.01	8
Nyeri *(Nyeri)*	405	38.5	7.5	58.37	3
Uasin Gishu *(Eldoret)*	440	36.2	7.5	58.28	5

Indicator details

STARTING A BUSINESS

Procedures required to start a business, by county

Standard company legal form: Private corporation *Minimum capital requirement: KES 0* *Data as of: April 15, 2016*		**Busia** *(Malaba)*	**Isiolo** *(Isiolo)*	**Kakamega** *(Kakamega)*	**Kiambu** *(Thika)*	**Kisumu** *(Kisumu)*	**Machakos** *(Machakos)*	**Mombasa** *(Mombasa)*	**Nairobi** *(Nairobi)*	**Narok** *(Narok)*	**Nyeri** *(Nyeri)*	**Uasin Gishu** *(Eldoret)*
1. Reserve a unique company name at the Huduma Center	Time (days)	1	1	1	1	1	1	1	1	1	1	1
	Cost (KES)	500	100	100	100	100	100	100	100	1,100	100	100
2. Apply for company registration at the Huduma Center	Time (days)	13	13	13	12	13	12	13	12	12	12	13
	Cost (KES)	13,000	12,000	12,000	10,300	12,000	10,500	13,000	10,000	11,000	11,000	12,000
3. Register for taxes at the Kenya Revenue Authority	Time (days)	1	1	1	1	1	1	1	1	1	1	1
	Cost (KES)	400	400	0	0	0	0	0	0	0	0	0
4. Apply for a business permit at the County Government	Time (days)	3	2	5	2	5	4	2	5	8	6	2
	Cost (KES)	10,000	7,800	15,000	8,800	10,800	10,950	15,500	15,200	8,800	6,300	8,800
5. Register with the National Social Security Fund (NSSF)	Time (days)	1	1	1	1	1	1	1	1	1	1	1
	Cost (KES)	0	0	0	0	0	0	0	0	0	0	0
6. Make a company seal	Time (days)	5	7	5	4	4	2	2	2	4	6	2
	Cost (KES)	4,000	3,900	3,000	3,250	3,000	3,000	3,000	3,000	3,500	3,800	3,000
7. Register with the National Hospital Insurance Fund (NHIF)*	Time (days)	1	1	1	1	1	1	1	1	1	1	1
	Cost (KES)	400	0	0	0	0	0	0	0	0	0	0

Source: Doing Business database.

Note: The full list of procedures and details can be found for each county at http://www.doingbusiness.org/kenya.

*Takes place simultaneously with another procedure.

DEALING WITH CONSTRUCTION PERMITS

Procedures required to build a warehouse, by county

Estimated value of warehouse: KES 5,871,649 Data as of: April 15, 2016		**Busia (*Malaba*)**	**Isiolo (*Isiolo*)**	**Kakamega (*Kakamega*)**	**Kiambu (*Thika*)**	**Kisumu (*Kisumu*)**	**Machakos (*Machakos*)**	**Mombasa (*Mombasa*)**	**Nairobi (*Nairobi*)**	**Narok (*Narok*)**	**Nyeri (*Nyeri*)**	**Uasin Gishu (*Eldoret*)**
Obtain a survey plan from the Lands Office or Survey of Kenya	Time (days)	1	1	1	1	1	1	1	1	1	1	1
	Cost (KES)	500	500	500	500	500	200	350	500	500	500	500
Submit project plans application and obtain circulation letter from the County Government	Time (days)						2					
	Cost (KES)						120,547					
Submit and request approval of architectural plans from the County Government	Time (days)	2	3	1						1		3
	Cost (KES)	66,500	35,116	1,500						24,500		43,515
Submit and obtain approval of the architectural plans from the County Government	Time (days)								45			
	Cost (KES)								313,126			
Submit and obtain approval of the structural plans from the County Government	Time (days)								10			
	Cost (KES)								0			
Submit and obtain approval of project plans from the Physical Planning Department	Time (days)		2	14							8	3
	Cost (KES)		5,000	1,000							3,400	5,000
Submit and obtain approval of project plans from the Public Health Department	Time (days)		2	7			2			1	1	
	Cost (KES)		5,000	7,000			0			6,500	6,000	
Submit and obtain final approval of the architectural and structural plans from the County Government	Time (days)	7	10	20	60	21	18	17		30	14	45
	Cost (KES)	0	0	29,512	236,169	93,034	0	92,925		0	50,000	0
Obtain stamps on architectural and structural plans and building permit from the County Government	Time (days)					1		7	1			
	Cost (KES)					0		0	0			
Obtain project report from an environmental expert	Time (days)	5	5	5	5	5	5	5	5	5	5	5
	Cost (KES)	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Obtain approval of the environmental impact study from the National Environment Management Authority (NEMA)	Time (days)	30	20	30	60	30	28	30	30	21	25	30
	Cost (KES)	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
Apply for project registration with the National Construction Authority (NCA)	Time (days)								1			
	Cost (KES)								0			

(continued)

DEALING WITH CONSTRUCTION PERMITS *(continued)*

Procedures required to build a warehouse, by county

Estimated value of warehouse: KES 5,871,649 *Data as of: April 15, 2016*		Busia *(Malaba)*	Isiolo *(Isiolo)*	Kakamega *(Kakamega)*	Kiambu *(Thika)*	Kisumu *(Kisumu)*	Machakos *(Machakos)*	Mombasa *(Mombasa)*	Nairobi *(Nairobi)*	Narok *(Narok)*	Nyeri *(Nyeri)*	Uasin Gishu *(Eldoret)*
Receive on-site visit by the NCA and obtain compliance certificate and invoice	Time (days)								7			
	Cost (KES)								29,358			
Register the construction project and obtain compliance certificate and invoice from the NCA	Time (days)	7	7	7	7	7	7	7		7	7	7
	Cost (KES)	29,358	29,358	29,358	29,358	29,358	29,358	29,358		29,358	29,358	29,358
Notify the County Government of commencement of building works	Time (days)	1	1	1	1	1	1	1	1	1	1	1
	Cost (KES)	0	2,000	0	0	0	0	0	0	0	0	0
Request and receive setting-out inspection from the County Government	Time (days)	1	1	1	1	1	1	1	1		1	1
	Cost (KES)	0	0	0	0	0	0	0	0		0	0
Request and receive foundation-excavation inspection from the County Government	Time (days)	1	1	1	1	1	1	1	1	1	1	1
	Cost (KES)	0	0	0	0	0	0	0	0	0	0	0
Request and receive concrete-pouring inspection from the County Government	Time (days)						1					
	Cost (KES)						0					
Request and receive first-floor-slab inspection from the County Government	Time (days)	1								1		
	Cost (KES)	0								0		
Request and receive roofing inspection from the County Government	Time (days)			1			1			1		1
	Cost (KES)			0			0			0		0
Request and receive structural inspection from the County Government	Time (days)		1								1	
	Cost (KES)		0								0	
Apply and obtain permit to connect to the city sewage system	Time (days)	7	7	7	7	7	7	7	7		7	7
	Cost (KES)	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500		7,500	7,500
Request and receive final on-site inspection from the County Government	Time (days)	3	3	10	4	10	9	7	5	4	5	5
	Cost (KES)	0	0	0	0	0	0	0	0	0	0	0
Request and receive inspection from the Fire Department	Time (days)							1				
	Cost (KES)							0				
Request and receive inspection from the Health Department	Time (days)							1				
	Cost (KES)							0				

(continued)

DEALING WITH CONSTRUCTION PERMITS *(continued)*

Procedures required to build a warehouse, by county

Estimated value of warehouse: KES 5,871,649 Data as of: April 15, 2016		Busia (Malaba)	Isiolo (Isiolo)	Kakamega (Kakamega)	Kiambu (Thika)	Kisumu (Kisumu)	Machakos (Machakos)	Mombasa (Mombasa)	Nairobi (Nairobi)	Narok (Narok)	Nyeri (Nyeri)	Uasin Gishu (Eldoret)
Obtain occupancy certificate from the County Government	Time (days)	3	10	14	7	7	2	5	14	5	2	7
	Cost (KES)	5,000	0	5,000	0	0	0	0	0	2,000	0	0
Install a septic tank	Time (days)									7		
	Cost (KES)									120,000		
Apply for water connection with the respective water company	Time (days)	1	1	1	1	1	1	1	1	1	1	1
	Cost (KES)	3,500	10,000	7,000	19,000	12,500	10,000	11,000	5,000	7,000	5,000	5,400
Receive inspection for assessment of connection fees from the respective water company	Time (days)	1	1	1	1	1	1	1	1	1	1	1
	Cost (KES)	0	0	0	0	0	0	0	0	0	0	0
Obtain water connection from the respective water company	Time (days)	7	5	14	10	10	14	20	30	12	7	7
	Cost (KES)	0	0	0	0	0	0	0	0	0	0	0

Source: Doing Business database.
Note: When the data field is empty (instead of "0"), the procedure is not applicable for the respective county. Some procedures may take place simultaneously with other procedures. The full list of procedures and details can be found for each county at http://www.doingbusiness.org/kenya.

Building quality control

	Busia (Malaba)	Isiolo (Isiolo)	Kakamega (Kakamega)	Kiambu (Thika)	Kisumu (Kisumu)	Machakos (Machakos)	Mombasa (Mombasa)	Nairobi (Nairobi)	Narok (Narok)	Nyeri (Nyeri)	Uasin Gishu (Eldoret)
Building quality control index (0–15)	8	9	7	9	9	9	8	7	8	8	8
Quality of building regulations index (0–2)	2	2	1	2	2	2	2	1	2	2	1
Quality control before construction index (0–1)	1	1	1	1	1	1	1	1	1	1	1
Quality control during construction index (0–3)	1	1	1	1	1	1	1	1	1	1	1
Quality control after construction index (0–3)	2	2	2	2	2	2	2	2	2	2	2
Liability and insurance regimes index (0–2)	0	1	0	1	1	1	0	0	0	0	1
Professional certifications index (0–4)	2	2	2	2	2	2	2	2	2	2	2

Source: Doing Business database.
Note: The data details for the building quality control index can be found for each county at http://www.doingbusiness.org/kenya.

REGISTERING PROPERTY

Procedures required to transfer property, by county

Property value: KES 5,871,649 *Data as of: April 15, 2016*		Busia (*Malaba*)	Isiolo (*Isiolo*)	Kakamega (*Kakamega*)	Kiambu (*Thika*)	Kisumu (*Kisumu*)	Machakos (*Machakos*)	Mombasa (*Mombasa*)	Nairobi (*Nairobi*)	Narok (*Narok*)	Nyeri (*Nyeri*)	Uasin Gishu (*Eldoret*)
Apply for and obtain land rent clearance certificate from the Lands Office	Time (days)	21	21	21	19	21	19	21	19	19	19	21
	Cost (KES)	6,000	4,000	4,000	600	4,000	1,000	6,000	0	2,000	2,000	4,000
Apply, pay for and obtain rates clearance certificate from the County Government	Time (days)	2	2	4	3	2	7	4	5	2	1	2
	Cost (KES)	500	293,582	5,000	2,500	3,000	4,000	5,500	10,000	3,000	9,000	3,000
Apply for a search on the title at the Lands Office	Time (days)	2	4	2	2	1	4	3	3	1	3	3
	Cost (KES)	1,120	520	520	520	520	520	520	520	520	520	520
Draft transfer instrument and file at the Lands Office to obtain an appointment for valuation	Time (days)	4	4	4	4	4	4	4	4	4	4	4
	Cost (KES)	113,075	113,075	113,075	113,075	113,075	113,075	113,075	113,075	113,075	113,075	113,075
Apply, pay for and obtain consent to transfer at the Lands Office	Time (days)	5	7	7	5	7	14	5	9	7	5	9
	Cost (KES)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
Receive site inspection by a government valuer and obtain valuation report	Time (days)	9	21	27	18	2	11	4	20	19	8	4
	Cost (KES)	0	0	0	0	0	0	0	0	0	0	0
Receive endorsement of value for stamp duty purposes and assessment of stamp duty at the Lands Office	Time (days)	2	1	5	5	1	4	3	4	1	3	3
	Cost (KES)	0	0	0	0	0	0	0	0	0	0	0
Pay stamp duty at a commercial bank and receive confirmation of payment from the Kenya Revenue Authority	Time (days)	2	4	2	2	4	3	3	4	4	2	2
	Cost (KES)	234,976	234,976	234,976	234,976	234,976	234,976	234,976	234,976	234,976	234,976	234,976
Lodge stamped transfer document for registration and receive duly registered documents from the Lands Office	Time (days)	5	15	6	15	14	15	1	5	3	8	4
	Cost (KES)	500	500	500	500	500	500	500	500	500	500	500

Source: Doing Business database.
Note: Some procedures may take place simultaneously with other procedures. The full list of procedures and details can be found for each county at http://www.doingbusiness.org/kenya.

Quality of land administration

	Busia (*Malaba*)	Isiolo (*Isiolo*)	Kakamega (*Kakamega*)	Kiambu (*Thika*)	Kisumu (*Kisumu*)	Machakos (*Machakos*)	Mombasa (*Mombasa*)	Nairobi (*Nairobi*)	Narok (*Narok*)	Nyeri (*Nyeri*)	Uasin Gishu (*Eldoret*)
Quality of land administration index (0–30)	10	10	10	10	10	10	10	16	10	10	10
Reliability of infrastructure index (0–8)	1	1	1	1	1	1	1	7	1	1	1
Transparency of information index (0–6)	4	4	4	4	4	4	4	4	4	4	4
Geographic coverage index (0–8)	0	0	0	0	0	0	0	0	0	0	0
Land dispute resolution index (0–8)	5	5	5	5	5	5	5	5	5	5	5

Source: Doing Business database.
Note: The data details for the quality of land administration index can be found for each county at http://www.doingbusiness.org/kenya.

ENFORCING CONTRACTS

Time and cost to resolve a commercial dispute, by county		Time (days)				Cost (% of claim)			
Value of claim: KES 457,156 *Data as of: April 15, 2016*	Competent court	Filing and service	Trial and judgment	Enforcement of judgment	Total time	Attorney fees	Court fees	Enforcement fees	Total cost
Busia *(Malaba)*	Busia Chief Magistrate's Court	30	300	60	390	25.7	9.0	2.0	36.7
Isiolo *(Isiolo)*	Isiolo Principal Magistrate's Court	30	320	60	410	26.0	9.5	2.7	38.2
Kakamega *(Kakamega)*	Kakamega Chief Magistrate's Court	30	350	45	425	27.2	11.7	2.5	41.4
Kiambu *(Thika)*	Kiambu Senior Magistrate's Court	30	365	60	455	25.0	10.6	3.0	38.6
Kisumu *(Kisumu)*	Kisumu Chief Magistrate's Court	30	365	30	425	25.8	9.6	2.0	37.4
Machakos *(Machakos)*	Machakos Chief Magistrate's Court	27	347	55	429	25.8	10.2	2.0	38.0
Mombasa *(Mombasa)*	Mombasa Chief Magistrate's Court	30	365	60	455	26.0	11.7	3.0	40.7
Nairobi *(Nairobi)*	Nairobi Resident Magistrate's Court	40	365	60	465	27.5	11.6	2.7	41.8
Narok *(Narok)*	Narok Resident Magistrate's Court	21	321	60	402	24.2	12.8	2.7	39.7
Nyeri *(Nyeri)*	Nyeri Chief Magistrate's Court	30	315	60	405	25.9	10.6	2.0	38.5
Uasin Gishu *(Eldoret)*	Eldoret Chief Magistrate's Court	30	365	45	440	25.7	9.0	1.5	36.2

Source: Doing Business database.

Quality of judicial processes

	Busia *(Malaba)*	Isiolo *(Isiolo)*	Kakamega *(Kakamega)*	Kiambu *(Thika)*	Kisumu *(Kisumu)*	Machakos *(Machakos)*	Mombasa *(Mombasa)*	Nairobi *(Nairobi)*	Narok *(Narok)*	Nyeri *(Nyeri)*	Uasin Gishu *(Eldoret)*
Quality of judicial processes index (0–18)	7.5	7.5	7.5	7.5	7.5	7.5	9.0	9.0	7.5	7.5	7.5
Court structure and proceedings index (0–5)	3.0	3.0	3.0	3.0	3.0	3.0	4.5	4.5	3.0	3.0	3.0
Case management index (0–6)	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Court automation index (0–4)	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Alternative dispute resolution index (0–3)	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0

Source: Doing Business database.
Note: The data details for the quality of judicial processes index can be found for each county at http://www.doingbusiness.org/kenya.

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