Integration of Local Authorities Eswatini in the European Cooperation Programming Process 2021-2027

Compendium of Key Reference Documents

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September 12, 2020
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### List of Acronyms

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<th>Acronym</th>
<th>Full Form</th>
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<tr>
<td>ELGA</td>
<td>Eswatini Local Government Association</td>
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<td>EU</td>
<td>European Union</td>
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<td>IDP</td>
<td>Integrated Development Plan</td>
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<td>LA</td>
<td>Local Authority</td>
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<td>LED</td>
<td>Local Economic Development</td>
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<td>MTAD</td>
<td>Ministry of Tinkhundla Administration &amp; Development</td>
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<td>MHUD</td>
<td>Ministry of Housing and Urban Development</td>
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<td>NDICI</td>
<td>Neighbourhood Development and International Cooperation Instrument</td>
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<td>NIP</td>
<td>National Indicative Programme</td>
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<td>UCLG</td>
<td>United Cities and Local Governments</td>
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<td>ULG</td>
<td>Urban Local Government</td>
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1. Introduction

1.1 Background

The Neighbourhood Development and International Cooperation Instrument (NDICI) is the European Union's new financing tool that will guide its next programming of the next 6 years (2021 to 2027). Through this tool, a conscious effort to identify strategic and priority areas and sectors for interventions to be financed by the EU cooperation following a political dialogue to be launched with the central governments, the local authorities and other development actors of (civil society, private sector, etc.) has been prioritized.

The expectation is that local authorities, through their national association, should therefore be integral part in the programming process alongside the representatives of the national government, in the dialogue with the EU delegations. Setting a credible political agenda by Local Authorities (LAs) and their associations for meaningful engagement with central government is central to the EU programming.

The proposal of the United Cities and Local Governments (UCLGA) is for LAs and their associations to set the political dialogue agenda along the following areas:

a) Promote growth, create jobs and reduce inequalities, core public policies should be “territorialized” so as to integrate the diverging realities and needs of different areas in a given country.

b) Localizing the sustainable development Agenda 2030 (SDGs) and ensure effective delivery, local and regional governments should be seen as an “essential partners” of central government, necessitating the “mainstreaming” of LA participation in EU-supported sector policies and programmes;

c) Active support of territorial approaches to local development spearheaded by LAs as they are believed to be better placed to unlock the potential of territories and create additional wealth and income;

d) Development-friendly decentralization policies which enhance both the autonomy and accountability of LAs are key to promote place-based dynamics from the bottom-up.
To this end, the ULCG is working with Local Governments and their associations, Central Governments of participating countries to facilitate a dialogue that is meant to ensure a more viable platform for engagement in the quest to improve service delivery, clarity of roles and functions of different levels of governments, enhance partnership and active participation of citizens in the determination of their livelihood.

This compendium of national and sector policies, legislation, strategies, plans and other instruments is the first step towards the setting of the agenda by the Eswatini Local Government Association (ELGA) in preparation for dialogue with the Government of Eswatini on pertinent matters of power sharing, resource sharing/allocation, devolution of functions, and other related matters. An analytical Report cantered mainly around the state of the art of the decentralization process in the perspective for the localization and territorializing of national and sectoral policies and programs will follow.

2. National Development Policies and Strategies

2.1 Brief Country Background

The Kingdom of Eswatini is a constitutional monarchy with a bicameral parliament whose two chambers: a house of assembly and a senate. The head of state is HM King Mswati III, appoints the prime minister for a maximum of two five-year terms, and subsequently the cabinet on the advice of the prime minister. The house of assembly has 65 members; 55 elected by universal suffrage directly from tinkhundla centres and ten appointed by the king for a term of up to five years. The senate is composed of 30 members, of whom ten are elected by the house of assembly and 20 are appointed by the king. The country is divided into four administrative regions, each with a regional administrator appointed by the king as its political head.

Local government is divided into urban and rural councils. The urban councils are municipalities and the rural councils are the tinkhundla. In each of the four regions there are several tinkhundla (singular ‘inkhundla’, plural ‘tinkhundla’) managed by a regional administrator through elected members in each inkhundla. There are 13 declared urban areas – comprising two city councils, four town councils and seven town boards, and 55 tinkhundla.
2.2 Pertinent national and sectoral policies and strategies

As a starting point, a compendium of official reference documents on the national development plans and the national sector policies has been outlined below.

<table>
<thead>
<tr>
<th>REFERENCE DOCUMENT</th>
<th>DESCRIPTION AND BOARD OBJECTIVES</th>
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<tbody>
<tr>
<td>National Development Policies &amp; Strategies</td>
<td>Setting the tone for political, social and economic development of the citizens of the country (Sections 58-60) The State has the responsibility to take all necessary steps to establish a sound and healthy economy</td>
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<td>The vision is that &quot;By the Year 2022, the Kingdom of Swaziland will be in the top 10% of the medium human development group of countries founded on sustainable economic development, social justice and political stability&quot; Sectoral strategies contained in the NDS include a) Public Sector Management b) Macro-Economic Management c) Physical Infrastructure d) Agriculture, land and rural development e) Economic Services f) Education and Training g) Population, Health, &amp; Social Welfare, and; h) Gender &amp; Disadvantaged Groups</td>
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<td>The NDS introduces the Economic &amp; Social Reform Agenda (ESRA), the Public Sector Management Programme (PSMP), and the Internal Structural Adjustment Programme (ISAP).</td>
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<tr>
<td>Swaziland Investor Roadmap 2005</td>
<td>The investor roadmap has five related goals which are; a) Identify and analyze all of the steps, timeframes, costs, and submission requirements involved with starting up and operating a business in Swaziland; b) Collect and review the relevant legislation establishing the various administrative procedures considered; c) Create a document that</td>
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can contribute to the development of a procedural investment guide for the country; d) Analyze the efficiency of the present investment regime in Swaziland; and e) Craft recommendations for meaningful, practical reform.

| Eswatini Strategic Roadmap 2019 – 2022 | Led by the vision of attaining 1st World status by 2022, the Strategic Roadmap has four strategic goals, namely; a) Create an enabling environment in which Emaswati, investors & strategic partners can thrive; b) Create an adaptable & progressive legislative environment that promotes peace, stability & prosperity; c) Create the space & regulation required for the Private Sector to thrive, and; d) Be an efficient, dependable & modern Government service provider. The roadmap prioritizes five economic sectors as key for growth: i) Mining & Energy ii) Tourism, iii) Manufacturing & Agro-processing, iv) Agriculture, and v) Education and Information & Communication Technology. Five priority areas are indicated in the strategy roadmap namely; i) Improving ease of doing business, ii) fiscal consolidation and arrears management, iii) Infrastructure, investment and innovation, ib) |
| Poverty Reduction Strategy and Action Plan 2007 | A critical component for operationalizing the National Development Strategy. It has two broad goals: i) Reduction of the prevalence of poverty from 69% in 2001 to 30% by 2015 and to eliminate it altogether by 2022 thus fulfilling the Vision and aspirations of the people of Swaziland; and ii) Raising the quality of life of all people in Swaziland to levels aspired in the NDS and encouraging them to participate in the growth of their country. The PRSAP has six pillars, namely: 1: Macro-economic Stability 2: Rapid Acceleration of Economic Growth Based on Broad Participation 3: Empowering the Poor to Generate Income and Reduce Inequalities 4: Fair Distribution of the Benefits of Growth through Fiscal Policy 5: Improving the Quality of Life of the Poor 6: Improve Good Governance and Strengthen Institutions |
The strategy pivots on eight policy priorities and these are: a) Fiscal Prudence, b) promotion of a more equitable growth pattern, c) investment in people, d) ensuring food security, e) increasing agricultural production and productivity in SNL, f) investment in rural infrastructure to increase rural productivity, g) reduce poor people's vulnerability, and h) decentralization and strengthening governance institutions.

<table>
<thead>
<tr>
<th>Policy Type</th>
<th>Policies</th>
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<tr>
<td>National Decentralization Policy 2005</td>
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<td>National Physical Development Plan 1996-2006</td>
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<td>Regional Physical Development Plans (RPDP)</td>
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<tr>
<td>National Rural Resettlement Policy (NRRP)</td>
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### Sector Development Policies and Plans

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<tr>
<th>Sector</th>
<th>Policies</th>
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| Social Development & Protection | Poverty Reduction Strategy and Action Plan 2005  
Regional Development Fund Regulations, 2000  
Swaziland National Provident Fund Act, 1974  
National Youth Policy, 2009  
National Gender Policy, 2010  
National Disaster Risk Management Policy, 2011 |
|---------------------------------|---------------------------------|
Swaziland Electricity Company Act, 2007  
Petroleum Bill (2020) |
| CONSTRUCTION                   | Construction Industry Council Act, 2014 |
| EDUCATION                      | Swaziland Training and Education Sector Policy, 2011 |
| ICT                            | National Information and Communication  
3. National Decentralization Policy

3.1 Introduction

Adopted in 2005, the National Decentralization Policy recognizes the importance of empowering and encouraging the active and enlightened participation of all citizens at all levels in their own governance. Therefore, is a local response to ensuring that the citizenry do not become passive beneficiaries of development but active and enlightened stakeholders in re-shaping and redefining their own development priorities mainstreaming of the policy implementation in the Tinkhundla System of Governance. This system, according to the Eswatini Constitution, is a democratic, participatory, tinkhundla- based system which emphasises devolution of state power from central government to tinkhundla areas and individual merit as a basis for election or appointment to public office. Inkhudla (or Tinkhundla for plural) refers to a constituency area or locality.

The decentralization policy is pivoted on the *devolution of power, authority, functions, responsibility and resources* from central government to the decentralized level, with fundamental underlying principles being:

- a) Subsidiary,
- b) Empowerment,
- c) Responsibility,
- d) Self-reliance,
- e) Partnership,
- f) Connectivity,
- g) Accountability,
- h) Transparency,
- i) Equity,
- j) Inclusiveness,
- k) Responsiveness,
- l) Efficiency,
- m) Effectiveness,
- n) Participation,
- o) Consensus building,
p) Democratic representation, and;
q) Respect for the rule of law.

The Swaziland Government Decentralization Policy was approved in 2005, the same year the Constitution of the Kingdom was passed into law. Its main purpose is to “provide an enabling environment for promoting and enhancing sustainable and participatory local and national economic, political and social development within a decentralized governance framework”. According to the problem statement in the policy, elements subject to decentralization include power, authority, responsibility, resources, decision making and service delivery mechanisms and processes. Inadequacy and inequitable distribution of resources is also cited as a major concern that the decentralization policy attempts to address.

Importantly, the decentralization policy purports to put in place several national structures responsible for the implementation of the decentralization policy. Apart from the Directorate of Decentralization in the Deputy Prime Minister’s Office, it remains unclear if all the other structures were eventually put in place and are operational in the country, without which the decentralization project is unlikely to be completed and operationalized to achieve its intended goals.

### 3.2 Legal Framework governing decentralization

#### 3.2.1 Eswatini Constitution Act, 2005

In addition to advocating active participation of citizens at different levels of governance (Section 58(1)), Section 58 (2) of the Constitution of Eswatini states: “In the conduct of public affairs the State shall be guided by the principle of decentralisation and devolution of governmental functions and powers to the people at appropriate levels where the people can best manage and direct their own affairs.”
59 (2) (d) undertaking even and balanced development of all regions and in particular improving the conditions of life in the rural areas, and generally, redressing any imbalance in development between the rural and urban areas; and

Regarding land management and the settlement of land disputes, the Constitution entrusts Parliament with the responsibility of making laws providing for such, whether in rural or urban areas (Section 217 (a)).

Chapter VIII of the constitution focuses on local government, with Section 218 providing for Parliament to establish a single country-wide system of local government which is based on the Tinkhudla system of government, hierarchically organized according to the volume or complexity of service rendered and integrated so as to avoid the urban/rural dichotomy.

Section 291 directs the Elections and Boundaries Commission (EBC) to recommend the division (or abolishment thereof) of the country into local authorities for Parliament’s approval, and sub-section 2 (c) views the integration of urban and rural areas as an important element in this subdivision process.

The administration of a local authority rests with an elected, appointed or a hybrid Council or Committee whose term of office shall be similar to that of Members of Parliament (which is five years and does have a limit to re-election).

Duties of a local authority are outlined in Section 221 of the constitution, primarily to ensure the efficient management and development of the area under the local authority’s jurisdiction, including determining, planning, initiating and executing policies in synch with national policies or development plans.

Concerning funding of local governments, the constitution of the country provides for the powers of local authorities to raise funds through levying of taxes, levies, rates, duties and fees for the execution of its programmes. This is in addition to a government subvention which seem to have remained the prerogative of central government both concerning the allocation and the amounts.

Whereas urban local authorities are specifically under the Ministry of Housing and Urban Development (Ministry responsible for local governments), rural
authorities, in particular, Chiefs, are under a different ministry, the Ministry of Tinkhundla Administration and Development (MTAD).

3.2.2 Tinkhundla Administration Bill, 2014

The Bill, which has not yet been passed into law, purports make the constitution and the decentralization policy more operational regarding decentralization in the country. It is unclear why, since 2014, the Bill remains in its current form (not passed into law).

Apart from establishing bodies such as the Regional Councils, Tinkhundla Authorities, Tinkhundla Administration and Development Fund, and the Regional Development and Coordination Planning Committee, the Bill also seeks to repeal the Regional Councils Order, 1978 and Urban Government Act, 1969. Specifically, the Bill is a tool for making decentralization practical, indicating how power, functions, services and resources would be devolved and delegated, with incremental devolution preferred.

3.2.3 Urban Government Act, 1969

The Act provides for the establishment of urban local governments, giving out their mandates. It deals with delineating urban boundaries, the provision of urban services, the administration of urban local governments, revenue collection and spending, and related provisions.

The Act specifies the duties of the urban local government as:

a) Controlling, managing and administering the urban area;
b) maintaining and cleaning all public streets and open spaces vested in the Board or committed to its management;
c) Abating all public nuisances;
d) Safeguarding public health, and providing sanitary services for the removal and disposal of night soil, rubbish, carcasses of dead animals and all kinds of refuse;
e) Establishing or taking over and maintaining, subject to the extent of its resources, any public utility service which it is authorised or required to
maintain under any law and which is required for the welfare, comfort or convenience of the public;

f) Develop, controlling and managing any land vested in, owned or leased by the Town Board;

g) Establishing or taking over and administering, subject to the extent of its resources, housing schemes for the inhabitants of the municipality; and

h) Generally promoting the public health, welfare and convenience, and the development, sanitation and amenities of the municipality.

3.2.4 Regional Councils Order, 1978

The Order establishes the Regional Councils, outlining its duties and functions as:

a) Co-ordinate national and economic activities at District level;

b) Implement national and government policies and projects at District and Tinkhundla level;

c) Through the Indvuna Yetinkhundla liaise with the Swazi National Council in all matters of policy affecting Swazi law and custom.

d) Report through the Indvuna Yetinkhundla to the Government and the Swazi National Council on all decisions arrived at by the Tinkhundla in their Districts;

e) Through the Indvuna Yetinkhundla keep the Government and the Swazi National Council informed of all major economic or political activities taking place within their Districts;

f) Initiate and identify priority projects and the needs of the people residing in their Districts in accordance with National developments plans;

g) Maintain close contact with the Indvuna Yetinkhundla, and to seek his advice on all matters affecting their District, and;

h) Generally, do all such things as they may deem fit to uplift the economic, health and educational standards of the residents of their Districts and act so that peace and harmony might prevail throughout Swaziland.

The role of the Regional Councils serves as an interface between the central government and the traditional authorities both at regional and national levels. The Regional Councils are composed of the members of the Electoral College.
elected as such at a meeting of all Tinkhundla held in each District under the provisions of Part III of the “Establishment of the Parliament of Swaziland” Order, 1978. The electoral collect is effectively a representation from each of the Tinkhundla within the Region or District.

However, the Tinkhundla Administration Bill of 2014 sought to repeal this piece of legislation, particularly because a number of its provisions are no longer exercised, especially with the coming into force of the 2005 Constitution, which, inter-alia, introduced the Elections and Boundaries Commission (EBC), largely playing a similar role to the Electoral College.

### 3.3 Administrative delimitation

The Constitution of the kingdom, as well as the Urban Government Act outlines the different types of local authorities. At Regional level, there is the Regional Administrator who is the Political Head of the Region and shall be appointed in line with the country’s constitutional provisions. According to the Decentralization Policy, the RA is also responsible for tabling of budgets and draft operational and strategic plans to the Regional Legislature, presenting regionally approved budget to the Office of the DPM, and reporting to the DPM and to the Regional Legislature on the performance of the region.

The policy further states that the Regional Councils are responsible for debating and approving regional plans and budgets, submitting approved budgets and plans to the DPM through the Regional Administrator, legislating regional laws in line with the Local Government Decentralization Act and the Local Government Planning, Budgeting, Finance and Audit Act (to be), as well as creating Standing Committees on Finance, Health, Education, Infrastructure Development & Maintenance, Monitoring, Food security, and HIV & AIDS.

There are existing Inkhundla and Chiefdom level structures that are responsible for the administration of their respective jurisdictions. However, the two structures operate through different instruments and a combination of the two at some point. For instance, the Inkhundla structure dovetails on the central Government (Executive) through the Ministry of Tinkhundla Administration and
Development (MTAD) while the Chiefdom level is more aligned to the traditional side of the country’s governance system.

Urban Local Government have different levels in the country according to the Urban Government Act. Some are Municipal Councils, some Town Councils, and some Town Boards and/or Special zones. The power to declare such rests with the Minister responsible for urban local government. Currently, there are two municipal councils (Manzini and Mbabane), six (6) Town Councils and five (5) Town Boards.

### 3.4 Institutional framework organizing power sharing

According to the Decentralization Bill (2004), there is supposed to be enacted the “Local Government and Decentralization Bill, 2005” and a “Local Government Planning, Budgeting, Finance and Audit Bill, 2005”. These were meant to clarify and operationalize institutional frameworks organizing power and resource sharing.
3.5 Resource allocation to Local Authorities

For urban local authorities or governments (ULGs), the expectation from central government is that the bigger share of resources, in particular, financial, human and capital, should be raised by the local authority, and that central government will provide additional resources in the form of annual subventions and grants, especially for infrastructure development and other centrally planned initiatives.

Local Authorities are allocated subventions and grants under their respective Government Ministries, Housing and Urban Development for urban local authorities, and Tinkhundla Administration and Development for rural local authorities. This forms part of the annual central government appropriation.

As to raising revenues, the Public Finance Management Act, 2017 (PFMA) directs that “a Local Government may impose levies as may be authorized by an Act of Parliament”, in this case, the Urban Government Act, 1969. The Act further indicate that local governments may levy fees and charges according to the law (Section 38 (i)).
Regarding investments, the Act provides that the Finance Minister, in consultation with the Minister responsible for Local Government, may direct a Local Government to comply with any agreement between the Minister and the Central Bank regarding the investment of public money. This section of the Act (54), combined with Section 64 (Local Government borrowing) presents itself as some form of fiscal centralization.

Asset management vests in the local authority according to Section 80 of the Public Finance Management Act.

### 3.6 Mandates of Local Authorities

The mandates of the Local Authorities are outlined in the Urban Government Act, 1969 the Constitution of the country, as well as the Regional Council’s Order (1978). However, government has adopted Integrated Development Planning (IDP). One of the major components of the IDP is the local economic development plan (LED), which the government is very particular about as it touches on the livelihoods, business development and a number of aspects that touch on the people and entities of the local area. An LED Guide has been drafted by the Ministry of Housing and Urban Development in recent years to this end.

In this respect, each local authority (urban) is expected to develop an Integrated Development Plan every five years which outlines the local authority’s priorities and strategies for developing the juristic area. For rural local authorities, emphasis has been on the development of chiefdom development plans (CDPs) for each of the country’s over 300 chiefdoms. No law, however, supports this initiative or are resource allocations done according to these CDPs. They remain helpful though in terms of planning and executing development in chiefdoms.

### 3.7 National Association of Local Authorities

The Eswatini Local Government Association (ELGA) is a body corporate, representative of the urban local authorities in the country, established in 2012
with its leading objective being the representation, promotion and protection of the interests of local governments in Eswatini.

Representing 13 urban local governments, ELGA’s other objectives are:

   a) Enhance and promote the role and status of local authority (ies) to be more effective and efficient; 
   b) Be recognized by central government to be the representative and consultative body in respect of all matters concerning local government and to make representations to central government in respect of any matter concerning local government; 
   c) Encourage and Support equal opportunity and participation of everyone; 
   d) Encourage the settlement of disputes/misunderstandings, whoever may be the instigator, condemn such affecting its members through co-operative governance; 
   e) To build consensus from the diverse concerns of local authority (ies); 
   f) To establish sound relationship with Central Government, interest groups and international bodies, advocate and lobby thereon; 
   g) To play a key role in facilitating and stabilizing the desired participative change in urban and peri-urban areas; 
   h) To play a key role in the promotion of sustainable development through issues affecting mankind such as, but not limited to climate change, xenophobia; 
   i) To promote participatory government of all stakeholders in local government; 
   j) To promote training and educational programmes for Local Authorities and the public; 
   k) Affiliate/Associate with and participate in the affairs of any national and international organisation, that will serve the interests of the members; and 
   l) Do such lawful things as may appear to be in the interest of the association and its members which are not inconsistent with the objectives or any matter specifically provided for in this constitution.
At the top of ELGA’s governance structure is the General Council which has the ultimate authority over the organization and its processes/operations, followed by General Assembly and Executive Committee below it (consecutively). Other structures below these are the Presidential Committee and the Technical Committee.

The association is primarily funded through membership fees and/or levies determined by the Executive Committee from time to time, payable annually before the 1st of July.

4. Cooperation with the European Union (EU)

According to the EU, relations between the European Union and the Kingdom of Eswatini are cordial, but the EU is critical of the democratisation process within the Kingdom. During the regular political dialogues and direct engagements with the King, the EU has called for democratisation and for the implementation of the Constitution, which provides for freedom of association, assembly and expression.

Nonetheless, the Kingdom of Eswatini has an aid agreement with the EU which established the National Indicative Programme (NIP) for the period running from 2014 to 2020, which makes available a minimum of EUR62 million for the period in question in accordance with the provisions of Articles 2 and 4 of Annex IV to the ACP-EC Partnership Agreement, signed in Cotonou on 23 June 2000, revised and signed in Luxemburg on 25 June 2005 and revised and signed in Ouagadougou on 22 June 2010. The current NIP focuses on Agriculture (EUR40 million) and Social Protection (EUR15 million). For the Agriculture Sector, the EU sought to address challenges institutional, production and marketing-related factors “with the objective of promoting environmentally sound agricultural practices, eradicate food insecurity and contributing to sustainable economic growth”.

With the objective to provide a higher level of social security and access to essential services, the Social Security focus area targets to address observed challenges such as lack of a coherent articulated vision, lack of a comprehensive national social
The overall objective for the agriculture pillar is to eradicate food insecurity while contributing to economic growth. The plan was to achieve this objective through strengthening institutional capacities, establishing environmentally sound ‘high-impact’ commodity chains building resilience to climate risks, and improving the food security of subsistence farmers.

The overall intention for the Social Protection pillar is to enhance the capacity of the poor and vulnerable to live their lives free from hardship and indignity, to better manage shocks, and to overcome poverty and vulnerability. This would be done by providing a higher level of social security and access to essential services. More specific objectives included strengthening institutional capacity, ownership and oversight functions of government, ensuring more efficient, sustainable, suitable and accountable provision of Social protection, as well as protecting the rights of the poorest and most vulnerable children and adolescents and those with special needs.

It is interesting to note that the indicators for NIP are taken from the Poverty Reduction Strategy and Action Plan (PRSAP) as practicable as possible.

Further, the EU supports implementation of the country’s National Adaptation Strategy (NAS), which aims to ensure the continued economic viability of the sugar sector in the country. The EU also promotes civil society in the country through its European Instrument for Democracy and Human Rights (EIDHR) and supports Non-State Actors (NSAs) with grants through a separate programme.

As recent as July 2020, the European Union, through its Ambassador to Eswatini, presented EURO 2.4 million to help the country in its response to the COVID-19 pandemic.