



**THE THIRD QUARTERLY REPORT FOR THE
YEAR 2009 COVERING THE PERIOD 1ST
JULY 2009 TO 30TH SEPTEMBER 2009**

**THE KENYA ANTI-CORRUPTION
COMMISSION**

PREAMBLE

The Kenya Anti-Corruption Commission is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003, to prepare quarterly reports setting out the number of reports made to the Attorney General under section 35.

Section 35 provides that:

1. Following an investigation, the Commission shall report to the Attorney General on the results of the investigation.
2. The Commission's report shall include any recommendation the Commission may have that a person be prosecuted for corruption or economic crime.

Section 36 provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the Attorney General under section 35 and such other statistical information relating to those reports, as the Commission considers appropriate.
2. A quarterly report shall indicate if a recommendation of the Commission to prosecute a person for corruption or economic crime was not accepted.
3. The Commission shall give a copy of each quarterly report to the Attorney General.
4. The Attorney General shall lay a copy of each quarterly report before the National Assembly.
5. The Commission shall cause each quarterly report to be published in the Gazette.

This report is therefore made pursuant to section 36 of the Anti-Corruption and Economic Crimes Act, 2003. The report covers the third quarter of the year 2009 and is for the period commencing 1st July, 2009 to 30th September, 2009.

INVESTIGATIONS COVERING THE PERIOD 1ST JULY TO 30TH SEPTEMBER 2009

1. KACC/FI/INQ/59A/07

Inquiry into allegations of conflict of interest against the then District Works Officer, Narok District. Following allegations that some Government officers based in Narok District had formed some companies through which they were trading with their employer, the Commission carried out investigations and confirmed the allegations to be true in respect of some of the officers. One of the officers was the District Works Officer who was found to have personal interest in a construction company. It was further established that he had voted in favour of the company in his official capacity and had drawn the tender documents on the basis of which the company submitted its bid for the contract for the construction of Narok Law Court building.

The file was forwarded to the Attorney General on the 28th August, 2009 with a recommendation that the suspect be charged with failure to disclose a private interest to his principal and knowingly holding a private interest in a contract connected with a public body contrary to sections 42(1) and 42(3) of the Anti-Corruption and Economic Crimes Act, No. 3 of 2003. The recommendation for prosecution was accepted by the Attorney General on 8th September, 2009.

2. KACC/FI/INQ/24/2009

Inquiry into allegations that the trustees of the Strategic Grain Reserve Fund (SGR) had allocated 1.2 million bags of maize from the SGR, whereas the Cabinet approval was only for 700,000 bags. The investigation confirmed that the Cabinet met on 27th November, 2008 and approved the release of 700,000 bags of maize from the Strategic Grain Reserve to alleviate the maize shortage being experienced in the country at the time. It was further established that the Cabinet also set up an *ad hoc* Food Security Committee with the mandate to critically analyze the food situation in the country and to negotiate reasonable prices of maize flour with the millers. It was in furtherance of this mandate that the committee reached a decision for the release of 1.2 bags of maize from the SGR by the trustees. Thereafter, the National Cereals and Produce Board complied with the guidelines given by the trustees as regard the allocation of the maize to the millers and the allocations were well documented. Thus, no wrongdoing or irregularity was unearthed by the investigation.

The file was forwarded to the Attorney General on 14th August, 2009 with the recommendation that the inquiry file be closed. The recommendation for closure was accepted by the Attorney General on 5th October, 2009.

3. KACC.CR.255/80/2009 – COURT FILE NO. NYERI ACC. 4/2009

Inquiry into allegations that two police officers attached to Embu Divisional Criminal Investigations Department (CID) Office had corruptly solicited for a benefit from the complainant as an inducement to release his motor vehicle registration number KBA 275W, a Toyota Station Wagon, which they had detained in the course of their

investigations. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nyeri Anti-Corruption Court.

The file was forwarded to the Attorney General on 16th July, 2009 with a recommendation that the case pending before court be prosecuted to its logical conclusion. The recommendation was accepted by the Attorney General on 27th August, 2009.

4. KACC.CR.170/116/2009 – COURT FILE NO. NAIROBI ACC. 13/2009

Inquiry into allegations that A police officer attached to the Traffic Department, Nairobi Area, had corruptly solicited for a benefit from the complainant as an inducement to release his motor vehicle registration number KBA 660G, a Toyota Station Wagon, which had been detained at Nyayo Stadium Police Post on account of a broken windscreen. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nairobi Anti-Corruption Court.

The file was forwarded to the Attorney General on 20th July, 2009 with the recommendation that the case pending before court be prosecuted to its logical conclusion. The recommendation was accepted by the Attorney General on 10th August, 2009.

5. KACC.CR.449/66/2009 – COURT FILE NO. EMBU ACC. 1/2009

Inquiry into allegations that the Town Treasurer of the Town Council of Matuu had corruptly solicited for a benefit from the complainant as an inducement to release a cheque for Kshs. 192,500 to him. The cheque was due to the complainant on account of goods sold and delivered to the Council. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Embu Anti-Corruption Court.

The file was forwarded to the Attorney General on 14th August, 2009 with the recommendation that the case pending before court be prosecuted to its logical conclusion. The recommendation was accepted by the Attorney General on 27th August, 2009.

6. KACC.CR.030/07/2009 – COURT FILE NO. NAKURU ACC. 1602/2009

Inquiry into allegations that the proprietor of Gilgil Hills Academy had corruptly solicited for a benefit from the complainant as an inducement to forbear publishing a

story about the mysterious death of a pupil at the said school in the month of July, 2008. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of offering and giving a benefit contrary to section 39(3)(b) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Nakuru Anti-Corruption Court.

The file was forwarded to the Attorney General on 14th August, 2009 with the recommendation that the case pending before court be prosecuted to its logical conclusion.

7. KACC.CR.921/329/2009 – COURT FILE NO. KISUMU ACC. 150/2009

Inquiry into allegations that a Senior Principal Magistrate and a Court Clerk attached to Kakamega Law Courts had corruptly solicited for a benefit from the complainant as an inducement for the Senior Principal Magistrate to deliver a favourable judgment in a case of robbery with violence that was pending before him against the complainant's brother. The investigation established the solicitation and receipt of the benefit. The suspects were arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Kisumu Anti-Corruption Court.

The file was forwarded to the Attorney General on 26th August, 2009 with the recommendation that the case pending before court be prosecuted to its logical conclusion. The recommendation was accepted by the Attorney General on 8th September, 2009.

8. KACC.CR.925/97/2009 – COURT FILE NO. KAKAMEGA ACC. 1/2009

Inquiry into allegations that a Journalist with the Weekly Citizen Newspaper based in Mumias Town had corruptly solicited for a benefit from the complainant as an inducement to forbear publishing an adverse report against the complainant in the said newspaper. The investigation established the solicitation and receipt of the benefit. The suspect was arrested and charged with the offences of soliciting and receiving a benefit contrary to section 39(3)(a) as read with section 48(1) of the Anti-Corruption and Economic Crimes Act, 2003 and the case is pending before the Kakamega Anti-Corruption Court.

The file was forwarded to the Attorney General on 27th August, 2009 with the recommendation that the case pending before court be prosecuted to its logical conclusion. The recommendation was accepted by the Attorney General on 11th September, 2009.

.....

**STATISTICAL SUMMARY OF FILES FORWARDED TO
THE ATTORNEY GENERAL**

Total No. of files forwarded to the Attorney General	8
No. of files recommended for prosecution	7
No. of files recommended for administrative or other action	0
No. of files recommended for closure	1
No. of files recommended for prosecution and the cases are already lodged before Court	6
No. of files where recommendation to prosecute accepted	7
No. of files where recommendation for administrative or other action accepted	0
No. of files where recommendation for closure accepted	1
No. of files returned for further investigations	0
No. of files where recommendation to prosecute not accepted	0
No. of files where recommendation for administrative or other action not accepted	0
No. of files forwarded in previous quarters and received during this quarter	8
No. of files where closure not accepted	0
No. of files awaiting Attorney General's action	0

DATED AT NAIROBI THIS

DAY OF

2009

**DR. JOHN P. MUTONYI, MBS
AG. DIRECTOR/CHIEF EXECUTIVE**