


THE ETHICS AND ANTI-CORRUPTION COMMISSION

THE 3<sup>RD</sup> QUARTERLY REPORT COVERING THE PERIOD FROM  
1<sup>ST</sup> JULY 2020 TO 30<sup>TH</sup> SEPTEMBER 2020

 THE NATIONAL ASSEMBLY PAPERS LAID	
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CLERK-AT-THE-TABLE:	Anno Chibuko SEPTEMBER 2020

## PREAMBLE

The Ethics and Anti-Corruption Commission (the Commission) is required under section 36 of the Anti-Corruption and Economic Crimes Act, 2003 (ACECA), to prepare quarterly reports setting out the number of reports made to the Director of Public Prosecutions (DPP) under Section 35 of the ACECA, 2003 as read with Section 11(1) (d) of the Ethics and Anti-Corruption Commission Act, 2011, (EACCA).

Section 36 of ACECA provides that:

1. The Commission shall prepare quarterly reports setting out the number of reports made to the DPP 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 accepted or 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 ACECA. The report covers the Third Quarter and is for the period commencing 1<sup>st</sup> July 2020 to 30<sup>th</sup> September, 2020.

INVESTIGATION REPORTS COVERING THE PERIOD 1<sup>ST</sup> JULY 2020 TO 30<sup>TH</sup> SEPTEMBER 2020

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1. EACC/AT/INQ/25/2020

INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT AND FRAUDULENT PAYMENTS IN RELATION TO THE PURCHASE AND SUPPLY OF COVID-19 EMERGENCY COMMODITIES AT KENYA MEDICAL SUPPLIES AUTHORITY (KEMSA) BY PUBLIC OFFICIALS THAT LED TO IRREGULAR EXPENDITURE OF PUBLIC FUNDS AMOUNTING TO KSHS 7.8 BILLION.

The Commission commenced investigations following a report on irregularities on procurement of Covid-19 items by the Kenya Medical Supplies Authority (KEMSA).

Investigations established that KEMSA did indeed procure COVID 19 items necessitated by the outbreak of the pandemic in the Country. Investigations established that KEMSA flouted the procurement laws and procedures as well as the public finance management procedures in the procurement of the Covid 19 items.

Investigations revealed that KEMSA exceeded its available budget by about Kshs.3.2 billion. Further investigations established that KEMSA had no real justification for use of the direct procurement method as much as it justified the same citing an urgent need for the stocks in question because suppliers who were issued with commitment letters to supply the items did not deliver within the stipulated period. Investigations revealed that much of the stocks delivered to KEMSA are still lying in the KEMSA stores

Investigations further established that KEMSA did not get value for money in this procurement. It purchased the COVID 19 items at exorbitant prices and not within the prevailing market prices.

On 11<sup>TH</sup> September 2020 a report was compiled and forwarded to the DPP with recommendations to charge the Chief Executive Officer (CEO) KEMSA, Director Procurement, Director Commercial Services, Director Finance and Strategy, Finance Manager, the Personal Assistant to the CEO with the following offences; 4

counts wilful failure to comply with the law relating to procurement contrary to Section 45(2) (b) and 7 counts of abuse of office contrary to Section 46 as read with Section 48 ACECA, 1 count of unauthorised use of public money contrary to Section 196 (1) as read with Section 196 (6) of the Public Finance Management Act (PFMA), 1 count of entering into an obligation that has a financial implication for the National Government budget without authority contrary to Section 196 (3) as read with Section 196 (6) of PFMA, 1 count of assisting, facilitating, contributing to and being a party to the failure to comply with the obligations imposed by the PFMA, 2012 contrary to Section 196 (7) of PFMA, 1 count of financial misconduct contrary to section 197 (1) (h), 1 count of financial misconduct contrary to Section 197 (1) (i) and 1 count of financial misconduct contrary to Section 197 (1) (c)(i) as read with section 199 of PFMA ,2 counts of neglect of official duty by a public officer contrary to Section 128 of the Penal Code and 1 count of making a document without authority contrary to Section 357 of the Penal Code.

On 2<sup>nd</sup> October 2020, the DPP returned the inquiry file for further investigations. Upon completion of further investigations, the Commission resubmitted the inquiry file to DPP on 22<sup>nd</sup> October 2020.

## **2. EACC/FI/INQ/74/2017**

### **INQUIRY INTO ALLEGATIONS OF GROSS MISAPPROPRIATION OF PUBLIC FUNDS BY THE GOVERNOR, MIGORI COUNTY GOVERNMENT THROUGH HIS DESIGNATED PROXIES AND EMPLOYEES OF THE COUNTY GOVERNMENT.**

Investigations by the Commission commenced following reports of gross misappropriation of public funds by the Governor, Migori County Government through his designated proxies and employees of the County Government.

Investigations revealed that several companies run by the Governor's proxies and County employees received a total of Kshs. 1,293,003,349.29 from Migori County Government for various supplies and services rendered. It could not be determined whether the tenders were lawfully awarded to these companies since the documents in support of the same were not available as they were allegedly burnt in a fire incident at the Migori County Offices.



Financial Investigations and Mutual Legal Assistance Requests further revealed that the companies after receiving the payments from the County Government, wired part of the same to the Governor's children's bank accounts. The monies were eventually used to pay for the Governor's children's school fees, upkeep and medical bills in Scotland, United Kingdom and Australia. Some of the monies were expended for the purchase of two land Cruiser V8 Motor Vehicles.

Investigations further revealed that one of the proxies, had bought a house worth Kshs. 34,525,000/= on behalf of the Governor from the Kenya Power Pension Scheme and whose rents were received by the Governor's daughter.

On 1<sup>st</sup> July 2020, a report was compiled and forwarded to the DPP with recommendations to charge the Governor and the proxies with the following offences ; 1 count of conspiracy to commit an offence of corruption contrary to Section 47A and 7 counts of Conflict of interest contrary to Section 42(3) as read with Section 48 of the ACECA, 4 counts of money laundering contrary to section 3 (b) (i) as read with section 16 of the Proceeds of Crime and Anti-Money Laundering Act, and 5 counts of Unlawful acquisition of public property contrary to Section 45(1) (a) as read with Section 48 of the ACECA.

On 15<sup>th</sup> August 2020, the DPP returned the inquiry file accepting recommendation for prosecution.

### **3. EACC/PI/INQ/25/2020**

**INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT IRREGULARITIES AND EMBEZZLEMENTS OF FUNDS IN THE PROCUREMENT OF A FIRE ENGINE TENDER NO. ICG/021/2017-2018 AT THE COUNTY GOVERNMENT OF ISIOLO.**

The Commission commenced the investigation after receiving an allegation of procurement irregularities and bribery in the supply and delivery of a fire engine at the County Government of Isiolo (CGI) by Drescoll Limited at a cost of Kshs. 58,560,000/=.

Investigations established that the recommended bidder (Drescoll Limited) did not meet the minimum mandatory requirements as stipulated in the blank bid document issued to bidders. Investigations further established that under the criterion on experience and supply of goods of similar nature, Drescoll Limited did not have the requisite experience of supplying firefighting equipment yet it was awarded full marks by the Evaluation Committee members. Investigations also revealed that Drescoll Limited in submitting their bid had attached a falsified notification of award purporting that the said notification of award had been issued by the County Government of Samburu County.

Investigations further established that the Accounting Officer failed to issue regret letters to the losing bidders as per the provisions of Section 87(3) of Public Procurement and Disposal of Assets Act (PPADA), 2015. Investigations revealed that the award contract signed between CGI and Drescoll Ltd made a provision of a 50% advance payment of the contract sum which was contrary to Section 147 of the PPADA, 2015. Furthermore, the provision of a 50% advance payment had not been stipulated in the blank bid document.

A report was prepared and forwarded to the DPP on 28<sup>th</sup> September 2020 recommending that the Director of Drescoll Limited, Drescoll Limited and Isiolo County Government Officials be charged with six counts of wilful failure to comply with the law relating to procurement contrary to Section 45(2) (b) as read with Section 48 of the ACECA, one count of fraudulent practice in procurement proceedings contrary to Section 66(1) as read with section 177 of the PPADA, 2015, one count of uttering a false document contrary to Section 353 of the Penal Code, one count of fraudulent acquisition of public property contrary to section 45(1)(a) as read with section 48(1) of the ACECA, one count of receiving a bribe contrary to Section 6(1) (a) as read together with Section 18(1) of the bribery act, 2016, one count of abuse of office contrary to Section 46 as read with section 48 of the ACECA and one count of wilful failure to comply with the law relating to management of funds and incurring of expenditure contrary to section 45(2) (b) as read together with section 48 of the ACECA.

On 3<sup>rd</sup> December 2020 the DPP advised that further investigations be carried out.

#### **4. EACC/KSI/FI/INQ/9/2017**

##### **INQUIRY INTO ALLEGATIONS OF PAYROLL FRAUD AGAINST EMPLOYEES OF THE COUNTY GOVERNMENT OF HOMABAY**

The Commission commenced investigations upon receipt of a report that there was financial fraud and abuse of office on payroll transactions at the County Government of Homabay. It was alleged that there were ghost employees and worker misclassifications leading to workers being paid multiple and inconsistent salaries in different bank accounts.

Investigations established that payroll officers in the department of Human Resource and accountants colluded with various county employees and awarded them irregular and multiple salary payments. As a result of this fraud, a sum of Kshs. 38,198,530.60 was irregularly and unlawfully paid as salary.

A report was prepared and forwarded to the DPP on 12<sup>th</sup> August 2020 with recommendation that the payroll officers, accountants and all the county officers who received the irregular salaries be charged with offences of abuse of office contrary to Section 46 as read with Section 48(1) of ACECA, unlawful acquisition of public property contrary to section 45(1)(a) as read with section 48(1) of ACECA and willful failure to comply with the law relating to management of funds contrary to section 45(2) (b) as read with section 48(1) of ACECA.

On 28<sup>th</sup> September 2020, the DPP returned the inquiry file for further investigations.

#### **5. EACC/AT/INQ/2/2020**

##### **INQUIRY INTO ALLEGATIONS OF EMBEZZLEMENT OF PUBLIC FUNDS AMOUNTING TO KSHS. 233,506,000 BY OFFICIALS OF THE COUNTY GOVERNMENT OF GARISSA**

The Commission commenced investigations following a report that County Government of Garissa officials had embezzled Kshs. 233,506,000/= being World Bank Grant under Kenya Urban Support Program.



Investigations revealed that Garissa County received Kshs. 233,000,000 from World Bank being a grant meant for Kenya Urban Support Program (KUSP). The funds were to be administered and managed in accordance with laws and procedures governing financial management in Kenya. Investigations revealed that part of the funds were unlawfully diverted to Garissa County Health Donor Account, Garissa Water and Sewerage Company Limited and other accounts. This was in contravention of the Financial Operating Procedures that were issued in regard to the utilization of the grant.

Investigations further revealed that the Governor, Garissa County who had the overall responsibility of ensuring proper management of the funds neglected his duty by failing to deposit the KUSP agreement executed by himself and the Minister for Transport and Infrastructure with the County Assembly Speaker.

On 3<sup>rd</sup> September 2020, a report was compiled and forwarded to the DPP with recommendations that the Governor, Chief Officer Finance, Head of Treasury, County Executive Officer Municipality, Head of Accounting Municipal be charged with Conspiracy to commit an economic crime contrary to section 47A(3) as read with Section 48(1) of ACECA, willful failure to comply with applicable procedures and guidelines relating to management of funds contrary to section 45(2)(b) as read with Section 48(1) of ACECA, Misappropriation of public funds contrary to section 198(1)(b) as read with section 199 of the Public Finance Management Act, engaging in a project without prior planning contrary to section 45(2)(c) as read with Section 48(1) of ACECA, Abuse of Office contrary to section 46 as read with Section 48(1) of ACECA.

On 10<sup>th</sup> September 2020 the DPP returned the inquiry file accepting recommendation for prosecution.

#### **6. EACC/MSA/FI/INQ/3/2018**

**INVESTIGATIONS INTO ALLEGATIONS OF IRREGULAR ALLOCATION OF KENYA PORTS AUTHORITY PROPERTY NUMBERS MOMBASA ISLAND/BLOCK XLVIII/145 AND MOMBASA ISLAND/BLOCK XLVIII/146 TO A MOMBASA BUSINESSMAN**



The Commission commenced investigations following a report on 26<sup>th</sup> June 2013 that property numbers Mombasa Island/Block XLVIII/145 and Mombasa Island/Block XLVIII/146 belonging to the Kenya Ports Authority had been irregularly allocated to a businessman by the then Commissioner of Lands without Kenya Port Authority's consent.

Investigations revealed that the properties were allocated to the beneficiary through misrepresentation of facts to the Office of the Commissioner of Lands. However, the evidence gathered was not sufficient to support a criminal case. This is due to the fact that file reference no. 243943 which would have helped establish the officers culpable for the illegal allocation could not be traced from the Ministry of Lands, Lands Registry.

The Commission has filed a recovery suit for the said properties at the Mombasa High Court and that the same was pending hearing and determination.

On 1<sup>st</sup> July 2020, a report was compiled and forwarded to the DPP with recommendation that the inquiry file be closed and the evidence obtained be used to support the recovery suit at Mombasa High Court.

On 18<sup>th</sup> September 2020, the DPP returned the inquiry file accepting recommendation for closure.

#### **7. EACC/NYR/FI/INQ/26/2016**

##### **INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT OF FENCING WORKS COVERING 46 KILOMETRES AROUND MARMANET/RUMURUTI FOREST,**

The Commission commenced investigations following a report indicating that Laikipia County Government officials had engaged in irregular procurement for works involving the construction of a 46 Km electric fence around the Rumuruti/Marmamet Forest.

Investigations established that the procurement for the works was done in accordance to the law save that the payment was effected without an inspection and acceptance certificate.

On 8<sup>th</sup> July 2020, a report was compiled and forwarded to the DPP with recommendation that administrative action be taken against members of the inspection and acceptance committee.

On 11<sup>th</sup> September, 2020 the DPP returned the inquiry file for further investigations.

#### **8. EACC/GSA/FI/20/2015**

##### **INQUIRY INTO ALLEGATIONS OF MISAPPROPRIATION OF PUBLIC FUNDS BY MANDERA COUNTY GOVERNMENT OFFICIALS BY INFLATING THE COST OF TRAINING COUNTY ENFORCEMENT OFFICERS FROM KSHS. 20 MILLION TO KSHS. 75 MILLION.**

The Commission commenced investigations following a complaint that the Republic of Kenya had lost Kshs. 55 million during the training of enforcement officers of Mandera County Government.

Investigations established that in the financial year 2013/14 Mandera County Government had set aside Kshs. 30,000,000/= for recruitment of enforcement officers. There was also a subsequent need of training these officers once recruited to enable them perform their duties optimally.

Investigations established that Kshs. 20 million was used in the recruitment and training of the enforcement officers which was within the budgetary allocation. However, investigations established that, the Director of Enforcement, Mandera County Government could not account for a Kshs. 940,000/= imprest he had been issued towards the exercise.

A report was compiled and forwarded to the DPP on 30<sup>th</sup> September 2020, recommending that the file be closed. The Commission will initiate recovery proceedings against the Director of Enforcement for the imprest.

Awaiting DPP's response.

#### **9. EACC/GSA/FI/INQ/3/2013**

**INQUIRY INTO ALLEGATIONS OF FRAUDULENT ALLOCATION OF GARISSA MUNICIPALITY BLOCK 111/59 WHEREBY A GOVERNMENT HOUSE MG17 WAS HIVED OFF AND A PLOT IRREGULARLY ALLOCATED TO A PRIVATE DEVELOPER TO THE DETRIMENT OF THE GOVERNMENT OF KENYA.**

The Commission commenced investigations after receipt of a complaint dated 22<sup>nd</sup> February 2013 which alleged that Garissa Municipality Block 111/59 had been irregularly allocated to a private developer to the detriment of the Government of Kenya.

Investigations established that part of Garissa Municipality Block 111/59 had been irregularly allocated to the said developer and a lease registered in his name. Investigations further revealed that the illegal allocation had been facilitated by public officers working at the Ministry of Lands, Housing and Urban Planning.

A report was compiled and forwarded to the DPP on 1<sup>st</sup> July 2020 with a recommendation that the private developer be charged with the offence of Fraudulent acquisition of public property contrary to Section 45 (1) (a) as read with Section 48 of the ACECA. Further recommendations were that the Ministry of Lands officials who facilitated the illegality be charged with 5 counts of abuse of office contrary to Section 46 as read with section 48 (1) of the ACECA and one count of deceiving principal contrary to Section 41(2) as read with Section 48 (1) of the ACECA.

On 6<sup>th</sup> October 2020, the DPP returned the inquiry file for further investigations.

**10. EACC/FI/INQ/77/2015**

**INQUIRY INTO ALLEGATIONS THAT THE NATIONAL TREASURY COMMITTED THE GOVERNMENT TO SIGN A RECAPITALIZATION AND RESTRUCTURING AGREEMENT IN REGARD TO TELKOM KENYA (TKL) WITHOUT MAKING SURE THAT THERE WAS ADEQUATE BUDGETARY PROVISION.**

The Commission commenced investigations following a report that the National Treasury committed the Government of Kenya (GOK) to sign a recapitalization and restructuring agreement without making sure that there was adequate



budgetary provision. It was further reported that the Treasury failed to avail the Government balance of Kshs. 2.4 billion six months after signing the agreement hence exposing the Government of Kenya to a loss of 10% stake in Telkom Kenya Limited from 40% to 30% shareholding. Further, it was alleged that there existed conflict of interest in the appointment of the Directors representing GOK in the restructuring and recapitalization of Telkom Kenya.

Investigations established that the process of privatization was above board as there was no evidence of impropriety or culpability of the public officials involved in the process.

A report was prepared and forwarded to the DPP on 22<sup>nd</sup> July 2020 with recommendation that the investigation file on allegations on irregular privatization, conflict of interest and restructuring of TKL balance sheet be closed with no further action for lack of evidence in support.

Awaiting DPP's response.

#### **11.EACC/FI/INQ/51/2019**

#### **INQUIRY INTO ALLEGATIONS THAT THE GOVERNMENT OF KENYA'S (GOK) INTERESTS WOULD NOT BE SAFEGUARDED IN THE PROPOSED MERGER BETWEEN TELKOM KENYA LIMITED AND AIRTEL NETWORKS LIMITED**

The Commission commenced investigations following allegations that the Government of Kenya's (GOK) interests would not be safeguarded in the proposed merger between Telkom Kenya Limited and Airtel Networks Limited (Airtel). This was after the National Assembly's Select Committee on the Implementation Status of Public Investment Committee reports had recommended that the Commission investigates the same.

No irregularities or infractions of the law were established in the merger process. The Commission also issued advisories to the relevant government institutions as a precautionary measure to ensure GOK's interests are protected as the merger process was in progress.



On 22<sup>nd</sup> July 2020, a report was compiled and forwarded to the DPP with recommendation that the inquiry file be closed with no further action.

Awaiting DPP's response.

#### **12.EACC/FI/INQ/64/2017**

**INQUIRY INTO ALLEGATIONS OF IRREGULAR PROCUREMENT AND BRIBERY IN THE AWARD OF A SECURITY CONTRACT IN THE FINANCIAL YEARS 2016/2017 AND 2017/2018 LEADING TO A LOSS OF KSHS. 60 MILLION TO THE JUDICIARY.**

Investigations commenced following a complaint of irregular procurement and bribery in the award of a contract to Lovington Security Limited in the financial years 2016/2017 and 2017/2018 leading to a loss of Kshs. 60 million to the Judiciary. Investigations did not reveal any evidence of bribery involving the public officials and the security company as alleged.

Investigations further revealed that the Public Procurement and Assets Disposal Act, 2015 and the attendant regulations were adhered to save for challenges faced when several tenders were terminated for non-responsiveness.

On 29<sup>th</sup> September 2020, a report was compiled and forwarded to the DPP with recommendations that a comprehensive systems audit be conducted at the Judiciary in relation to procurement of security services and other critical services to avert similar challenges in future.

Awaiting DPP's response.

#### **13.EACC/ELD/FI/INQ/41/2017**

**INVESTIGATIONS INTO ALLEGATIONS OF EMBEZZLEMENT OF KSHS. 11 MILLION FROM CHEBORORWA AGRICULTURAL TRAINING CENTRE, UASIN GISHU COUNTY.**

The Commission commenced this investigation on receipt of a complaint of unlawful withdrawal of funds from Chebororwa Agricultural Training Centre bank account held at KCB Bank Kapsowar.

Investigations revealed that a former Principal of the institution and a former accountant who were signatories to the account fraudulently withdrew cheques worth Kshs. 11,493,000/= from the account between 23<sup>rd</sup> February 2017 and 19<sup>th</sup> May, 2017. This was inspite of the said Principal having been transferred to another institution.

On 15<sup>th</sup> September 2020, a report was compiled and forwarded to the DPP with recommendations that the former Principal, former accountant and a businesswoman whose business was party to the fraud be charged with; Conspiracy to commit an economic crime contrary to section 47A(3) as read with Section 48(1) of ACECA, Misappropriation of public funds contrary to section 198(1)(b) as read with section 199 of the Public Finance Management Act, Abuse of Office contrary to section 46 as read with Section 48(1) of ACECA, Fraudulent acquisition of public property contrary to section 45(1) as read with Section 48 (1) of ACECA.

On 13<sup>th</sup> November 2020, the DPP returned the inquiry file for further investigations.

#### **14. EACC/ISL/FI/INQ/54/2016**

##### **INQUIRY INTO ALLEGATIONS OF ABUSE OF OFFICE BY THE MANAGING DIRECTOR OF MERU COUNTY INVESTMENT AND DEVELOPMENT CORPORATION IN THE TENDER FOR RENOVATION OF MERU HOTEL FOR KSHS. 3.646,773.04**

The Commission commenced investigations following a report that the Managing Director (MD) of Meru County Investment and Development Corporation (MCIDC) breached procurement laws in the tender for renovation of Meru Hotel for Kshs. 3,646,773.04.

Investigations established that at the time the procurement was initiated MCIDC did not have established procurement structures. The MD used to send procurement requests to the Meru County Government Procurement Unit to undertake the same.

Investigations revealed that the procurement process commenced before the request by the MD. The request was made on 22/4/2015 yet tender opening was done on 19/4/2015 and evaluation on 20/4/2015. Investigations further revealed that the Head of Procurement Meru County Government sent proposals to companies that were not pre-qualified. Further it was established that the evaluation criteria was not adhered to by the Evaluation Committee.

On 12<sup>th</sup> August 2020, a report was compiled and forwarded to the DPP with recommendation that the MD MCIDC, Head of Procurement Meru County Government as well as the members of the tender opening and evaluation committees be charged with the offences of; abuse of office, willful failure to comply with the law relating to procurement contrary section 45 (2) (b) as read with section 48(1) of ACECA and Conspiracy to commit an offence of corruption contrary to section 47A (3) as read with section 48(1) of ACECA.

Awaiting DPP's response.

#### **15.EACC/FI/INQ/71/2015**

#### **INQUIRY INTO ALLEGATIONS OF IRREGULAR HIRE OF A PRIVATE JET FOR USE BY HIS EXCELLENCY THE DEPUTY PRESIDENT ON AN OFFICIAL TRIP TO FIVE WEST AFRICAN COUNTRIES IN MAY, 2013.**

Investigations commenced following a report of irregular hire of a private jet for use by His Excellency (H.E) the Deputy President of the Republic of Kenya during a tour to West African countries.

Investigations revealed that H.E the Deputy President was scheduled to make an official visit to Congo Brazzaville, Gabon, Nigeria and Algeria from 16<sup>th</sup> to 19<sup>th</sup> May, 2013. A former Chief of Staff at the Office of the Deputy President (ODP) requested the Secretary Administration, ODP to procure the jet for the urgent travel.

Investigations further revealed that an Organizing Team formed to procure the jet considered the bids and awarded the tender to E-ADC who were the lowest responsive bidders at 18,564,000/=.



Investigations revealed that procurement breaches were committed but this was largely due to the urgency of the trip. It was established that the trip was urgent and that it was practically impossible for the procurement to have met all the requirements of the Public Procurement and Disposal Act, 2005 within the time the travel was scheduled.

Investigations revealed that no staff of ODP personally benefited from the award of the tender to E-ADC Limited. There was no loss of public funds as the Deputy President's trip had been sanctioned by the President.

On 30<sup>th</sup> September 2020 a report was compiled and forwarded to the DPP recommending that the inquiry file be closed with no further action.

Awaiting DPP's response.

#### **16. EACC/MSA/FI/INQ/5/2019**

#### **INVESTIGATIONS INTO ALLEGATIONS OF IRREGULAR EXCISION OF A PUBLIC ACCESS ROAD- KWALE DIANI/BEACH BLOCK/1072 VALUED AT KSHS. 30,000,000/= BY A PRIVATE COMPANY.**

The Commission commenced investigations following a report that Galerius Investments Limited had illegally excised a public access road- Kwale Diani/Beach Block/1072 valued at Kshs. 30,000,000/=.

Investigations revealed that in the year 1994 a physical planner at the Ministry of Lands and Physical Planning, the then Commissioner-of Lands and Galerius Investments Limited facilitated the illegal alienation of public access road- Kwale Diani/Beach Block/1072 between 23<sup>rd</sup> June 1994 and 10<sup>th</sup> August 1994.

On 12<sup>th</sup> August 2020, a report was compiled and forwarded to the DPP with recommendations that the physical planner at the Ministry of Lands and Physical Planning, the then Commissioners of Lands and Galerius Investments Limited and its director be charged with; 3 counts of abuse of office contrary to section 101 as read with section 102A of the Penal Code, 3 counts of wilful neglect of official duty contrary to section 128 as read with section 36 of the Penal Code, 3 counts of



aiding the commission of a felony contrary to section 128A of the Penal Code, 1 count of conspiracy to commit a felony contrary to section 313 of the Penal Code and 1 count of obtaining by false pretence contrary to section 313 of the Penal Code.

Awaiting DPP's response.

#### **17. EACC/ELD/INQ/FI/08/2017**

#### **INQUIRY INTO ALLEGATIONS THAT NANDI COUNTY GOVERNMENT PAID KSHS. 4.2 MILLION FOR ROAD CONSTRUCTION AND SPOT IMPROVEMENT OF KOLONG BRIDGE-KAKESENGIN ROAD YET WORKS WERE NOT DONE.**

The Commission commenced investigations following a report alleging embezzlement and/or misappropriation of funds by officers of the Nandi County Government. It was reported that a company namely; Glova Ventures Limited was paid Kshs. 4.2 million for road construction and spot improvement of Kolong Bridge-Kakesengin Road yet works were not done.

Investigations revealed that Kolong Bridge-Kapkesengin Road is part of the larger Kamobo-Kapkesengin-Kolong Road which falls under the mandate of KeRRA. Investigations further established that in the Financial Year 2014/2015, 2015/2016 and 2016/17 KeRRA undertook the spot improvement and routine maintenance of the Kolong Bridge-Kapkesengin Road through other contractors.

Investigations thus established that Nandi County Government Officials led by the Head of Procurement carried out a fictitious procurement for the improvement of the same road which works had already been carried out by KeRRA. The County officials conspired with Glova Ventures who received payments for no works done.

On 9<sup>th</sup> September 2020, a report was compiled and forwarded to the DPP with recommendations that the acting Chief Officer, Department of Transport and Infrastructure, Head of Supply Chain Management, Nandi County Roads Inspector, Glova Ventures and Directors Glova Ventures be charged with

Conspiracy to commit an economic crime contrary to section 47A(3) as read with Section 48(1) of ACECA, Abuse of Office contrary to section 46 as read with Section 48(1) of ACECA, Fraudulent payment from public revenue for services not rendered contrary to section 45(2)(a) (iii) as read with Section 48(1) of ACECA, deceiving principal contrary to section 41(2) as read with Section 48(1) of ACECA, Uttering a false document contrary to section 353 of the Penal Code, Fraudulent acquisition of public property contrary to section 45(1) as read with Section 48(1) of ACECA; dealing with suspect property contrary to section 47(1) as read with Section 48(1) of ACECA.

On 3<sup>rd</sup> November 2020, the DPP returned the inquiry file for further investigations.

#### **18. EACC/MCKS/FI/INQ/10/2017**

**INVESTIGATIONS INTO ALLEGATIONS THAT THE MCA IMARORO WARD ON KAJIADO COUNTY INFLUENCED IRREGULAR RE-ALLOCATION OF KSHS. 5,000,000/= MEANT FOR EQUIPPING OF ENKOSERO WATER PROJECT TO DRILLING OF ORETETI/ARROI COMMUNITY BOREHOLE PROJECT IN THE FINANCIAL YEAR 2014/2015.**

The Commission commenced investigations following a report that the MCA Imaroro Ward in Kajiado County influenced irregular re-allocation of Kshs. 5,000,000/= meant for equipping of Enkosero Water Project to drilling of Oreteti/Arroi Community Borehole Project in financial year 2014/2015.

Investigations revealed that the money allocated for Enkusero-Arroi water project was not diverted to Oreteti Water Project. There was no loss of funds. Investigations however revealed that the method of procurement used for the works was request for quotation. The works were above Kshs. 2,000,000/= allowed by the threshold matrix for Class A procuring entities,

On 12<sup>th</sup> August 2020, a report was compiled and forwarded to the DPP with recommendations that an advisory be issued to the County Government of Kajiado on the importance of ensuring that they adhere to the threshold matrix set out in the first schedule of the Public Procurement and Disposal Regulations, 2006.

Awaiting DPP's response.

**19. EACC/MLD/FI/INQ/13/2015**

**INQUIRY INTO ALLEGATIONS OF IRREGULAR TENDERING PROCESS FOR RE-ROOFING OF TEN CLASSROOMS AT MATANDONI PRIMARY SCHOOL.**

The Commission commenced investigations following a report that the Lamu West Member of Parliament had irregularly awarded tender number CDF/LW/2013-2014 for reroofing of ten Matondoni Primary School classrooms to Dynatech General Suppliers.

Investigations established that the procurement for the works was not done in accordance to the law. The tender opening committee was not constituted while evaluation was conducted by only two people.

On 8<sup>th</sup> July 2020, a report was compiled and forwarded to the DPP with recommendation that the Fund Account Manager, Lamu West Constituency and two others be charged with two counts of willful failure to comply with the law relating to procurement contrary section 45 (2) (b) as read with section 48(1) of ACECA, one count of abuse of office contrary to Section 46 AS read with section 48(1) of ACECA, one count of conspiracy to commit an offence of corruption contrary to Section 47A (3) A read with section 48(1) of ACECA and one count of uttering a false document contrary to section 353 of the Penal Code.

On 21<sup>st</sup> October 2020, the DPP returned the inquiry file for further investigations.

**20. EACC/NKR/EL/INQ/15/2016**

**INQUIRY INTO ALLEGATIONS OF FORGERY BY A PROCUREMENT OFFICER AT COUNTY GOVERNMENT OF BOMET.**

The Commission commenced investigations upon receipt of a report on 13<sup>th</sup> September 2018 that a Procurement Officer at County Government of Bomet had forged a Master's Degree certificate from Egerton University which he presented during an interview for the position of Assistant Director Supply Chain Management on 31<sup>st</sup> July 2018.



Investigations established that the Procurement Officer indeed attempted to obtain employment for the position of Assistant Director Supply Chain Management on 31<sup>st</sup> July 2018. Egerton University confirmed that the Business Administration (Marketing) degree certificate the officer had presented to the Bomet County Public Service Board was not genuine and had not been issued by the University.

A report was prepared and forwarded to the DPP on 1<sup>st</sup> July 2020 with recommendation that the Procurement Officer be charged with; one count of deceiving a public entity contrary to section 46(1) (b) as read with section 46(2) of the Leadership and Integrity Act, one count providing false information to public entity contrary to section 46(1) (d) as read with section 46(2) of the Leadership and Integrity Act, one count of making false statement to principal contrary to section 41(1) as read with section 48 of ACECA, one count of giving false information to principal contrary to section 41(1)(2) as read with section 48 of ACECA, one count of forgery contrary to section 349 of the Penal Code and one count of uttering a false document contrary to section 353 of the Penal Code.

On 21<sup>st</sup> October 2020, the DPP returned the inquiry file accepting recommendation for prosecution.

#### **21. EACC/EL/INQ/2/2014**

##### **INQUIRY INTO ALLEGATIONS THAT THE THEN GARISSA COUNTY WOMEN REPRESENTATIVE HON. SHUKRAN HUSSEIN GURE HELD DUAL CITIZENSHIP.**

The Commission commenced investigations upon receipt of a report that the then Garissa County Women Representative was an American citizen by virtue of her holding a USA Passport hence held dual citizenship.

Investigations established that then Garissa County Woman Representative held Kenyan identity card as well as Kenyan Passport. Additionally, she held an American Citizen Passport. Her travel history revealed that she used the American passport to enter and depart Kenya between 09.12.2008 and 06.07.2012.



Investigations established that given that she held dual citizenship, she was not eligible to contest or hold the seat. She lost the seat in the year 2017 general elections.

A report was prepared and forwarded to the DPP on 12<sup>th</sup> August 2020 with recommendation that the matter be referred to the Immigration Services Department for further action.

Awaiting DPP's response.

## **22. EACC/MSA/EL/INQ/09/2019**

### **INQUIRY INTO ALLEGATIONS OF CONFLICT OF INTEREST AGAINST DEPUTY ELECTIONS MANAGER, KINANGO CONSTITUENCY**

The Commission commenced investigations following receipt of a complaint on 12<sup>th</sup> October 2017 that the Deputy Elections Manager, Kinango Constituency had been awarded a tender by the Interim Electoral Boundaries Commission (IEBC) through one of his companies.

Investigations established that the suspect was employed by IEBC on a contractual basis from 29<sup>th</sup> May 2017 to 15<sup>th</sup> August 2017. As an employee his company was not qualified to apply for the tender. Investigations further revealed that the company submitted fake documents hence engaged in fraudulent procurement practice.

On 30<sup>th</sup> September 2020, a report was compiled and forwarded to the DPP with recommendations to charge the suspect with the following offences; Fraudulent practice in procurement proceedings contrary to section 176 ((1)(i) as read with section 176 (2) of the Public Procurement and Asset Disposal Act, 2015 ,conflict of interest contrary to section 42(3) as read with Section 48 of the ACECA, Fraudulent acquisition of public benefit contrary to Section 45(1) (a) as read with Section 48 of the ACECA, forgery contrary to Section 349 of the Penal Code, uttering a false document contrary to Section 353 as read with Section 349 of the Penal Code.

The Commission will also institute recovery proceedings of Kshs. 14,893,857.76 paid to the suspect.

On 7<sup>th</sup> December 2020, the DPP returned the inquiry file accepting recommendation for prosecution subject to further investigations carried out.

### **23. EACC/MLD/EL/INQ/5/2017**

#### **INVESTIGATIONS INTO ALLEGATIONS THAT AN ASSISTANT SECRETARY IN THE DEPARTMENT OF HEALTH IN TANA RIVER COUNTY GOVERNMENT HELD TWO PUBLIC POSITIONS.**

Investigations commenced following a report received at the Commission alleging that an Assistant Secretary in the Department of Health in Tana River County Government held a Clerk job at the National Registration Bureau.

Investigations established that the Officer held the two full times public jobs between 1<sup>st</sup> March 2017 to 15<sup>th</sup> March 2017 in breach of Section of 26 of the Leadership and Integrity Act. Investigations further revealed that the officer earned a cumulative gross salary of Kshs. 147,960.00 irregularly from Tana River County Government.

On 30<sup>th</sup> September 2020, report was compiled and forwarded to the DPP with the recommendation that administrative action be taken against the officer. The Commission will also initiate recovery process in respect of the irregularly earned salary.

On 10<sup>th</sup> November 2020 the DPP accepted the Commission's recommendation for administrative action.

### **24. EACC/EL/INQ/8/2017**

#### **AN INQUIRY INTO ALLEGATIONS OF IRREGULAR RECRUITMENT AND UNETHICAL CONDUCT AGAINST THE CLERK COUNTY ASSEMBLY OF NYAMIRA.**

Investigations commenced following a complaint that the Clerk to the County Assembly of Nyamira had been irregularly and unlawfully hired. It was further

reported that he was using the County Assembly's vehicle and drawing commuter allowance at the same time.

Investigations established that County Assembly Service Board (CASB) of Nyamira advertised for the position of Clerk to the County Assembly.

Investigations revealed that after interviews the suspect was not among the three top candidates recommended for the post. CASB nevertheless forwarded his name to the county assembly who approved his appointment.

From investigations, the CASB members abused their office by recommending the suspect contrary to the recommendations of the interviewing panel.

A report was compiled and forwarded to the DPP on 30<sup>th</sup> September, 2020, with recommendation to charge the members of CASB and the Clerk of the County Assembly with abuse of office contrary to section 46 as read with Section 48 of the ACECA and failing to comply with a written notice to provide information/documents contrary to Section 27(3) as read with Section 27(4) of the ACECA respectively.

Awaiting DPP's response.

#### **25. EACC/ELD/EL/INQ/06/2018**

##### **INQUIRY INTO ALLEGATIONS THAT AN EMPLOYEE OF NHIF FRAUDULENTLY USED HER NHIF CARD TO CAUSE TREATMENT OF A NON-BENEFICIARY.**

The Commission commenced investigation following a report that an employee of NHIF based at Kapsabet had promised to assist the complainant obtain medical treatment as a dependent using her NHIF medical cover in return for a benefit to be agreed on if the complainant's treatment was approved and undertaken.

Investigations established that the NHIF employee included the complaint as a beneficiary in her NHIF medical cover when they were cohabiting. The two later fell out and the complainant made the subject report. Investigations did not reveal any ethical offence on the part of the employee.



On 30<sup>th</sup> September 2020, a report was compiled and forwarded to the DPP with recommendation that the file be referred to NHIF for investigation of insurance fraud.

On 10<sup>th</sup> November 2020 the DPP advised that further investigations be carried out.

#### **26.EACC/OPS/INQ/46/2020**

**INQUIRY INTO ALLEGATIONS THAT THE MANAGER LEGAL SERVICES AT THE AGRICULTURAL FINANCE CORPORATION HAD DEMANDED FOR A FINANCIAL ADVANTAGE FROM A LOAN BENEFICIARY SO AS TO FACILITATE WAIVER OF A LOAN**

The Commission commenced investigations following a report received on 18<sup>th</sup> May 2019 that the Manager Legal Services at the Agricultural Finance Corporation had demanded for a Kshs 3.5 million financial advantage from a loan beneficiary so as to facilitate waiver of the loan.

On 20<sup>th</sup> May 2020 a trap operation was planned and executed leading to the arrest the suspect. Investigations established that the Legal Manager requested and received a Kshs. 3.5 million bribe.

A report was prepared and forwarded to the DPP on 30<sup>th</sup> September 2020 that the officers be charged with 3 counts of receiving a bribe contrary to section 6 (1) as read with section 18 (1), (2) of the bribery act no. 47 of 2016.

Awaiting DPP's response.

#### **27.EACC/MSA/OPS/INQ/22/2019**

**INQUIRY INTO ALLEGATIONS OF OFFERING A FINANCIAL ADVANTAGE OF KSHS. 1,000,000 TO AN EACC INVESTIGATOR SO AS TO COMPROMISE INVESTIGATIONS OVER ALLEGATIONS OF CORRUPTION IN THE CONSTRUCTION OF THE NEW KIPEVU OIL TERMINUS AT THE KENYA PORTS AUTHORITY.**

The Commission commenced investigations following a report that the suspects had offered an EACC investigator a bribe of Kshs. 1,000,000 so as to compromise

investigations over allegations of corruption in the construction of the New Kipevu Oil terminus at the Kenya Ports Authority.

On 29<sup>th</sup> April 2019 a trap operation was planned and executed leading to the arrest the suspects. Investigations established that the suspects offered and gave an EACC Officer a Kshs. 1,000,000/= bribe.

A report was prepared and forwarded to the DPP on 30<sup>th</sup> September 2020 recommending that the suspects be charged with offering a bribe contrary to section 5 (1) as read with section 18 (1), (2) of the Bribery Act no. 47 of 2016 and knowingly transporting proceeds of crime contrary to section 7 as read with section 16(1)(a)(b) of the Proceeds of Crime and Anti-Money Laundering Act.

The Commission further recommended asset forfeiture proceedings for the recovered Kshs. 1,000,000/= being proceeds of crime.

Awaiting DPP's response.

#### **28. EACC/ELD/OPS/INQ/20/2019**

#### **INQUIRY INTO BRIBERY ALLEGATIONS AGAINST TWO EMPLOYEES OF THE KENYA REVENUE AUTHORITY BASED AT LODWAR.**

The Commission commenced investigations following a complaint that two employees of the Kenya Revenue Authority, Lodwar had requested for a Kshs. 60,000/= bribe from the complainant, a beer depot operator so as to allow him continue carrying out the business without the necessary licences.

On 11<sup>th</sup> October 2019 a trap operation was planned and executed. Investigations established that the KRA officers demanded for and received a financial advantage.

Investigations also established that one of the officers had registered a Mobile phone number and M-Pesa line using another person's National Identity Card and through which he was communicating and receiving monies from members of the public.

A report was prepared and forwarded to the DPP on 1<sup>st</sup> July 2020 with recommendation that the KRA Officers be charged with three counts of receiving a bribe contrary to Section 6(1) as read with Section 18(1) & (2) of the Bribery Act No. 47 of 2016 and one count of identity theft and impersonation contrary to section 29 of the Computer Misuse and Cybercrimes Act, 2018.

On 2<sup>nd</sup> September 2020, the DPP returned the inquiry file recommending that further investigations be carried out.

#### **29. EACC/KIS/OPS/INQ/3/2019**

##### **INVESTIGATIONS INTO ALLEGATIONS OF CORRUPTION AGAINST EMPLOYEES OF KENYA REVENUE AUTHORITY BASED AT ISEBANIA BORDER**

The Commission commenced investigations following a complaint that on 19<sup>th</sup> November 2019 two employees of Kenya Revenue Authority at the Isebania Border station had requested for a Kshs. 100,000/= bribe from the complainant a long-distance transport operator so as to return his truck's number plates which they had confiscated for undisclosed offences at Isebania Border.

On 21<sup>st</sup> November 2019 a trap operation was planned and executed leading to the arrest of one of the officers. The other officer was arrested at a later date. Investigations established that the KRA officers demanded for and received a financial advantage.

A report was prepared and forwarded to the DPP on 8<sup>th</sup> July 2020 with recommendation that the KRA Officers be charged with four counts of receiving a bribe contrary to Section 6(1) as read with Section 18(1) & (2) of the Bribery Act No. 47 of 2016.

On 4<sup>th</sup> September 2020, the DPP returned the inquiry file for further investigations.

#### **30. EACC/MCKS/OPS/INQ/65/2017**

##### **INQUIRY INTO ALLEGATIONS OF RECEIVING AND REQUESTING FOR A BRIBE BY AN OFFICER AT MWALA WATER AND SANITATION COMPANY**



The Commission commenced investigations following a complaint that a plumber attached to Mwala Water and Sanitation Company had requested for a Kshs. 50,000/= bribe from the complainant so as to reconnect the water supply he had disconnected from the complainant's land.

On 6<sup>th</sup> October 2017 a trap operation was planned and executed. Investigations established that the plumber demanded for and received a financial advantage.

A report was prepared and forwarded to the DPP on 1<sup>st</sup> July 2020 with recommendation that the Plumber be charged with three counts of receiving a bribe contrary to Section 6(1) as read with Section 18(1) & (2) of the Bribery Act No. 47 of 2016.

On 10<sup>th</sup> August 2020, the DPP returned the inquiry file for further investigations.

### **31.EACC/NKR/OPS/INQ/760/563/2019**

#### **INQUIRY INTO ALLEGATIONS OF RECEIVING A BENEFIT AGAINST NATIONAL TRANSPORT AND SAFETY AUTHORITY MOTOR VEHICLE INSPECTORS.**

The Commission commenced investigations upon receipt of a report indicating that NTSA Motor vehicle inspectors at the Nakuru Office were demanding a benefit of Kshs 100,000 from the complainant so as to facilitate release of registration number plates for a lorry registration number KBK 846E.

On 13<sup>th</sup> September 2018 a trap operation was planned and executed. Investigations established that the NTSA officers demanded a Kshs. 100,000/= bribe and received a Kshs. 20,000/= financial advantage.

A report was prepared and forwarded to the DPP on 1<sup>st</sup> July 2020 with recommendation that the DCI officer be charged with three counts of receiving a bribe contrary to Section 6(1) as read with Section 18(1) & (2) of the Bribery Act No. 47 of 2016.

On 30<sup>th</sup> July 2020, the DPP returned the inquiry file for further investigations.

### **32. EACC/NKR/OPS/26/2018**

#### **INQUIRY INTO ALLEGATIONS OF RECEIVING A BENEFIT AGAINST OFFICIALS OF NAKURU WATER SEWERAGE COMPANY (NAWASCO)**

The Commission commenced investigations upon receipt of a report on 22<sup>nd</sup> November 2018 by the complainant, a real estate agent, that some officials of Nakuru Water Sewerage Company (NAWASCO) were soliciting Kshs. 30,000/= from him in order to return a water metre they had disconnected from his land on allegation that there was an illegal connection.

On 22<sup>nd</sup> November a trap operation was planned and executed. Investigations established that the two NAWASCO officers demanded for and received Kshs. 30,000/= financial advantage.

A report was prepared and forwarded to the DPP on 1<sup>st</sup> July 2020 with recommendation that the two NAWASCO officers be charged with three counts of receiving a bribe contrary to Section 6(1) as read with Section 18(1) & (2) of the Bribery Act No. 47 of 2016.

On 8<sup>th</sup> October 2020, the DPP returned the inquiry file accepting recommendation for prosecution.

### **33. EACC/MCKS/OPS/31/2019**

#### **INVESTIGATIONS INTO ALLEGATIONS OF BRIBERY AGAINST A POLICE OFFICER ATTACHED TO MUTOMO POLICE STATION.**

The Commission commenced investigations following a complaint that a police officer attached to Mutomo Police Station had requested for a financial benefit of Kshs. 40,000/= to facilitate the withdrawal of a case against the complainant at Mutomo Law Courts.

On 21<sup>st</sup> November 2019 a trap operation was planned and executed leading to the arrest the officer. Investigations established that the police officer solicited for and received a financial advantage of Kshs. 40,000/= from the complainant.

A report was prepared and forwarded to the DPP on 12<sup>th</sup> August 2020 with recommendation that the officer be charged with two counts of receiving a bribe contrary to Section 6(1) as read with Section 18(1) & (2) of the Bribery Act No. 47 of 2016.

On 8<sup>th</sup> October 2020, the DPP returned the inquiry file accepting recommendation for prosecution upon the addressing a few issues.

#### **34.EACC/MCKS/OPS/43/2017**

##### **INVESTIGATIONS INTO ALLEGATIONS OF BRIBERY AGAINST FORMER MCA MUMBUNI WARD**

The Commission commenced investigations following a complaint that former MCA Mumbuni Ward had directed police officers at Machakos Police station to demand a Kshs. 50,000 bribe from the complainant so as to release his lorry. The complainant alleged he had sent the same to the former MCA through M-Pesa.

Investigations established that the complainant had sent the former MCA Kshs. 50,000/= through M-Pesa. This was after the complainant's lorry was detained after being found illegally harvesting sand in the MCA's farm. The said money was meant to compensate the former MCA who eventually withdrew the complaint. The complainant's lorry was released pursuant to the agreement.

A report was prepared and forwarded to the DPP on 12<sup>th</sup> August 2020 with recommendation that the file be closed as there was no evidence to prove bribery allegations.

On 5<sup>th</sup> October 2020, the DPP accepted our recommendation for closure.

#### **35.EACC/MLD/OPS/INQ/12/2018**

##### **INVESTIGATION INTO ALLEGATIONS THAT A DCI POLICE OFFICER REQUESTED FOR A BRIBE FROM THE MCA KAKAYUNI WARD IN ORDER TO EXONERATE HIM FROM CULPABILITY IN A MURDER CASE HE WAS INVESTIGATING.**



The Commission commenced investigations following a complaint from the MCA Kakayuni Ward that a Directorate of Criminal Investigations Officer had requested for a Kshs. 2,000,000/= bribe from the complainant so as to exonerate him from culpability in a murder case he was investigating.

On 10<sup>th</sup> July 2018 a trap operation was planned and executed. Investigations established that the DCI officer demanded for a Kshs. 2,000,000/= bribe and received a Kshs. 20,000/= financial advantage.

A report was prepared and forwarded to the DPP on 1<sup>st</sup> July 2020 with recommendation that the DCI officer be charged with three counts of receiving a bribe contrary to Section 6(1) as read with Section 18(1) & (2) of the Bribery Act No. 47 of 2016.

On 1<sup>st</sup> September 2020 the DPP advised that the inquiry file be closed.

### **36. EACC/OPS/INQ/163/2019**

#### **INQUIRY INTO ALLEGATIONS OF BRIBERY AGAINST EMPLOYEES OF THE NATIONAL POLICE SERVICE**

The Commission commenced investigations following a report on 4/10/2019 by the complainant the owner of motor Vehicle Registration number KBP 096 E, a Public Service Vehicle that a Traffic Police Officer had demanded from him a bribe of Kshs. 5000/= so as to release his driver's Driving Licence as well as the insurance sticker for his vehicle which the officer had confiscated after a traffic accident.

On 18<sup>th</sup> October 2019 a trap operation was planned and executed leading to the arrest the officers. Investigations established that the officers requested and received a Kshs. 3,000/= bribe.

A report was prepared and forwarded to the DPP on 30<sup>th</sup> September 2020 that the officers be charged with receiving a bribe contrary to section 6 (1) as read with section 18 (1), (2) of the Bribery Act no. 47 of 2016 and conspiracy to commit an offence of corruption/an economic crime contrary to section 47(a)(3) as read with sections 48(1) of ACECA.

Awaiting DPP's response.

**37. EACC/KSM/OPS/INQ/5/2018**

**INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST OFFICER COMMANDING MALAIKA POLICE STATION.**

The Commission commenced investigations following a report on 3<sup>rd</sup> September 2020 by the complainant the operator of Soweto Bar and Restaurant in Shimanyiro, Ikolomani that Officer Commanding Malaika Police Station, had demanded from him a bribe of Kshs. 5,000/= so as to release his business licence and alcoholic drinks which the officer had confiscated.

On 13<sup>th</sup> September 2018 a trap operation was planned and executed but the complainant was arrested and locked up.

Investigations established that the officer requested a Kshs. 11,000/= bribe.

A report was prepared and forwarded to the DPP on 30<sup>th</sup> September 2020 that the officer be charged with receiving a bribe contrary to section 6 (1) as read with section 18 (1), (2) of the Bribery Act no. 47 of 2016, obstruction contrary to section 66(1)(A) as read with Section 66(2) of ACECA and abuse of office contrary to section 46 as read with Section 48 of the ACECA.

On 10<sup>th</sup> November 2020 the DPP advised that further investigation be carried out.

**38. EACC/KSM/OPS/INQ/8/2018**

**INQUIRY INTO ALLEGATIONS OF CORRUPTION AGAINST OFFICER COMMANDING NZOIA POLICE STATION.**

The Commission commenced investigations following a report on 29<sup>th</sup> October 2018 from the complainant, wife to a suspect who had been booked at Nzoia Police Station for theft that the Officer Commanding Nzoia Police Station, had demanded a bribe of Kshs. 30, 000/= so as to release the suspect.

On 30<sup>th</sup> October 2018 a trap operation was planned and executed leading to the arrest of the OCS. Investigations established that the OCS had requested for the bribe but disguised it as cash bail as captured in the transcripts.

A report was prepared and forwarded to the DPP on 30<sup>th</sup> September 2020 recommending that the OCS be subjected to administrative action under the National Police Service Act.

On 11<sup>th</sup> November 2020 the DPP advised that further investigation be carried out.

#### **39. EACC/MCKS/OPS/1/2020**

##### **INVESTIGATIONS INTO ALLEGATIONS OF BRIBERY AGAINST ASSISTANT CHIEF, MATETENI SUB-LOCATION IN KANGUNDO**

The Commission commenced investigations following a complaint that Assistant Chief, Mateteni Sub-Location in Kangundo had requested for a Kshs. 3,000/= bribe from the complainant so as finalize a case she had lodged before her.

On 9<sup>th</sup> January 2020 a trap operation was planned and executed leading to the arrest of one of the officers. The other officer was arrested at a later date.

Investigations established that the Assistant Chief received Kshs. 3000/= from the complainant. The same was however a fine owed by the complainant's mother to another resident.

A report was prepared and forwarded to the DPP on 12<sup>th</sup> August 2020 with recommendation that the inquiry file be closed without further action.

On 24<sup>th</sup> September 2020, the DPP accepted our recommendation for closure.

#### **40. EACC/MSA/OPS/10/2019**

##### **INVESTIGATIONS INTO ALLEGATIONS OF BRIBERY AGAINST THE CHIEF MWERENI LOCATION.**



The Commission commenced investigations following a complaint that the Chief Mwereni Location had corruptly received a Kshs. 3,000 bribe from the complainant so as to adjudicate over a land dispute.

On 21<sup>st</sup> November 2019 a trap operation was planned and executed leading to the arrest of the officers. Investigations did not establish whether the chief corruptly requested and received a Kshs. 3,000/= bribe.

A report was prepared and forwarded to the DPP on 12<sup>th</sup> August 2020 with recommendation that the file be closed.

On 21<sup>st</sup> October 2020, the DPP accepted our recommendation for closure.

# STATISTICAL SUMMARY OF FILES FORWARDED TO THE DIRECTOR OF PUBLIC PROSECUTIONS

1.	Total No. of files forwarded to the Director of Public Prosecutions	40
2.	No. of files recommended for prosecution	25
3.	No. of files recommended for administrative or other action	7
4.	No. of files recommended for closure	8
5.	No. of files recommended for prosecution and the cases are already lodged before Court	2
6.	No. of files where recommendation to prosecute accepted	6
7.	No. of files where recommendation for administrative or other action accepted	1
8.	No. of files where recommendation for closure accepted	4
9.	No. of files returned for further investigations	15
10.	No. of files where recommendation to prosecute not accepted	1
11.	No. of files where recommendation for administrative or other action not accepted	0
12.	No. of files where closure not accepted	0
13.	No. of files where prosecution declined but administrative action recommended	0
14.	No. of files awaiting the DPP's advice	13

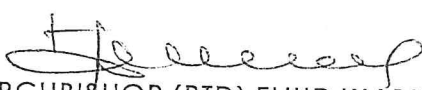
DATED AT NAIROBI THIS

11<sup>th</sup>

DAY OF

January

2021

  
 ARCHBISHOP (RTD) ELIUD WABUKALA, EBS  
CHAIRPERSON  
 /nmk

  
 TWALIB MBARAK, CBS  
SECRETARY/CHIEF EXECUTIVE OFFICER