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REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT | FIFTH SESSION

THE SENATE

STANDING COMMITTEE ON FINANCE AND BUDGET

REPORT ON THE STOPPAGE OF TRANSFER OF FUNDS TO THE COUNTY GOVERNMENT OF MERU

Rt. Hon. Speaker
 You may approve for tabling.
 J. M. Nyegenye, C.B.S.,
 Clerk of the senate/secretary, PSC
 Date: 12/05/26

Clerk's Chambers,
 Parliament Buildings,
 NAIROBI.

May, 2026

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LIST OF ABBREVIATIONS/ACRONYMS

CDMSP	-	County Debt Management Strategy Paper
COB	-	Controller of Budget
FY	-	Financial Year
OAG	-	Office of the Auditor-General
PFM	-	Public Finance Management

MEMBERSHIP OF THE COMMITTEE

The Standing Committee on Finance and Budget was constituted by the Senate of the Thirteenth (13th) Parliament on Thursday, 13th October, 2022 during the First Session. The Committee was later reconstituted on Wednesday, 12th February, 2025, during the Fourth Session. The Committee as currently constituted is comprised of the following Members-

- | | | |
|--|---|-------------------------|
| 1) Sen. (Capt.) Ali Ibrahim Roba, EGH, MP | - | Chairperson |
| 2) Sen. Maureen Tabitha Mutinda, CBS, MP | - | Vice-Chairperson |
| 3) Sen. (Dr.) Boni Khalwale, CBS, MP | - | Member |
| 4) Sen. Mohamed Faki Mwinyihaji, CBS, MP | - | Member |
| 5) Sen. Richard Momoima Onyonka, MP | - | Member |
| 6) Sen. Shakila Abdalla Mohamed, MP | - | Member |
| 7) Sen. Eddy Gicheru Oketch, MP | - | Member |
| 8) Sen. Mariam Sheikh Omar, MP | - | Member |
| 9) Sen. Essy Okenyuri Nyaituga, MP | - | Member |

PRELIMINARIES

ESTABLISHMENT AND MANDATE OF THE COMMITTEE

Article 124 (1) of the Constitution of Kenya provides that each house of Parliament may establish committees and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.

Parliamentary Committees consider policy issues, scrutinize the workings and expenditures of the national and county governments, and examine proposals for legislation. The end result of any process in Committees is a report, which is tabled in the House for consideration.

The Senate Standing Committees on Finance and Budget is established pursuant to section 8 (1) of the Public Finance Management Act, Cap.412A and standing order 228 of the Senate Standing Orders. The Fourth Schedule to the Senate Standing Orders outlines the subject matter assigned to each specific Committee. The Standing Committee on Finance and Budget is mandated to-

- a) Investigate, inquire into and report on all matters relating to coordination, control, and monitoring of the county budgets and examine -
 - i. the Budget Policy Statement presented to the Senate;
 - ii. the report on the budget allocated to constitutional Commissions and independent offices;
 - iii. the Division of Revenue Bill, the County Allocation of Revenue Bill, the County Governments Additional Allocations Bill, and the cash disbursement schedule for county governments;
 - iv. all matters related to resolutions and Bills for appropriations, the share of national revenue amongst the counties, matters concerning the national budget, including public finance and monetary policies and public debt, planning, and development policy; and

- b. Pursuant to Article 228 (6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments.

CHAIRPERSON'S FOREWORD

The National Treasury and Economic Planning, vide letter Ref No. IGFR/MERU/A (17) dated 15th April, 2026 submitted to Parliament a request for approval to stop the transfer of funds to the County Government of Meru pursuant to Article 225 of the Constitution and section 96 of the Public Finance Management Act, Cap. 412A, on grounds of a serious material breach arising from non-payment of an arbitral award relating to a lease dispute between the proprietor of Leopard Rock Mico Limited and the County Government of Meru.

The National Treasury indicated that the County Government of Meru had failed to honour an arbitral award and a High Court judgment issued on 19th December, 2019 in favour of Mr. Michel Dechauffour amounting to Ksh.339,070,485 with interest accruing at 14 per cent per annum. Consequently, the stoppage of funds took effect on 10th April, 2026 on the grounds of enforcing prudent financial management and preventing further accumulation of interest.

The Cabinet Secretary's power to stop the transfer of funds to a county government must be exercised within the context of the constitutionally guaranteed funding of devolved units. Article 219 of the Constitution guarantees that a county's share of national government revenue shall be transferred without undue delay and without deduction, except where stopped under Article 225. Article 225(3) permits the Cabinet Secretary responsible for finance to stop such transfers only upon a serious material breach or persistent material breaches, and strictly subject to the requirements of the Constitution.

Section 93(3) of the Public Finance Management Act specifies the instances constituting a serious material breach or persistent material breach, namely where a county government fails to operate a compliant financial management system or is unable to meet its financial commitments under the Constitution or the Act. Section 94 of the Act further identifies additional indicators of breach, including failure to make payments as and when due and default on financial obligations.

Section 96 of the Public Finance Management Act provides the procedure to be followed by the Cabinet Secretary where a determination is made to stop the transfer of funds to a county government.

Parliament is required to consider and determine whether to approve the request

by the Cabinet Secretary for the National Treasury seeking to stop the transfer of funds to the County Government of Meru within thirty (30) days of receipt of the decision.

Upon consideration of the Cabinet Secretary's request on the stoppage of transfer of funds to the County Government of Meru, the Committee resolved to hold consultative meetings with the Cabinet Secretary for National Treasury and Economic Planning, the Controller of Budget, Office of the Auditor-General and the County Executive of Meru; and seek clarification from the Ministry of Investments, Trade and Industry.

The Committee, having considered the request for approval of stoppage of transfer of funds to the County Government of Meru, and submissions from relevant stakeholders' made the following observations. That—

- a) An arbitral award of Ksh. 339,070,485 was issued on 19th December, 2019, in favour of Mr. Michel Dechauffour, the proprietor of Leopard Rock Mico Limited with interest accruing at the rate of 14% per annum from 8th March, 2019.
- b) Stoppage of funds by the Cabinet Secretary arose from the outstanding payment of an arbitral award issued in 2019 against the County Government of Meru in favour of the proprietor of Leopard Rock Mico Limited. Although the County Government made several attempts to appeal the award, the appeals were unsuccessful, leaving a pending financial obligation against the County Government.
- c) As confirmed by the Auditor-General and the Controller of Budget, the County Government of Meru had paid Ksh 200 million towards settlement of the arbitral award.
- d) There were several interventions by national government agencies to assist the County Government in resolving the matter, including inter-agency meetings convened by the Solicitor-General which recommended a conditional grant to offset the outstanding amount, as well as multi-agency negotiations involving relevant ministries, the County Government and the legal representatives of Mr. Dechauffour to explore payment options.

The Committee having considered the request for approval of stoppage of transfer of funds to the County Government of Meru, and deliberations with relevant stakeholders', recommends that-

- a) the Senate does not approve the decision of the cabinet Secretary to stop the transfer of funds to the County Government of Meru; and
- b) the national government, through the National Treasury, grant the County Government of Meru a conditional grant in FY 2026/27 for the settlement of the outstanding principal award of Ksh.139 million and all accrued interest thereon.

Acknowledgment

I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the report on the stoppage of transfer of funds to the county government of Meru successful.

I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this important assignment.

Lastly, I wish to thank the parties who provided information on the matter and appeared before the Committee to express their views.

It is now my pleasant duty, pursuant to standing order 223(6) of the Senate Standing Orders, to present the Report of the Standing Committee on the stoppage of transfer of funds to the County Government of Meru.


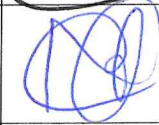
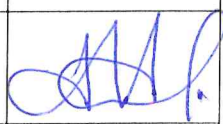


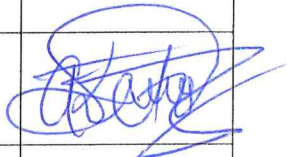

Signature.....

Date.....*12 May 2026*

SEN. (CAPT.) ALI IBRAHIM ROBA, EGH, MP.
CHAIRPERSON,
STANDING COMMITTEE ON FINANCE AND BUDGET

**ADOPTION OF THE REPORT ON THE STOPPAGE OF TRANSFER OF FUNDS
TO THE COUNTY GOVERNMENT OF MERU.**

We, the undersigned Members of the Senate Standing Committee on Finance and Budget, do hereby append our signatures to adopt this Report-

	Name	Designation	Signature
1.	Sen. (Capt.) Ali Ibrahim Roba, EGH, MP	Chairperson	
2.	Sen. Maureen Tabitha Mutinda, CBS, MP	Vice-Chairperson	
3.	Sen. (Dr.) Boni Khalwale, CBS, MP	Member	
4.	Sen. Mohamed Faki Mwinyihaji, CBS, MP	Member	
5.	Sen. Richard Momoima Onyonka, MP	Member	
6.	Sen. Shakila Abdalla Mohamed, MP	Member	
7.	Sen. Eddy Gicheru Oketch, MP	Member	
8.	Sen. Mariam Sheikh Omar, MP	Member	Adopted virtually
9.	Sen. Essy Okenyuri Nyaituga, MP	Member	

CHAPTER ONE

1.0 STOPPAGE OF TRANSFER OF FUNDS TO COUNTY GOVERNMENT OF MERU

Background

1. The National Treasury and Economic Planning, vide a letter, Ref No. IGFR/MERU/A (17), dated 15th April 2026, submitted to Parliament a request for approval to stop the transfer of funds to the County Government of Meru. The request was made pursuant to Article 225 of the Constitution and section 96 of the Public Finance Management Act, Cap. 412A on the grounds of a serious material breach arising out of the non-payment of an arbitral award in relation to a legal dispute over the termination of a lease between the proprietor of Leopard Rock Mico Limited and the County Government of Meru.
2. The letter indicated that the County Government of Meru had failed to honour an arbitral award and a subsequent High Court judgment dated 19th December 2019, which awarded Mr. Michel Dechauffour, the proprietor of Leopard Rock Mico Limited the sum of KSh.339,070,485 including an interest rate accruing at 14% per annum. The National Treasury noted that notwithstanding the exhaustion of all avenues of appeal and advisories from both the Attorney-General and the Controller of Budget, the County Government of Meru had only paid Ksh.20 million of the arbitral award during Financial Year 2023/24 and that the failure to settle the remainder of the award amounted to a serious material breach as contemplated by section 93(3)(b) of the PFM Act.
3. The National Treasury further justified the exercise of the power under section 96(1) of the PFM Act on the grounds of the potential risk of loss of public funds through accumulating interest and the adverse effect on bilateral relations between Kenya and France.
4. The stoppage took effect on 10th April 2026, with the aim of enforcing prudent financial management as enshrined under Article 201 of the Constitution. The National Treasury further advised that the withheld funds would only be released upon resolution of the matter or as directed by Parliament.

5. Upon receipt of the request for approval by the Cabinet Secretary for the National Treasury to stop the transfer of funds to Meru County, Parliament is required to consider whether to approve the request within thirty (30) days of the decision.

CHAPTER TWO

2.0 LEGAL PROVISION RELATING TO THE POWER TO STOP TRANSFER OF FUNDS

2.1 The Constitution

6. The power of the Cabinet Secretary to stop the transfer of funds to a county government must be understood within the context of the constitutionally guaranteed funding of devolved units. In particular, Article 219 of the Constitution provides that “*a county’s share of revenue raised by the national government shall be transferred to the county without undue delay and without deduction, except when the transfer has been stopped under Article 225*”. The power of the Cabinet Secretary is therefore the only exception to the obligation placed on the national government to transfer revenue due to counties in a timely manner.
7. Article 225 of the Constitution provides for the general power of the Cabinet Secretary to stop the transfer of funds to an entity in the following terms—
 - (2) *Parliament shall enact legislation to ensure both expenditure control and transparency in all governments and establish mechanisms to ensure their implementation.*
 - (3) *Legislation under clause (2) may authorise the Cabinet Secretary responsible for finance to stop the transfer of funds to a State organ or any other public entity—*
 - (a) *only for a serious material breach or persistent material breaches of the measures established under that legislation; and*
 - (b) *subject to the requirements of clauses (4) to (7).*
 - (4) *A decision to stop the transfer of funds under clause (3) may not stop the transfer of more than fifty per cent of funds due to a county government.*
 - (5) *A decision to stop the transfer of funds as contemplated in clause (3)—*
 - (a) *shall not stop the transfer of funds for more than sixty days; and*

(b) may be enforced immediately, but will lapse retrospectively unless, within thirty days after the date of the decision, Parliament approves it by resolution passed by both Houses.

8. Article 225 of the Constitution also provides for the extension of the period for which the transfer of funds is stopped as follows -

(6) Parliament may renew a decision to stop the transfer of funds but for no more than sixty days at a time.

(7) Parliament may not approve or renew a decision to stop the transfer of funds unless—

(a) the Controller of Budget has presented a report on the matter to Parliament; and

(b) the public entity has been given an opportunity to answer the allegations against it, and to state its case, before the relevant parliamentary committee.

2.2 The Public Finance Management Act

2.2.1 Assessment of the need for intervention

9. Section 93(1) of the Public Finance Management Act provides for the assessment to be undertaken by the Cabinet Secretary with regard to the exercise of the power under Article 225(3)(a) of the Constitution as follows—

If the Cabinet Secretary becomes aware of financial problems in a State organ or other public entity, the Cabinet Secretary shall promptly—

(a) ascertain the seriousness of the problem and the proposed remedial measures or solution to the financial problem by the State organ or public entity; and

(b) determine whether the situation constitutes a serious material breach or persistent material breach requiring stopping of transfer of funds under Article 225(3) of the Constitution.

10. With respect to county governments, section 93(3) of the Act provides that “*in the case of a State organ which is a county government or county government entity, if it—*

(a) does not operate a financial management system that complies with the requirements prescribed in this Act and the financial problem has met conditions for intervention in terms of Article 190(3) of the Constitution; or (b) is unable to meet its financial commitments as set out in the Constitution or this Act,

this shall constitute a serious material breach or persistent material breach for purposes of stopping transfer of funds under Article 225(3) of the Constitution.

11. Instructively, section 93(4) of the Act provides that, “*when determining whether the conditions for the Cabinet Secretary to stop transfer of funds referred to in Article 225(3) of the Constitution are met, all relevant facts shall be considered before the Cabinet Secretary acts*”.

12. Section 94 of the Act sets out the following additional indicators of a serious or persistent material breach—

(1) The following factors, singly or in combination, may further indicate that a State organ or public entity is in serious material breach or persistent material breach of the measures established under this Act—

(a) the State organ or public entity—

(i) has failed to make any payments as and when due;

(ii) has defaulted on financial obligations for financial reasons;

(iii) had an operating deficit in excess of a percentage of revenue in the most recent financial year for which financial information is available as prescribed in regulations; or

(iv) is more than sixty days late in submitting its annual financial statements to the Auditor-General in accordance with this Act or any other legislation;

(b) the State organ or public entity has failed to make any other payment as and when due, which individually or in the aggregate is more than an amount as may be prescribed or, if none is prescribed, more than two percent of the State organ’s or public entity’s budgeted operating expenditure;

(c) the Controller of Budget has raised material issues in their quarterly report;

(d) the Auditor-General has withheld an opinion or issued a disclaimer due to inadequacies in the financial statements or records of the State organ or public entity or has issued an opinion which identifies a serious financial problem in the State organ or public entity; or

(e) recurring or continuous failure by a State organ or public entity to meet its financial commitments which substantially impairs the State organ's or public entity's ability to procure goods, services or credit on usual commercial terms.

(2) Provisions of this section shall not apply with respect to—

(a) disputed obligations which are subject to litigation in a court of law, provided such litigation is not instituted to avoid an intervention; or

(b) obligations explicitly waived by creditors.

2.2.2 Process of stoppage of funds

13. Section 96 of the Public Finance Management Act provides the procedure to be followed by the Cabinet Secretary where a determination is made to stop the transfer of funds to a county government in the following terms—

(1) Where the Cabinet Secretary finds a State organ which is a county government entity to be in serious or persistent material breach of its obligations or financial commitments, the Cabinet Secretary shall, in accordance with Article 225 of the Constitution, immediately stop the transfer of funds.

(2) Within seven days of stopping the transfer of funds under subsection (1), the Cabinet Secretary shall inform—

(a) the accounting officer, of the State organ or public entity; or

(b) the Cabinet Secretary responsible for matters relating to intergovernmental relations;

(c) the County Executive Committee member responsible for finance;

- (d) the Controller of Budget;*
- (e) the Commission on Revenue Allocation; and*
- (f) Intergovernmental Budget and Economic Council.*

(3) The Cabinet Secretary shall in the alternative promptly—

- (a) inform the county executive committee member responsible for finance; and*
- (b) request the Auditor-General to—*
 - (i) determine the reasons for the breach;*
 - (ii) assess the county government financial state; and*
 - (iii) submit to the Cabinet Secretary and county executive member for finance a report within thirty days from the date of the request.*

(4) The Cabinet Secretary may prescribe regulations in relation to the process of stoppage of transfer of funds.

14. Section 97 of the Act further provides that—

97 Procedure for stoppage of funds

(1) Where the Cabinet Secretary makes a decision to stop the transfer of funds to a State organ or public entity in accordance with Article 225(3) of the Constitution and provisions of this Act, the Cabinet Secretary shall stop the payment and inform the Controller of Budget in respect of—

- (a) the date from when the stoppage of transfer of funds takes effect; and*
- (b) the nature of serious material breaches, or persistent material breaches, committed by the State organ or public entity.*

(2) Not later than seven days after the date of the decision to stop the transfer of funds, the Cabinet Secretary shall seek approval from Parliament.

(3) Within fourteen days after the decision to stop the transfer of funds under subsection (1), the Controller of Budget shall investigate the matter and submit a report to Parliament in accordance with Article 225(7) of the Constitution.

(4) Parliament shall, within thirty days of the decision by the Cabinet Secretary to stop the transfer of funds, approve or renew the decision of the Cabinet Secretary to stop the transfer of funds and the Cabinet Secretary shall abide by the decision of Parliament.

(5) The Cabinet Secretary may not stop the transfer of more than fifty percent of funds due to a county government.

(6) Any person may exercise his or her right to petition Parliament in terms of Article 119 of the Constitution in respect of the action taken to stop the transfer of funds.

CHAPTER THREE

3.0 ANALYSIS OF SUBMISSIONS

15. Upon consideration of the Cabinet Secretary's request on the stoppage of transfer of funds to the County Government of Meru, the Committee resolved to hold consultative meetings with the Cabinet Secretary for National Treasury and Economic Planning, the Controller of Budget, Office of the Auditor-General and the County Executive of Meru; and seek clarification from the Ministry of Investments, Trade and Industry. Below is the summary of their submissions—

3.1 Submission by the National Treasury and Economic Planning

16. The National Treasury vide a letter Ref: IGFR/MERU/A/TY/(3) dated 28th April, 2026 submitted the following-

- a) That in 2018, the County Government of Meru evicted Mr. Michel Dechauffour, the proprietor of Leopard Rock Mico Limited, from a long-term lease at Meru National Park, in contravention of a lease agreement with the defunct Nyambene County Council. Following arbitration proceedings an award of Ksh.339,070,485 with interest at 14 percent per annum from 8th March, 2019 was awarded. The National Treasury further indicated that all appeals filed by the county government in both the High Court in Meru and the Court of Appeal in Nyeri were unsuccessful.
- b) The National Treasury reported that the matter came to the attention of the National Government after the President of France raised the matter with the President of Kenya at a bilateral meeting in Berlin. Consequently, the President directed the Attorney-General to convene relevant National Government departments to advise the county government on modalities for settling the outstanding payment.
- c) The National Treasury outlined the following intervention efforts undertaken thereafter—
 - i) The Solicitor-General, through letter Ref: AG/CONF/3/B//289 VOL. III dated 17th January, 2024, convened an inter-agency meeting on 15th

February, 2024, during which the County Government acknowledged the debt but cited insufficient budgetary provisions. At this meeting, the Solicitor-General indicated that the Attorney-General had written to the Governor of Meru on 19th December, 2023, urging immediate resolution of the payment and warning of the potential impact of non-payment on National Government projects funded by the French Government.

ii) The inter-agency technical team recommended that the County Government formally request a loan or conditional grant from the National Government, while cautioning that the National Government assuming the debt could set a precedent for other counties with outstanding obligations.

iii) The County Government of Meru, vide letter Ref: CGM/GVN/COR/VOL.1/(92) dated 16th February 2024, requested a conditional grant from the Cabinet Secretary for National Treasury to offset the arbitral award, citing rising wage bill and inadequate budgetary allocations. The county acknowledged accrued interest approximated at Ksh. 600 million as of the date of the letter.

iv) The National Treasury, through letter Ref: IGFR/CG/02/C/ (06) dated 23rd February 2024, declined the county's request citing prevailing economic conditions and budgetary constraints, and instead advised the county to renegotiate a long-term repayment plan with the claimant through the Attorney-General's Office.

v) The Office of the Controller of Budget, in letter Ref: COB/AG/002/2(76) dated 18th March, 2026, offered detailed guidance on resolving the matter and indicated that it would recommend to the Cabinet Secretary to stop the transfer of funds to the County Government if the arbitral award remained unsettled.

vi) The State Department for Foreign Affairs, in letter Ref: MFA.REL/6 VOL.5 (4) dated 18th September 2024, requested authorisation for the National Government to take over the debt, noting that the Ambassador

of France was willing to engage Mr. Dechauffour to waive interest contingent on such a commitment. The National Treasury advised against this, citing the risk of contravening existing legal and regulatory frameworks and setting a precedent for other county governments with pending bills.

- d) The National Treasury reported that the continued non-settlement of the arbitral award posed three key risks: the potential attribution of State responsibility under international law; adverse effects on bilateral relations between Kenya and France and on Kenya's credit rating, particularly given the existing Bilateral Investment Treaty; and the continued accrual of interest at 14 percent per annum, with total payments projected to exceed Ksh. 650 million.
- e) The National Treasury acknowledged that the County Government had included the arbitral award in its Meru County Debt Management Strategy Paper (CDMSP) 2024, providing for Ksh. 650 million as a contingent liability payable to Leopard Rock Mico Limited in the following instalments: Ksh. 100 million for FY 2023/24, Ksh. 174 million for FY 2024/25, and Ksh. 376 million for FY 2025/26. However, the National Treasury reported that despite this, the county did not include this outstanding payment in its budgets or in its FY 2025/26 pending bills action plan submitted to the Controller of Budget in September, 2025.
- f) The National Treasury further reported that a request for an update sent to the county government vide letter Ref: IGFR/LM/01/A (15) dated 19th January 2026 elicited no response from the county government prior to the notification of the stoppage. The county government subsequently responded through letter Ref No. CGM/FIN/NT&EP/001/2026 dated 14th April 2026 after Parliament and the Controller of Budget had already been notified, reporting total payments of Ksh. 200 million and an outstanding balance of Ksh.442,868,897.68 as of August 2025, while indicating its inability to settle the balance without National Government's support.
- g) The National Treasury submitted that the County Government of Meru had committed a serious material breach within the meaning of section 93(3)(b),

section 94, and section 96(1) of the PFM Act, by failing to make payments for the arbitral award as and when they fell due, thereby defaulting on its financial obligations under section 94(1)(a)(i) and (ii) of the Act.

- h) The National Treasury stated that the stoppage marked an initial step in preventing further loss of public funds through accrued interest rates and provided an opportunity for the National Government to intervene. The intervention would entail the National Government would settle the arbitral award and allow the county government to repay in a manner that does not compromise service delivery. The National Treasury indicated that they do not intend to extend the stoppage beyond the timeframe established in law or as guided by the Committee.

17. Further, the National Treasury through a letter dated 30th April, 2026, Ref No. IGFR/MERU/A/TY/(6), acknowledged that the county government had made significant payments amounting to Ksh. 200 million towards the arbitral award. The National Treasury further acknowledged that there were ongoing discussions between the Ministry of Investments, Trade and Industry and representatives of Leopard Rock Mico Limited aimed at a reduction of the accrued interest.

18. The Cabinet Secretary appeared before the Committee on Thursday, 7th May, 2026 and vide a letter Ref. No. IGFR/MERU/A/31 dated 6th May, 2026 submitted as follows—

- a) The decision to stop the transfer of funds was occasioned by recommendation of the Controller of Budget, due to the county's failure to include the outstanding payment in their budget and the pending bills action plan. Further, due to delayed responses by the county government on request for information by the National Treasury.
- b) Following the resolution of a meeting between the county leadership and the Head of the State regarding the national government taking over the obligation, a letter would be written to the Head of Public Service requesting for the presidential directive on this matter so as to facilitate necessary action by the National Treasury.

- c) The national government will consider paying the outstanding principal sum of Ksh.139 million. Further, the Ministry of Foreign Affairs will be notified to initiate diplomatic negotiations with the Ambassador of France and Mr. Dechauffour for the waiver of all accrued interest.
- d) On broader fiscal governance, the National Treasury noted that accumulation of pending bills by county governments is a serious systemic problem and it requires concerted efforts by all constitutional oversight bodies, including the Controller of Budget, the Auditor-General, to ensure settlement of pending bills.
- e) The National Treasury indicated their willingness to support the County Government of Meru to ensure service delivery, while stressing that the County Government should have taken earlier steps to resolve the matter rather than relying solely on discussions with the Head of State.

3.2 Submissions by the Office of the Controller of Budget

19. The Office of the Controller of Budget (CoB) appeared before the Committee and submitted a report regarding the Cabinet Secretary decision to stop the transfer of funds to the County Government of Meru. The report indicated that -

- a) the stoppage is primarily based on the county government's persistent failure to comply with an arbitral award to the proprietor of Leopard Rock Mico Limited. Although the original award was Ksh. 337,070,485, the debt had grown to approximately Ksh. 642.9 million as of July 2025 due to a 14% annual interest rate. As at the reporting date, the county had only paid Ksh. 200 million;
- b) the county government's inaction constitutes a serious material breach under the PFM Act. Additionally, the stoppage complies with constitutional provisions- it does not exceed 50% of the funds due to the county and is legally restricted to a maximum duration of 60 days unless extended by Parliament;
- c) the stoppage of the funds has a solid legal basis because the county government has exhausted all legal avenues for appeal and has no further grounds to avoid payment. The report highlighted a disconnect between stated intention and budgetary action, noting that while the county government acknowledged the debt in its 2024 Debt Management Strategy Paper, it failed to make

corresponding budgetary provisions in its FY 2025/26 Pending Bills Action Plan;

- d) the county government's failure to settle the debt exposes the country to international diplomatic risk. This is due to the principles of international law that could hold the National Government responsible for the county government's default;
- e) while a stoppage carries inherent risks to essential services like health and education, the responsibility for this disruption rests primarily with the county government for failing to meet its legal obligations;
- f) the Senate should uphold the Cabinet Secretary's decision to stop the funds. As a condition for releasing the withheld money, the CoB proposed that the county government must prepare a comprehensive, time-bound Recovery Plan pursuant to section 99 of the PFM Act, identifying specific mechanisms for full settlement of the award;
- g) the county government should be directed to engage the investor to negotiate a structured payment that stops the accrual of interest and ensure that the FY 2026/27 budget estimates include adequate provisions for the debt;
- h) the Senate should recommend to the National Treasury to issue guidance to all counties on management of similar liabilities to prevent future occurrences; and
- i) all procedural requirements for the stoppage were met. The office of COB committed to monitoring the situation and would report to Parliament on the county's compliance with the proposed recovery plan.

3.3 Submissions by the County Government of Meru

20. The County Executive of Meru submitted the following;

- a) The dispute originated from a 25-year lease agreement signed on October 3, 2008, between the defunct Nyambene County Council and Leopard Rock Mico Limited for the establishment of Leopard Rock Lodge. The conflict arose when the county issued a six-month notice for the lessee to vacate the premises, leading to various court cases and subsequent arbitral proceedings.

- b) That an arbitral award was issued on December 19, 2019, in favor of Leopard Rock Mico Limited for Ksh. 337,317,985 plus costs of reference. Subsequent judicial actions, including a judgment by the High Court in January 2021, increased the total decree and interest to approximately Ksh. 445,025,378.
- c) While interim stay orders prevented payments between 2019 and June 2022, there has been significant efforts to settle the debt. The arbitral award was included in the Meru County Debt Management Strategy Paper (CDMSP) 2024 as a contingent liability and that a total of Ksh. 200,000,000 had already been paid to the claimant's counsel through four installments between September 2023 and March 2025.
- d) the National Government, through a presidential directive, agreed to take over the settlement of the remaining liability following a request from the county's leadership. The responsibility for negotiating a final settlement was assigned to the Ministry of Investments, Trade and Industry.
- e) multi-agency negotiation meetings were held in July 2025, where the National Government offered an all-inclusive payment of Ksh. 200 million. However, the applicant rejected this, providing a counteroffer of Ksh. 320 million, which led to a deferral of negotiations to a later date for further consultation between the Office of the Attorney General and the applicant's counsel.
- f) The Cabinet Secretary, National Treasury's request to stop fund transfers failed to disclose material facts such as the ongoing execution proceedings and the fact that the National Government had already taken over the liability. They further contended that the National Treasury did not properly assess the need for intervention as required by section 93 and 94 of the Public Finance Management Act, noting that their prior payment of Ksh.200 million demonstrated that they were not in serious or persistent material breach.
- g) the county executive and county assembly withheld budgeting for this liability because it had been publicly and officially taken over by the National Government's Ministry of Investments, Trade and Industry. They maintained that any delay in payment by the Ministry should not be interpreted as an inability or refusal by the county government to pay.

- h) the Senate should disregard the proposed stoppage of funds, as it would ignore the tangible measures already taken and the active engagement of the National Government. They requested an opportunity to make budgetary provisions for the award in the Financial Year, 2026/2027, in consultation with the county assembly, should the National Government takeover not be finalized.
- i) the stoppage of funds should be suspended as it has severely paralyzed county operations and the delivery of essential services. This will allow the conclusion of the Ministry of Trade and Industry's takeover process before taking any further action against the county's exchequer releases.

3.4 Submissions by Manyonge Wanyama & Associates LLP

21. Manyonge Wanyama & Associates LLP, the legal representative of the aggrieved investor, vide a letter dated 6th May 2026 submitted the following. That–

- a) in 2001, Mr. Michel Jean Andre Dechauffour and his wife, Corine Dechauffour, invested in Kenya by paying USD 550,435.910 to the International Finance Corporation (IFC) to cover the indebtedness of Meru Park Adventure Limited, a transaction that involved the defunct Nyambene County Council. Thereafter, the Dechauffour's signed a lease with Nyambene County Council to operate Leopard Rock Lodge at Meru National Park and subsequently invested heavily in the lodge, with valuations done during arbitration indicating investments of up to Ksh. 650 million.
- b) On 21st September 2013, Mr. Dechauffour tragically lost his wife and daughter in the Westgate Shopping Mall terrorist attack. Following this incident, officials of the County Government of Meru believed Mr. Dechauffour would abandon the lodge and thereafter intensely frustrated his attempts to run it. In 2018, the Governor of Meru, Hon. Kiraitu Murungi, , asked Mr. Dechauffour to vacate the lodge without compensation. When the firm commenced arbitration proceedings as required by the law, the County Government forcibly evicted Mr. Dechauffour.
- c) That arbitration was concluded and the County Government of Meru was ordered to pay Mr. Dechauffour's company, Leopard Rock Mico Limited, the sum of Ksh.337 million plus interest and costs, which had since accumulated to

Ksh.680,751,390.24 inclusive of interest and taxed litigation costs. The firm further reported that all efforts by the county government to appeal the decree had been rejected by both the High Court and the Court of Appeal.

- d) On 27th March 2025, the High Court at Meru ordered the County Government to pay Kshs. 50 million by 30th June 2025 and to file in court a payment plan for the balance of the decretal sum, but the County Government did not comply with these court orders. However, as of 6th May 2026, the county government had paid Ksh.200 million, leaving an outstanding balance of Ksh.480,751,390.24 due to their client.
- e) the County Government informally approached the President to help and he publicly stated that the National Government would assume liability.
- f) Officers from the county government had been arrested for contempt of court but were released on bond pending intervention by the National Government. The matter was scheduled for mention in court on 11th May 2026 to confirm the progress of these interventions.
- g) due to existing legal requirements including the Foreign Investment Act, Cap. 518, and specifically the Declaration of Special Arrangements for the Reciprocal Promotion and Protection of Investments, 2009 which protects investments by French nationals and companies in Kenya, the Government had a legal obligation to promptly compensate French nationals who invest in Kenya when their assets are expropriated. Pursuant to these provisions, Mr. Dechauffour brought the matter to the attention of the President of France and the French Embassy in Nairobi seeking an expedited resolution.
- h) The President of France, in turn, raised the issue with the President of Kenya on multiple occasions, stating that failing to secure prompt and full compensation, the Government of Kenya had breached the Treaty as well as the Declaration of Special Arrangements for the Reciprocal Promotion and Protection of Investments, 2009. This position was an embarrassment to Kenya at the bilateral level.
- i) The firm sought the intervention of the Senate to direct that their client be promptly paid the outstanding balance of Ksh. 480,751,390.24, which was due as of 6th May, 2026, noting that interest continues to accrue.

3.5 Submissions by the Office of the Auditor-General

22. The Office of the Auditor-General (OAG) vide a letter dated 28th April, 2026 submitted the following. That-

- a) over the last three financial years, the Office has consistently raised audit observations on the financial statements of the County Government of Meru regarding the contingent liability owed to Leopard Rock Mico Limited. In each instance, the Management failed to provide a complete schedule of contingent liabilities reflecting estimated amounts, taxed amounts, fee notes paid, status of cases, and unpaid balances concerning litigations affecting the County.
- b) In Financial Year 2024/25, the County Government made a payment totalling Kshs.140,507,214, which included an amount of Kshs.100,000,000 as part payment of the contingent liability. However, Management did not deduct withholding tax from the advocate as required by law. A further Kshs.40,507,214 in legal payments was not disclosed in the financial records, not budgeted for, and no explanation was provided on how unapproved expenditure was paid without a budget.
- c) a total of Kshs.200,000,000 was paid to the Claimant through their Counsel in four instalments between September 2023 and March 2025, and that this payment was captured in the Meru County Debt Management Strategy Paper (CDMSP) 2024. As at August 2025, the outstanding certified amount stood at Kshs.442,868,898 due to the continued accrual of interest at 14% per annum.
- d) Notwithstanding the County Government's acknowledgement of the debt in the CDMSP 2024, the approved budget for FY 2025/26 made no budgetary provision for the contingent liability owed to the Company. The County Assembly of Meru approved a budget that excluded this liability, placing the agreed payment plan at risk and contributing to the further accumulation of interest.
- e) The County Government has been sued severally, and many cases remain in court, the details of which have remained undisclosed in the county's financial records. The OAG noted that this points to a broader pattern of financial non-disclosure beyond the Leopard Rock Mico Limited matter, raising concerns about the completeness and transparency of the county's financial reporting.

CHAPTER FOUR

4.0 COMMITTEE OBSERVATIONS AND FINDINGS

4.1 Observations

23. The Committee having considered the request for approval of stoppage of transfer of funds to the County Government of Meru, and submissions from relevant stakeholders made the following observations. That—

- a) an arbitral award of Ksh.339,070,485 was issued on 19th December, 2019, in favour of Mr. Michel Dechauffour, the proprietor of Leopard Rock Mico Limited with interest accruing at the rate of 14% per annum from 8th March, 2019;
- b) The facts underlying the stoppage of funds by the Cabinet Secretary relate to the outstanding payment of an arbitral award by the County Government of Meru to the proprietor of Leopard Rock Mico Limited. The arbitral award was given in 2019 and while there were several attempts by the County Government of Meru to appeal, these attempts were unsuccessful. There is therefore a pending financial obligation on the County Government of Meru to pay the arbitral award and the applicable interest.
- c) As confirmed by the Auditor-General and the Controller of Budget, the County Government of Meru had paid Ksh.200 million towards settlement of the arbitral award. These payments had been made in four installments made between 21st September, 2023 and 21st March, 2025.
- d) The County Government had included the outstanding payment in their CDMSP 2024. However, the County failed to make corresponding budgetary provisions in its FY 2025/26 Pending Bills Action Plan;
- e) There had been several attempts by various national government agencies to offer assistance to the county government to resolve this matter. These interventions included a convening, by the Solicitor-General, of meetings of an inter-agency task force which recommended a conditional grant from the national government to the county government to offset the outstanding amount; and a multi-agency negotiation meeting of the Ministry of Investments, Trade and Industry, the

Attorney-General, the Ministry of Foreign Affairs, the County Government and the legal representatives of Mr. Dechauffour to explore payment options;

- f) In February 2024, the County Government made a formal request to the National Treasury to issue a conditional grant to offset the outstanding payment. The National Treasury denied this request on the basis of budgetary constraints, contravention of existing legal and regulatory framework and setting a precedent for other county governments to seek the national government's intervention in settling pending bills. However, in its submission to the Committee on 7th May, 2026, the National Treasury indicated that the decision to stop the transfer of funds was an opportunity for the national government to intervene by entering into an intergovernmental agreement for the national government to settle the arbitral award. Consequently, the requested the Senate to amend the County Governments Additional Allocations Bill, 2026 (Senate Bills No. 8 of 2026), to include a conditional allocation of Ksh.139 million to Meru County Government;
- g) Whereas the National Treasury has committed to pay the outstanding principal sum of Ksh.139 million, they indicated to the Committee that the accrued interest will be subject to diplomatic negotiations between the Ministry of Foreign Affairs, the Ambassador of France and Mr. Dechauffour for a waiver of all accrued interest;
- h) The power of the Cabinet Secretary, under Article 225(3) of the Constitution as read together with section 96(1) of the PFM Act, is tempered by several safeguards. In the first instance section 93(4) of the Act contemplates that the Cabinet Secretary shall take into account all relevant facts before acting. In the present case and at the effective date on which the Cabinet Secretary stopped the transfer of funds , the County Government had paid Ksh.200 million towards the settlement of the award. Additionally, engagements between the Ministry of Investments, Trade and Industry, Ministry of Foreign and Diaspora Affairs and the County Government, had created a legitimate expectation that the national government would assist in meeting this financial obligation;
- i) Article 225(3)(a) of the Constitution provides for the two conditions upon which the Cabinet Secretary may stop the transfer of funds to a State organ or any other

public entity. These conditions are only for a serious material breach or persistent material breach. Section 93(3) of the PFM Act provides for the specific instances where a county may be deemed to be in serious material breach or persistent material breach. These are where a county government does not operate a financial management system or fails to meet its financial commitments under the Constitution or the PFM Act.

- j) While ostensibly it would seem that the condition under section 93(3)(b) of the PFMA has been satisfied and the action of the Cabinet Secretary justified, the steps taken by the County Government to settle the liability must also be brought to bear on the decision of whether to approve the stoppage of transfer of funds. Indeed Article 225(7) of the Constitution requires that the relevant parliamentary committee gives an opportunity to a public entity to answer its allegations and state its case. This requirement is not merely to satisfy the principles of fair administrative action but to ensure that in considering whether to approve the decision of the Cabinet Secretary, Parliament is informed of any circumstances that may mitigate against the exercise of that power under Article 225(3).
- k) The Constitution and the PFM Act provide other mechanisms for the supervision of 1 for the prudent management of public funds. For instance, Article 190(3) of the Constitution provides that “Parliament shall, by legislation, provide for intervention by the national government if a county government is unable to perform its functions”. This includes meeting financial commitments in the discharge of devolved functions.
- l) Section 92(3)(a) and (b) of the PFM Act further provides that *“If a State organ or other public entity encounters a serious financial problem or anticipates serious challenges in performing its financial function or meeting its financial commitments, it shall immediately seek solutions to resolve the financial problems; and notify the Cabinet Secretary or the CEC member for finance where the State organ is a county government organ”*. The county government had informed the National Treasury of its inability to pay the arbitral award in 2024 and requested the national government for a conditional grant to settle. On this basis, the National

Treasury should have considered alternative means of intervention in the matter including informing the Senate as the apex institution exercising oversight over county governments under Article 96(3) of the Constitution before making the decision to stop the transfer of funds to the County Government of Meru.

- m) The Cabinet Secretary exercised the power to stop funds under Article 225(3) and section 96(1) of the PFM Act to stop the transfer of funds to the County Government of Meru on the basis that county government was unable to meet its financial commitments with respect to an outstanding payment. However, the issue of county governments failing to meet their financial commitments including the settlement of pending bills is ubiquitous. Indeed, the County Governments Budget Implementation and Review Report for FY 2025/26, the Controller of Budget reported that the County Governments cumulative outstanding trade payables of Ksh.163.74 billion as of 31st December, 2025. Cognisant that the Constitution contemplates that all persons are equal before the law, the interventions by the Cabinet Secretary should be holistically considered and appropriate action taken to safeguard the interests of all citizen and foreigner suppliers of goods and services any other persons who is lawfully owed by the counties and not a piecemeal intervention on a case by case basis.

4.2 Recommendations

24. The Committee having considered the request for approval of stoppage of transfer of funds to the County Government of Meru, and deliberations with relevant stakeholders', recommends that-
- a. the Senate does not approve the decision of the cabinet Secretary to stop the transfer of funds to the County Government of Meru; and
 - b. the national government, through the National Treasury, grant the County Government of Meru a conditional grant in FY 2026/27 for the settlement of the outstanding principal award of Ksh.139 million and all accrued interest thereon.

LIST OF APPENDICES

Appendix 1: Minutes of the Committee Proceedings

Appendix 2: Cabinet Secretary Request for approval of stoppage of transfer of funds

Appendix 3: Copies of stakeholders' submissions

