

**VERBATIM TRANSCRIPT OF ADDRESS BY GHANA
AUDITOR GENERAL, D DOMELEVO IN RESPECT OF
UNLAWFUL EXPENDITURE**

MR DOMELEVO: They must go (inaudible), on the day we served on you the certificate, so that you appeal against us. There is a whole law, which is the constitutional instrument 1 or 2, which became operational on the 05th of January this year, on the procedure. So those who want to get the details can go in and look at C1102. It comes out of detail procedures. The nice one I will like to talk about is the fact that before the trial of the case, the High Court may determine the amount you should pay as a security. You just do not go to the High Court and say, "I am appealing against the Auditor General's disallowance or surcharge." The High Court may have to determine that, "Okay, pay 20% or 50% or 70% before we start discussing this case," which I think is a good provision.

However, after the deadline, if you have not gone to the High Court and you have not paid, the Audit Service Act provides that we can now take civil actions against you for the recovery of the money and it provides that if you are however a public servant and you are on the government payroll we can hold your salary from there. So if the amount is small enough that we can take from your salary on monthly basis, we will not hesitate instructing the Accountant General to withdraw or to withhold a source from your salary, the amount which is due from you. But, you are aware that some of the amounts, they are so huge that if you even put 10 years or 20 years salary together, it will still not come anywhere near it. That calls for civil procedure against the person.

I also know that you are all aware of the famous case that was decided on the 14th of June, between Occupy Ghana and the Auditor General, sorry, the Attorney General on the same issue and I like to say that it's very interesting to some of us, to read the judgement and I would like to highlight a few issues that were stated in that judgement, by the supreme court.

They stated in... on Page 27 of their judgement that,

"We believe that the time has come when it is necessary to strengthen the relevant constitutional bodies set up under the Constitution, such as the Auditor General, to protect the public purse from persons who intend to embark upon personal economic recovery programmes with the public funds."

Did you hear the term, "personal economic recovery programme?" And I am happy to say that in 2004 I took the judiciary through the Financial Administration Act and I used that term. I did not know they kept it. I said, well I don't know whether it's corruption or a bribe, but I think it's a personal economic recovery programme which is contrary to law and therefore we cannot allow it. I was happy to see that that term was being use. They also said,

"We are also of the view that the Auditor General is expected to name the persons who commit irregularities, under Article 187 clause 7(b) and Section 17 of the Audit Service Act respectively, recover the amounts from them and thereafter those person be...

that they said,

The last thing I want to quote from the judgement, on Page 32, is

disallowed an surcharge, take action and prosecute the people.

directing even the Attorney General to also take action after we have

therefore I was very happy to read in the judgement that the Judges were

Therefore there is the need to punish the person in addition. And

the drugs or the facilities were not there will no more come back to life.

enough. Why? The woman who died in the course of delivery because

personal economic recovery programme, refunding it with interest is not

money which is supposed to go to Ministry of Health and you take it for

explain it here, that if you took public funds, for the purpose of illustration,

But I think it is necessary, because I tell people and I want to

people who are found culpable.

in that decision also, to take the necessary step to punish or prosecute the

of them has criminality involve and so the Attorney General was directed

thereafter. Because collecting the money, I don't think is enough. Some

Court is that they are supposed to face the appropriate punishment

asking for it together with the interest and the judgement of the Supreme

compute the interest. So we don't only ask for the money, but we are

are doing is that we are using the lending rate of Bank of Ghana to

amount, no. We assume that you have taken public funds, so what we

not just collecting the amount which was abuse 10 years ago, the same

we can disallow the expenditure, surcharge you that plus interest. We are

I think the message being sent by the Supreme Court here is that

persons be made to face appropriate punishment."

"When we put all the learning in the above quotation together, there *may*..."

Remember I quoted, I said that in the performance of the duty of the Auditor General, he "may." They were explaining the "may."

"The *may*, in Article 184 clause 7(b), of the Constitution

1992, becomes a mandatory *may* and no longer

persuasive. This is to afford us the opportunity to

enforce the provisions of Article 187, 7(b) which will

deepened property and accountability. The rationale for

the above, they said, is to give teeth to the

constitutional and statutory mandate of the Auditor

General's power on this allowance and surcharge."

To bite. Teeth to what? Bite. That is paragraph 32 of the

judgement. So I am saying that this is what the Judges have to say in

terms of that issue. Then they issued what we call consequential orders. I

want to read the consequential orders which are so very important. They

said,

"As a sequel to our judgement just delivered, we further

direct that henceforth the Auditor General shall take

steps to recover the amounts unlawfully expended, from

the person or persons who incurred or who authorised

the disallowed expenditure."

So there are two people here, the public servant who incur the expenditure or the one who authorise it. We are going to hold these two guys jointly and severally liable for the amount so wrongfully spent.

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Secondly, the Auditor General shall also take steps to recover the amounts from the person or persons by whom the amount ought to have been brought into the accounts. So you are a revenue officer; there is some money you should have collected. You ignore it. If we identify that money, we hold you accountable. That is government asset you should have brought into the books, you ignore it. If we get to know of that, we hold you accountable. So that is also provided by the judgement.

And the third one will provide a lot of clarity is that,

“The Auditor General shall also take steps to recover the value of the loss or deficiency from the person or persons by whose negligence or misconduct the laws or deficiency were incurred, whether or not the person is a public servant.”

This is the area that was well clarified by the judgement and I think

it throws a lot of light on what we should do, because before then I was worried whether our mandate stopped at the public servant and the judges said, no, the issue here is public funds, so in whatever hands it is. So if you are... the advice here is, you are a private sector person and you deceive government or you inflate invoices or you dupe government, we

can come after you, as long as it is public funds. So this message is not directed only at public servants. It is to all

Ghanaians. Now we should be careful. If they pay you to supply ten vehicles, you must supply ten vehicles. You can't supply five vehicles and get payment for ten vehicles and think you are running away. We have to come after you if we get to know and like I said earlier on, we are not

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note, but I told my colleagues, anybody who goes to court, I want to score 100%. When they go to court I must be able to prove to court that, "Here is the reason why I surcharge" and the court should uphold my position, instead of their position. So we are doing that, starting gradually from the Auditor General.

However, alongside, we are developing procedures and guidelines, which when it is ready and we have train our people, I will start decentralising that responsibility, first to my deputies. They will have that mandate to disallow an surcharge on my behalf and later on, I think within the next year or two, to the regions. So the regional auditors may be able to disallow and surcharge on our behalf when we have our procedures well documented and they are well trained on this process.

I want to say to my fellow Ghanaians that those who have received this certificate, we want to assure you that we are simply doing our work. It's not because we hate you more than anybody or we dislike you, no. We are simply doing our work and be assured that other people who fall in the same category like you, will also receive their certificates. We are simply doing our work without fear or favour and we will plead with the general public to cooperate with us. Some would like to stampede us into action to say, "No, I know about this one. You have not yet handle it. Why have you not handle it?" It is a gradual process, as I've just explain. It's a pain taking exercise. We can't cover all the infractions that we have so far identified in our reports within a week, within a month, maybe even within a year. It may take us a longer time. Because remember, the Supreme Court rule that we should go

back and collect the monies, contrary to the Constitution and the
Constitution became operational in 1993. So we have a lot of work to do.
We have to go back and do it and do it well and make sure that it is done
to the satisfactory of the Ghanaian public. So this is... brings the update
that I will like to give to you, the press, through you to my fellow
Ghanaians. I will stop here and if there are any questions or clarifications
that you require, I will continue and provide that and I will be assisted by
my colleagues. Thank you.

END OF ADDRESS

