

WAR ON CORRUPTION

# Come probe us, rights body tells anti-graft men

By NATION Reporter

The Kenya National Commission on Human Rights yesterday invited the Kenya Anti-Corruption Commission to scrutinise its accounts, and denied any financial wrong-doing.

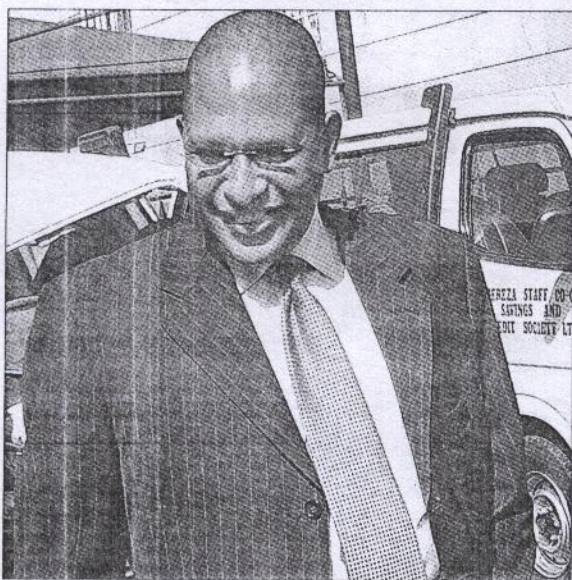
The secretary, Mr Mburu Gitu, said the first grant from the Government when it took over from the Standing Committee on Corruption was about Sh50 million and was well spent and accounted for. He dismissed claims of financial irregularities made by Justice permanent secretary Dorothy Angote as suspect. "The commission has provided a detailed response on the matters raised by the controller and auditor-general to Parliament," he said at the commission office in Nairobi.

## The motive of the PS

"The motive of the PS to raise issues that are not in the controller and auditor-general's report is suspect. She is purportedly basing the issues on the report. In fact, some of the matters raised do not appear in the report, especially two issues relating to the purchase of motor vehicles and payment of relocation allowances."

The auditor-general's report for the year ended June 2004 also questioned the appointment of a private auditing firm. But Mr Gitu said the commission appointed more than one firm to look into the spending of donor funds.

"During the financial year in question the commission obtained grants from ActionAid, the Australian International Development Agency and the Canadian International Development Agency who expected the audit by a private firm for purposes of accountability and transparency," he said.



Photo/Paul Waweru

**Director of public prosecutions Keriako Tobiko leaves a Nairobi court yesterday after he terminated a case in which his predecessor, Mr Philip Murgor, wanted the police commissioner, the director of Criminal Investigations Department and police spokesman to appear in court.**

"The books were then submitted to the controller and auditor-general for his audit. The commission did not provide original payment vouchers and supporting documents for payments amounting to Sh2.9 million because the original payment vouchers were in the custody of the PS. "But Ms Angote has not yet responded to the request of November 28 to release the original documents to the controller and auditor-general." Finance manager James Aroyo said: "We had a total budget from the Government of Sh80 million and from donors Sh67 million, and operated on a budget of Sh147 million. This is why we needed a private firm to audit the expenditure."

On Friday, we reported that KNCHR

was on the spot over alleged financial irregularities which could lead to legal action.

Earlier yesterday, Ms Angote said the war on corruption would not spare KNCHR officials and other government critics just because they were vocal. She denied claims by the commission chairman, Mr Maina Kiai, that he was being witch-hunted for his criticism of the Government over the Anglo Leasing and other financial scandals. Mr Kiai recently backed former Ethics and Governance permanent secretary John Githongo's anti-graft campaign, and asked Cabinet ministers named in the scandals to step aside to allow investigations.

# Murgor's case against police boss blocked

By JILLO KADIDA

The State has terminated a private prosecution case filed by former public prosecutions boss Philip Murgor against the police commissioner.

The arguments Mr Murgor used countless times to terminate cases as the director of public prosecutions were yesterday used to bring to an end his case against Maj-Gen Hussein Ali.

Mr Murgor had accused the police boss of abuse of office and defeating the course of justice in his attempt to link him with the Goldenberg scandal.

His successor as DPP, Mr Keriako Tobiko, presented to chief magistrate Aggrey Muchelule quotes from arguments that Mr Murgor used when terminating a case filed by the Law Society of Kenya (LSK) and others against the attorney-general.

LSK had wanted Mr Amos Wako summoned to answer charges of abuse of office for misadvising the Government on the Anglo-Leasing scandal.

The former DPP then entered a *nolle prosequi* even before the AG was summoned, arguing that the AG had the powers to take over any criminal case at any stage.

And yesterday, Mr Murgor opposed the AG's attempt to terminate his case, saying there were no proceedings before the court for him to take over.

He said proceedings could only start after the accused appeared in court and pleaded to the charges.

Mr Murgor, through lawyer Cecil Miller, said Mr Tobiko should not be allowed to terminate the case before the summons issued by the court on Thursday is obeyed.

He said he wanted the court to address nine constitutional points.

And Mr Tobiko, in his arguments, said the AG, under section 26 of the Constitution and 82 of the criminal procedure code, if he desired, could take over any criminal proceedings at any stage before judgment.

Criminal proceedings, said Mr Tobiko, started once a complaint had been filed before a court of law.

"Your honour, Mr Murgor when terminating the case against the AG had said *nolle prosequi* can be entered even before a complaint has been signed and accepted by the court. This argument is right in law then and *ex vivo*," said Mr Tobiko.

Mr Muchelule accepted the *nolle prosequi* and discharged Maj-Gen Ali, director of criminal investigations Joseph Kamau and police spokesman Jasper Ombati.

The magistrate said: "A *nolle* has been presented and the issue as to whether the court would accept it or not does not arise."

Saying he would appeal against the decision next week, Mr Murgor said it was wrong for Mr Muchelule to terminate the case without giving reason or indication whether the AG would prosecute the case.



Mr Murgor

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**PERSONAL INTERVIEWS**

<b>FEB. 24, 2006</b>	<b>FEB. 25, 2006</b>
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