COUNCIL OF GOVERNORS

PRESS STATEMENT

Clarity on issues surrounding absorption of funds by County governments

Our attention has been drawn to an article appearing on the front page of The Standard edition of June 26th 2014 captioned 'Return to sender: Billions counties could not spend'.

No return to sender

The Council of Governors wishes to clarify that money unspent by the County Governments will not be returned to the National Treasury.

This position is indeed well outlined by section 109(8) of the Public Finance Management Act which clearly states that 'any unutilised balances in the County Revenue Fund shall not lapse at the end of the financial year but shall be retained for the purposes for which it was established'

As such, the impression created by the newspaper article is inaccurate, misleading and malicious.

Article 207 of the Constitution of Kenya creates a Revenue Fund for each county and further gives direction on how it shall be operated

According to the provision, deposits into the County Revenue Fund shall come from monies received by or on behalf of a county government. These monies include the county's equitable share of revenue raised nationally as recommended by Commission on Revenue Allocation and approved by Parliament.

Other sources of deposits include revenues raised locally by a county government from taxes and service fees and any loans and / or grants received by a county government.

Withdrawals from a County Revenue Fund shall be in respect of either a charge against the Revenue Fund by an Act of Parliament or as authorized by an appropriation pursuant to legislation of the county. This is provided in Article 207 of the Constitution of Kenya 2010.

From the above, it is clear that no person other than parliament or the county can cause money to be withdrawn from the County Revenue Fund. Even National Treasury does not have such powers.

Any insinuation that unspent monies will be returned to the National Treasury is thus misguided.

Article 6(2) of the constitution provides that national and county levels of government are distinct.

Explanation of Balances in the County Revenue Accounts

In the year 2013/2014, county governments were allocated Kshs 190B as equitable share.

Article 219 of the Constitution of Kenya 2010 requires that a county's share of revenue raised by the national government shall be transferred to the 'county government without undue delay, and without deduction…'. Paragraph 14 of the Second Schedule to the Public Finance Act provides that transfers to the county

government shall be made monthly, not later than the 15th of each month.

The intention of constitutionalizing and further legislating on this aspect was to underscore the importance of certainty in the disbursement to county planning and budget execution.

The Council of Governors wishes to state that the National Treasury has not observed the disbursement schedule as it was gazetted.

As a matter of fact, the last tranch of monies that was to be disbursed in June has not reached the County Revenue accounts. National Treasury reportedly send the monies on Tuesday 24th June 2014.

Herebelow is a matrix that shows the gazetted disbursement schedule and also the actual disbursement to counties. Note the huge differences between the two.

This coupled with difficulties presented by IFMIS and G-pay and also lengthy procurement procedures have meant that there are long delays in payments for work already done.

All unspent monies will be re-voted by County Assemblies in the year 2014/15 to pay for the services for which they were budgeted for since the delays were due to the late release of the voted monies.

The County Governments and the Kenyans have also been monitoring expenditure by National Government and are awaiting to see the report published.

The Process of Release of County Funds.

There is a clear strategy worked out to frustrate devolution and Kenyans need to know. Consider below how finances and financial information has been released to counties for the first financial year.

- Monies meant for this financial year for the month of June 2014 were released yesterday 26th June 2014.
- Counties learn about release of funds to Counties through the Press like all other Kenyans – a breach of Government to Government protocol on communication. Counties never get official communication on resources apart from what is written in the press.
- The process of accessing these monies byany county government is illustrated herebelow:

Monies are released (counties only learn about this in the newspapers)

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Counties have to travel to Nairobi and Queue for Signature from the Controller of Budget Office

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County Signatories get their papers signed at the CoB office Bima House

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Signatories sent back the papers or travel back to the Counties for Authorization from the County Executive in charge of Finance

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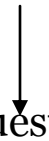
Counties through their signatories send the papers back to Central Bank of Kenya



Central Bank process the requests and start to disburse.

- Given the foregoing it is not possible that any county can access and utilize the resources by 30th June 2014. This means the monies are to go to the County Revenue Account and by 2nd July 2014 Counties will access and make arrangement to pay for the outstanding services rendered.
- Note also that last week from 20th June 2014 Friday to 24th Tuesday June 2014 the Government G-Pay system had crashed and ZERO payments were made. This a system controlled and run by Central Bank. This is not the first time it has happened. Therefore with no payments being made it will appear that there are monies in the County Accounts yet it is the system that has not released the monies for the services rendered and contracts concluded.
- Kenyans should know that on September 19th 2013 is when the first tranch of current financial year was done and on 30th September 2014 the Controller of Budget released a report showing that County Governments could not absorb resources that had been lying at National Treasury for four months.
- On 16th May 2014 the National Treasury released resources for March, April and May knowing clearly that the Financial year closes on 30th June 2014. All along Counties were unable to make payments or honor their financial obligations.

- Lastly the final tranch was released yesterday as 26th June 2014 for the Financial Year ending 30th June 2014 on Monday.
- Fellow Kenyans be your own judge and judge fairly.

Signed

H.E Issac Ruto
Chairman Council of Governors