

## **Ghana Agyapa Royalties deal: ECOWAS Court of Justice delivers a disappointing ruling, leaving people's rights at risk**

*It's now on parliament and executive government to prevent irreparable damage*

The Economic Community of West African States (ECOWAS) Court of Justice will not be ordering the government of Ghana to stop the sale of the country's gold royalties in perpetuity, the court announced yesterday. The Ghana Integrity Initiative (Transparency International Ghana), the Ghana Anti-Corruption Coalition, and Transparency International are disappointed that judges saw no need for court action to prevent the violation of the rights of the people of Ghana that is bound to occur should the sale go ahead. We remain convinced that the proposed deal would serve corrupt interests and not the people of Ghana, and call on the government to terminate the already stalled Agyapa deal once and for all.

After more than a year since first hearing the case brought by the Ghana Integrity Initiative, the Ghana Anti-Corruption Coalition and Transparency International, the judges have now ruled in favour of the government of Ghana. A comprehensive analysis of the court's reasoning will be possible only after the judgement is available in writing.

Based on the read-out of the judgement during yesterday's hearing, the court is refusing to act primarily because harm has not yet occurred. It is unfortunate that the court did not see the merit in our plea that the court should prevent the impending violations of people's rights over their natural resources.

Judges also disagreed with civil society on matters related to corruption and the breach of checks and balances, arguing that the co-applicants failed to present sufficient proof. In fact, we had submitted as evidence the [64-page report from the special prosecutor of Ghana](#) which warned of "bid rigging, and corruption activity including the potential for illicit financial flows and money laundering". The suspicious circumstances under which the special prosecutor resigned just two weeks after he went public with his concerns similarly seem to have escaped the court's attention.

**Michael Boadi, fundraising manager of the Ghana Integrity Initiative, said:** "Good governance principles of inclusion and participation just lost a foothold on public decisions with respect to Ghana's natural resource management. The ruling from the ECOWAS Court of Justice is a betrayal of the quest of West Africa's peoples to ensure that their governments are accountable to the citizens."

Had the court ruled in civil society's favour, it would have set an important precedent under the African Charter: that governments cannot sell off natural resources without a clear demonstration of the benefit to citizens and allowing them to effectively participate as part of a transparent and open decision-making procedure.

### **Notes to editors**

Timeline of events:

- In August 2020, the government of Ghana [proposed to sell the majority of its future gold royalties](#) from mining leases to an offshore company – Agyapa Royalties Ltd. – registered in the notoriously secretive British Crown Dependency of Jersey in the British Islands. Under the deal, the government would sell 49 per cent of the shares of this company through a public offering and keep a 51 per cent stake. The government deemed this as an "innovative financing solution" to help ease the country's debt crisis, but it valued the gold rights at far

less than they could be worth. The opposition party and civil society groups criticised the deal.

- In November 2020, the special prosecutor publicly released a report outlining suspected incidences of rigging and corruption, including opening doors for illicit financial flows and money laundering. Furthermore, the report found that millions of dollars were already paid out to companies without legally required approvals.
- Later that month, in response to the special prosecutor's report, Ghana's President Nana Akufo-Addo instructed authorities to review the transaction documents and return the proposal back to the parliament for approval. After this, the Agyapa deal stalled as the public turned against the deal in the lead-up to the December 2020 general elections, and the incumbent government then lost their majority.
- The current government alluded to a reconsideration of the Agyapa deal in its 2022 budget presentation to the parliament. Without any public consultation to date, it's not clear if concerns will be addressed in the next iteration of the deal.
- In December 2020, the Ghana Integrity Initiative, the Ghana Anti-Corruption Coalition and Transparency International brought the case before the ECOWAS Court of Justice, arguing that the deal is in violation of Article 21 of the African Charter on Human and Peoples' Rights, which states that all peoples are entitled to determine how their wealth and natural resources are disposed. Co-applicants also argued that the process disregarded the rights of the people of Ghana to consult and have their concerns addressed prior to execution. We asked the court to stop the government of Ghana from implementing the deal and to cancel any existing contracts.

See also:

- [Financial institutions in the UK urged to review and withdraw from Ghana gold royalties deal](#) (22 December 2020)
- [Ghana: What is going on with the controversial Agyapa gold royalties deal?](#) (26 November 2020)
- [Ghana Parliament asked to overturn risky Agyapa gold royalties deal](#) (12 November 2020)
- [Controversial Ghana Agyapa deal goes to regional ECOWAS court](#) (31 March 2022)