



REPUBLIC OF GHANA

OFFICE
OF
THE ATTORNEY-GENERAL
AND MINISTRY OF JUSTICE

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Date. 5th December 2023

PRESS RELEASE

RE: REPUBLIC VRS. EN HUANG (AISHA HUANG)

On 16th September, 2022, the Office of the Attorney-General charged En Huang also known as Aisha Huang, a female Chinese national, with:

- i. One count of undertaking a mining operation without a licence between February 2015 and May 2017;
- ii. One count of facilitating the participation of persons engaged in a mining operation without a licence between February 2015 and May 2017;
- iii. One count of illegal employment of foreign nationals contrary to section 24 of the Immigration Act, 2000, Act 573;
- iv. One count of entering Ghana while prohibited from re-entry contrary to section 20(4) of the Immigration Act, 2000, Act 573.

Brief facts

1. In 2017, Aisha Huang had been charged with illegal mining offences committed between 2015 and May, 2017. On 19th December 2018, the Attorney-General entered nolle prosequi and terminated the trial. The Comptroller-General of Ghana Immigration Service revoked her permit to remain in Ghana indefinitely and ordered her immediate repatriation to China pursuant to section 20 (2) of the Immigration Act, 2000, Act 573.
2. Aisha Huang was indeed put on Ethiopian Airlines flight, which took off at about 12:50 pm on 19th December 2018 to Addis-Ababa, enroute to Guangzhou-China. She sat on seat No. 32 F (Economy Class).
3. Subsequently, Aisha Huang was found to have re-entered Ghana contrary to the order of the Comptroller-General. She was arrested again on **2nd September 2022** in Kumasi.
4. Immediately, the Attorney-General directed prosecution of Aisha Huang for all past and present offences committed by her.

The process and judgment

5. After a trial in which the prosecution called 11 witnesses and the accused person gave evidence in her defence, the High Court presided over by Her Ladyship Justice Lydia Osei-Marfo, on **4th December, 2023**, convicted the accused of all offences and sentenced her to various terms in prison to run concurrently.
 - i. Counts one and two - four (4) years and six (6) months in prison (in hard labour) as well as a fine of three thousand (3000) penalty units;
 - ii. Count three - twelve (12) months in prison (in hard labour);
 - iii. Count four - one thousand (1000) penalty units or in default, to serve a term of three (3) years imprisonment.
6. The learned judge considered the fact that the offences of undertaking a mining operation without a licence and facilitating the participation of persons engaged in a mining operation without a licence with which the accused was charged, were committed between February, 2015 and May, 2017, at a time that the **Minerals and Mining (Amendment) Act, 2019 (Act 995)**, which imposes a punishment of a minimum of twenty (20) years in prison for a non-Ghanaian together with a fine of between one hundred thousand penalty units and three hundred and fifty thousand penalty units, had not been passed.
7. In the view of the trial judge, article 19(6) of the Constitution prohibits a penalty from being imposed for a criminal offence that is severer in degree or description than the maximum penalty that could have been imposed for that offence at the time that it was committed.
8. The legislation in place at the time Aisha Huang committed the offences of undertaking a mining operation without a licence and facilitating the participation of persons engaged in a mining operation without a licence (February 2015 – May, 2017), was the **Minerals and Mining (Amendment) Act, 2015 (Act 900)**, which mandated a fine of not more than three thousand penalty units or to a term of imprisonment of not more than five years or to both. The learned judge thus, taking account of the fact that the accused had already spent more than one year in custody, sentenced her in the manner stated above.

9. The attention of the Attorney-General has been drawn to various misleading comments by some sections of the public in reaction to the judgment. The Attorney-General hereby respectfully, entreats members of the public including lawyers, to be mindful of the facts stated above and desist from comments which not only jeopardise the sound and efficient administration of justice but also undermine the fight against illegal mining (galamsey).
10. The Attorney-General expresses appreciation for the relatively swift manner (a little over one year) in which justice has been dispensed in this case. Same underscores the commitment to the punishment of illegal mining offences.
11. Whilst applauding the efficiency of the justice delivery system witnessed in the trial of Aisha Huang, the Attorney-General will however test the soundness of the decision of the trial court to punish the accused person under Act 900, by filing an appeal at the Court of Appeal, against the sentence in order to ensure that the new sentencing regime imposed by **Act 995** is applied to the accused person.

END!!!

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