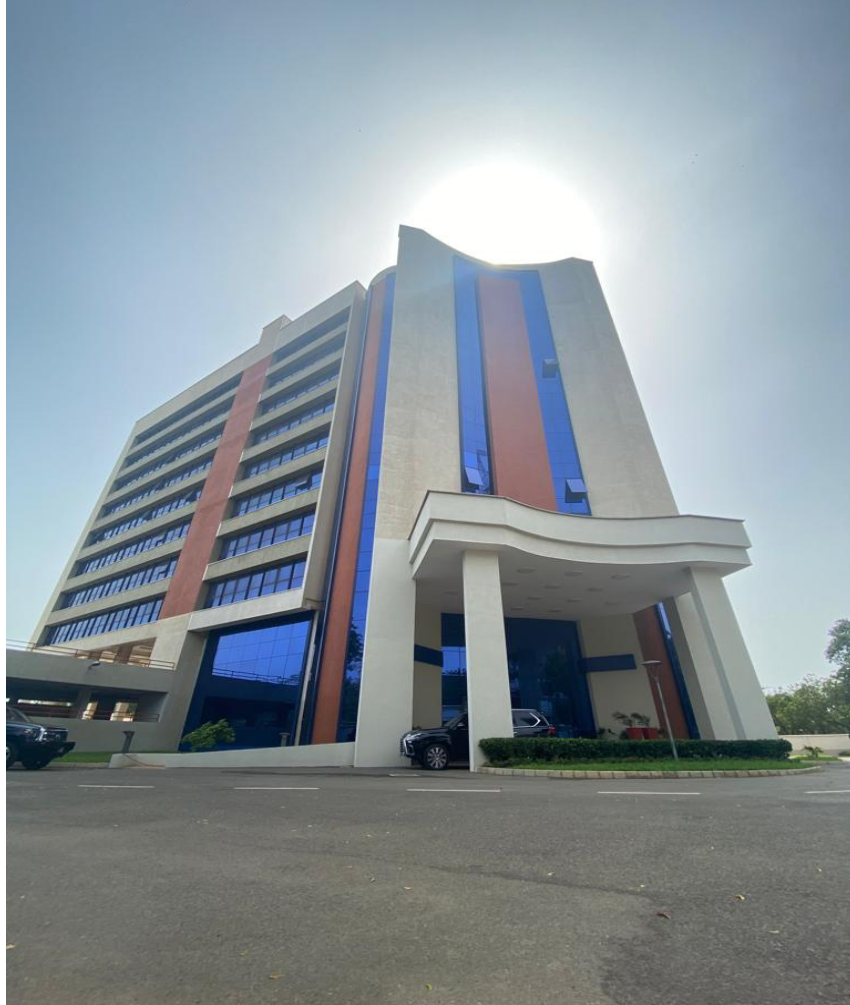




Half Yearly Report

1 August 2022



A Publication of the Office of the Special Prosecutor, The Republic of Ghana
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Preface

Section 3(3) of the Office of the Special Prosecutor Act, 2017 (Act 959) mandates the Office of the Special Prosecutor to publish, on a half yearly basis, the list of corruption cases investigated and prosecuted by the Office and the number of acquittals, convictions and pending cases and the value of any recovered proceeds. I am pleased to present the first report under my tenure as the Special Prosecutor.

Upon assuming office on 5 August 2021, it became clear to me that though the establishing Act of the Office was enacted in 2017, the Office had not yet been set up and operationalised and it was still being housed in a small and cramped three-bedroom house and it had no staff of its own. To bridge the four-year delay in its set-up, I immediately commenced steps to operationalise the Office. Notwithstanding debilitating budgetary and material constraints, I gratifyingly state that the Office is now functional and it is performing its role as the flagship public agency fighting corruption and corruption-related offences.

This report, though titled “Half Yearly” as required by law, spans the period covering 5 August 2021 to 31 July 2022. This unusual periodical is one-off and it is borne of the already recounted circumstances confronting my assumption of office. It offers an insight into the work of the Office and the highly commendable strides being undertaken to place it as the foremost anti-corruption agency in Africa. The Office remains focused and innovative on its four-way mandate of investigating corruption and corruption-related offences, prosecuting suspected offenders, taking steps to prevent corruption, and recovering the proceeds of corruption and corruption-related offences.

A handwritten signature in green ink that reads "Kissi Agyebeng".

Kissi Agyebeng
Special Prosecutor
The Republic of Ghana
1 August 2022



I Introduction

- 1.1 The Office of the Special Prosecutor (OSP) is the gold standard and flagship specialised independent anti-corruption institution in Ghana. It was created in 2017 under an Act of Parliament, Office of the Special Prosecutor Act, 2017 (Act 959) in pursuance of the objects of the United Nations Convention Against Corruption.
- 1.2 Two legislative instruments have also been enacted to augment the effect of Act 959. The first is the Office of the Special Prosecutor Regulations, 2018 (L.I. 2373), which regulates the management of human capital and discipline. The second is the Office of the Special Prosecutor (Operations) Regulations, 2018 (L.I. 2374). As the nomenclature suggests, it regulates the operational activities of the Office.
- 1.3 The Office has the object of investigating and prosecuting specific cases of alleged or suspected corruption and corruption-related offences, recovering the proceeds of corruption and corruption-related offences, and taking steps to prevent corruption.



- 1.4 In effect, the Office has been designed in response to the manifest weaknesses in the anti-corruption regime with the aim of comprehensively curtailing corruption and leaving little else to chance.
- 1.5 On this score, the Office's reach is multifaceted. It has full police powers and it exercises national security functions, including intelligence gathering, surveillance and countersurveillance. It is also a vital revenue generating agency through its asset recovery and management function of the disgorgement of illicit and unexplained wealth. Its independence, by law, is assured in the proper sense, as the Special Prosecutor retains full authority and control over the investigation, initiation, prosecution and conduct of cases.



- 1.6 Apart from the receipt of complaints from private persons, Parliament, the Auditor-General, the Commission on Human Rights and Administrative Justice, the Economic and Organised Crime Office and other public bodies, the Office acts on its own initiative and authority in the investigation and conduct of cases.
- 1.7 The Office's mandate is not only in respect of public officials. It has the authority to investigate and prosecute private persons and politically exposed persons. In this context, politically exposed persons are those who have been entrusted with prominent public functions in Ghana or in a foreign country or an international organisation such as senior political party officials, government officials, judicial officials, military officials, or a person who is or has been an executive in a foreign country of a state-owned company, or a senior political party official in a foreign country, or an immediate family member or close associate of such persons.

II Developments

- 2.1 The Office moved into its permanent assigned offices – a ten-storey building at 6 Haile Selassie Avenue, South Ridge, Accra in September 2021. The Office is in the process of retrofitting and remodeling it to fit it for the purpose of its functions and activities. The object is to furnish the offices with modern corruption fighting equipment and materials including surveillance and countersurveillance items, forensic and cybersecurity laboratories and call centres.
- 2.2 The Office has developed and launched its website – www.osp.gov.gh – to interface with the public. This is the first website to be wholly developed and owned by the Office. Prior to August 2021, the Office used a private site which has since been shut down. Integrated into the website is a complaint reporting web application that allows for the filing of named-author and anonymous corruption-reporting. The website also incorporates a live interactive chat application.
- 2.3 The office has created two social media handles on Facebook@ <https://www.facebook.com/ospghana> and on Twitter @ <https://twitter.com/ospghana>. These accounts have each garnered an organic growth of over ten thousand followers. These platforms have been instrumental in soliciting support, encouraging the filing of complaints, announcing investigations, programmes, projects and updating the public on the activities of the Office.



- 2.4 The office has also partnered with traditional media outlets including television and radio stations and news printers, and it has also developed a social media anti-corruption campaign including the use of audio-visual advertisements and fliers to inform and educate the public on the mandate of the Office and its activities, the adverse effects of corruption and the need to curtail corruption and corruption-related activities.
- 2.5 The Office has provided a toll-free line – 0800-000-700 – for the reporting of corruption and the filing of complaints. It accepts calls from all networks in Ghana without charge.
- 2.6 These innovative interactive communication tools have improved the visibility of the Office, and the building of trust and confidence in its operations. They have also improved the filing of complaints and volunteering of information.
- 2.7 The Office has commenced its corruption prevention drive under the headline – “Pressure-for-Progress”. The flagship programme is the Ghana Corruption League Table, which the Office launched in March 2022.
- 2.8 The project is akin to a combination of the corruption perception index of Transparency International and the scorecards of Afrobarometer. It is a research-based model designed to assess real and perceived levels of public sector corruption. In aid of this, public sector agencies would be ranked against each other on a corruption barometer and the results would be published annually on International Anti-corruption Day. The results would form the basis for enhanced pragmatic suppression and repression of corruption in the public sector.
- 2.9 The project also seeks to identify the causes that advance corruption in the public sector including deficiencies in regulations and procedures, deficiencies in administration of instructions (including lack of internal control mechanisms), individual interest (including greed, lack of ethicalness and legal awareness), and external influences (including public attitude, culture and traditions) – to facilitate the prevention of corruption.
- 2.10 The Office recognises that there are various corruption rankings, scorings and surveys. However, it comes down to the nature of the information gathered and the use to which such information is put. In our context, we are documenting corruption, measuring corruption, ascertaining the breeding of corruption, naming and shaming peddlers of corruption, examining the impact of anti-corruption initiatives and taking curative and remedial measures to crack down on corruption through prosecutions and asset recovery and management.



- 2.11 The Office is moving beyond the composite annual ranking of countries on a corruption drop list to own our local narrative and fashion and retool our reformation by prodding our public sector into real and concrete action against corruption and corrupt practices, while also keeping the private sector alive by assuring a life of less corrupt practices.
- 2.12 On 21 June 2022, the Attorney General and Minister for Justice, Hon. Godfred Yeboah Dame inaugurated the Governing Board of the Office – comprising the Special Prosecutor, the Deputy Special Prosecutor, and statutory institutional representatives from the Audit Service, Ghana Police Service, Economic and Organised Crime Office, Financial Intelligence Centre, Commission on Human Rights and Administrative Justice and a representative from Anti-Corruption Civil Society Organisations. The nomination from the Ministry of National Security was subsequently communicated to the Special Prosecutor.
- 2.13 Mrs. Lydia Ofori-Kwafo, the representative from Anti-Corruption Civil Society Organisations, was elected as Chair of the Governing Board by the members on 30 June 2022.

III Cases

- 3.1 In respect of the investigation and prosecution of specific cases of suspected or alleged cases of corruption and corruption-related offences, the Office first engages in intelligence gathering or “pre-investigation” to determine whether it should open investigation into a matter. The Special Prosecutor will direct the opening of a preliminary enquiry or investigation where he determines that the matter is within the mandate of the Office. Where sufficient information is gathered, the Special Prosecutor will direct the initiation of a full investigation. The Special Prosecutor will proceed to institute criminal proceedings where he determines that the Office has probative evidence to meet the standard of proof beyond reasonable doubt.
- 3.2 The Office takes especial care to protect the privacy and reputations of persons it investigates. To this end, the Office seeks to avoid unnecessary stigmatisation by conducting its operations with as little intrusion into the privacy of individuals and the business operations of companies as the circumstances permit.
- 3.3 The following are the various cases handled by the Office during the period under reference:



A Prosecutions

There were no convictions or acquittals in respect of the cases pending before the criminal courts.

MSFT/23/2019 The Republic v. Mahama Ayariga & Another

This case was pending before the High Court, Financial Division, Accra against the Member of Parliament for Bawku Central and another. The Special Prosecutor entered a *nolle prosequi* on 11 October 2021. The Special Prosecutor explained to the Court that upon further scrutiny of the available evidence the Republic would be unable to prove its case beyond reasonable doubt on the allegation of abuse of public office for private gain.

CR/0492/2022 The Republic v. Adjenim Boateng Adjei & Another

On 18 May 2022, the former Chief Executive of Public Procurement Authority was charged with eight (8) counts of using public office for profit and nine (9) counts of directly and indirectly influencing the procurement process to obtain an unfair advantage in the award of a procurement contract. His brother-in-law was also charged with one (1) count of using public office for profit. The accused were arraigned before the High Court, Criminal Division, Accra on 25 May 2022. The trial is ongoing.

D13/01/22 Alexander Kwabena Sarfo-Kantanka

On 24 May 2022, the President's nominee for the position of Chief Executive of Juaben Municipal Assembly in the Ashanti Region was charged with twenty-six (26) counts of corruption in respect of a public election. He was arraigned before the High Court, Criminal Division, Kumasi on 1 June 2022. The trial is ongoing.

B Concluded Investigations

Agri-Plus Horizon Farms Limited

On 9 December 2019, the Financial Intelligence Centre transmitted an Intelligence Report to the Office on the allegation that Ghana Cocoa Board sole sourced a contract to Agri-Plus Horizon Farms Limited on the ground of nepotism and/or trade-based money laundering. In



February 2022, the Office terminated the investigation for lack of evidence. It was also established that the suspected nepotism was a case of mere coincidence of names and/or mistaken identity.

Hon. Samuel Atta Akyea

In July 2022, the Office terminated investigation into a complaint of alleged financial malfeasance filed against the Member of Parliament for Abuakwa South for lack of evidence. The complainant admitted that he filed the complaint without any basis and that he was paid to fabricate the content of the complaint. The complainant and his accomplices are under investigation for filing the complaint with the singular aim of tarnishing the reputation of the respondent.

Labianca Company Limited and Customs Division of Ghana Revenue Authority

From November 2021 to July 2022, the Office investigated a complaint of alleged ongoing corrupt, illegal and questionable dealings between Labianca Company Limited and the Customs Division of Ghana Revenue Authority resulting in unlawful markdown or reduction of benchmark values of frozen food products imported by Labianca Company Limited under the guise of customs advance rulings.

The investigation concluded that a decision to render a customs advance ruling to Labianca Company Limited by reducing the values of their intended imports between a range of 5% - 10% below the benchmark values was wrongful and unsupported by the requirements of the law for the issuance of customs advance ruling. And that there was strong evidence to suggest that the decision was a product of influence peddling or trading of influence by the owner of Labianca Company Limited, Ms. Eunice Jacqueline Buah Asomah-Hinne, at all material times a member of the Council of State and a member of the Governing Board of Ghana Ports and Harbours Authority.

The report indicted Mr. Joseph Adu Kyei, the Deputy Commissioner of the Customs Division in charge of operations, for bending over backwards to render the unlawful decision; and Col. Kwadwo Damoah (Rtd.), the Commissioner of the Customs Division, for placidly coddling the actions of Mr. Joseph Adu Kyei.



The report concluded that the conduct of the investigated officers portends an institutionalised culture of lighthearted unconcern regarding impropriety of action at the Customs Division – which indicates a high propensity to engender corruption and corruption-related activities; and that the officers ignored mandatory provisions of the Customs Act, 2015 (Act 891) and engaged in their own predilections.

The investigation led to the first recovery by the Office – in the sum of One Million Seventy-Four Thousand cedis Six Hundred and Twenty-Seven cedis Fifteen pesewas (GHC1,074,627.15) on 31 March 2022.

C Ongoing Investigations

Airbus SE

Investigation into alleged bribery by Airbus SE, a European multinational aerospace corporation, in respect of the sale and purchase of military aircrafts for the Republic is ongoing. The Office is engaged with INTERPOL and the central authorities of the United Kingdom and the United States under the mutual legal assistance regime.

Banking and Financial Sector Crisis

On 25 January 2022, the Special Prosecutor announced the commencement of investigation into the banking and financial sector crisis that precipitated the collapse of some banks and financial institutions and the financial sector clean up and recapitalisation reforms.

The investigation targets alleged corruption and corruption-related offences perpetrated by some officials of the Bank of Ghana, banks, specialised deposit-taking institutions, and financial holding companies.

Recruitment to Cadet Officers Training at the Ghana Police Academy

On 17 March 2022, the Special Prosecutor announced the commencement of investigation into suspected corruption and corruption-related offences in respect of the recruitment exercise of Course 51 of Cadet Officers Training at the Ghana Police Academy.

The investigations target specific cases of alleged corruption and corruption-related offences of the use of office for profit, abuse of



office, abuse of power, favouritism, nepotism, victimisation and the selection of unqualified persons.

Estate of Kwadwo Owusu-Afriyie alias Sir John

On 26 May 2022, the Special Prosecutor announced the commencement of investigation in respect of alleged improper acquisition of state protected land at the Achimota Forest enclave and the Sakumono Ramsar site by the deceased former Chief Executive of the Forestry Commission.

On 30 May 2022, the Special Prosecutor directed the freezing of the Estate of Kwadwo Owusu Afriyie alias Sir John (deceased). On 9 June 2022, the Special Prosecutor applied to the High Court, Financial Division, Accra for a confirmation of the freezing order. On 12 July 2022, the High Court refused the application. On 19 July 2022, the Special Prosecutor filed a Notice of Appeal to the Court of Appeal, Civil Division, Accra against the decision of the High Court.

Northern Development Authority

On 30 June 2022, the Office commenced investigation into suspected corruption and corruption-related offences in respect of a contract awarded by the Northern Development Authority to A&Qs Consortium for consultancy services under the Infrastructure for Poverty Eradication Programme (IPEP), especially in respect of the quantum of the contract sum.

On 1 July 2022, the Special Prosecutor directed the Controller and Accountant General to immediately freeze payments arising from the contract.

Other Cases

The Office is also investigating seventy (70) other cases at various levels of consideration. These would be publicised if the Special Prosecutor determines that they are within the mandate of the Office and that they should be moved past the preliminary investigation stage.

This is a policy intended to protect the privacy of individuals and the business operations of institutions and companies, and to avoid unnecessary stigmatisation.



IV Miscellaneous Activities

- 4.1 On 9 April 2022, the Special Prosecutor participated in panel discussions at the Sloan Africa Innovate Conference at the Massachusetts Institute of Technology in Cambridge, Massachusetts, United States. The conference was on the theme – “A Way Forward: Leveraging Innovation as a Catalyst for Growth”.
- 4.2 On 28 April 2022, the Special Prosecutor conducted a lecture on the activities and operations of the Office at the Centre for Human Rights of the Faculty of Law at the University of Pretoria in Pretoria, South Africa.
- 4.3 On 4 May 2022, the Special Prosecutor delivered a paper on the uniqueness of the Office at the Twelfth Annual Regional Conference of Anti-Corruption Agencies in Commonwealth Africa in Kigali, Rwanda.

V Collaboration

- 5.1 The Office is collaborating with law enforcement agencies, including the Economic and Organised Crime Office, to adopt a standard operating procedure for asset recovery and management.
- 5.2 The Office commends the Commission on Human Rights and Administrative Justice for its investigation report on the Adjenim Boateng Adjei case and for its collaboration with the Office by transmitting vital documentary evidence which form the foundation of the case.
- 5.3 The Office is in active collaboration with anti-corruption civil society, non-governmental and community-based organisations in the fight against corruption. Our strategic partners are Ghana Integrity Initiative (GII) and the Afrobarometer Directorate of the Center for Democratic Development (CDD) – two institutions that have matchless reputations in the field.
- 5.4 The Office is also employing the services and expertise of investigative journalists to assist with investigations.
- 5.5 The Office has opened insightful interactions and meetings with foreign and diplomatic missions and international organisations. These include the missions of the United States, United Kingdom, Canada, Switzerland, European Union and the United Nations Office on Drugs and Crime (UNODC).



VI Conclusion

- 5.1 The Office shows much promise and it is poised to deliver on its mandate notwithstanding its formidable challenge of funding and material support. There is much force in the often-quoted observation that the law always appears to be a step behind criminal innovation. As technological advancement ushers in marvels hitherto unknown, perpetrators of corruption and corruption-related offences device sophisticated ways adapted to avoid detection. On this score, corrupt public officials and private persons exploit legal systems by employing diverse means to push back against law enforcement especially through intimidation and sometimes open threats directed at anti-corruption officials.
- 5.2 The Office requires adequate support and funding and the assurance of protection for its staff to perform their functions devoid of unjustifiable recrimination.
- 5.3 We invite the public to take a firm stance against corruption and corruption-related offences and to report and file complaints where such offences are suspected. This is the surest way to curtail corruption in the Republic.