



OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

LAUNCH OF THE ANTI CORRUPTION WEEK HELD ON 30TH
NOVEMBER 2018, AT THE CONSTITUTIONAL SQUARE

THEME: *“Citizen’s Participation in the Fight against Corruption: A sustainable path to Uganda’s Transformation”*

PERFORMANCE REPORT

BY

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Introduction

The Office of the Director of Public Prosecutions (ODPP), Uganda derives its mandate from Article 120 of the Constitution of the Republic of Uganda, 1995. Among the cardinal roles of the ODPP, is to institute criminal proceedings against any person or authority in any court with competent jurisdiction other than the Court Martial and to direct police investigations in criminal matters.

The ODPP falls under the Justice Law and order Sector (JLOS) which is mandated under the Second National Development Plan (NDP11) 2015/16-2019/20, to administer Justice, Maintain Law and Order as well as promote Human Rights. One of the focus areas for the JLOS institutions under Chapter 14 of the NDP II, is “to fight corruption in order to strengthen Uganda’s competitiveness for wealth creation and inclusive growth”. In Particular, JLOS institutions are expected to promote accountability and observance of human rights, by among others, “adopting and implementing anti-corruption measures.”

Mandate of the Anti-Corruption Department

The ODPP executes its mandate through the different departments among which, is the Anti-corruption department which was established in 2009, to prosecute cases before the Anti-Corruption Division of the High Court. The core mandate of the ACD is;

- a) To provide legal advice to investigating bodies in corruption and money laundering cases. (Prosecution-Led investigations);
- b) To prosecute corruption and money laundering cases;
- c) To Enforce Measures for recovery of proceeds of crime;
- d) Maintain Coordination with stakeholders on corruption matters;

Promoting accountability and good governance in Uganda requires concerted effort of the key players in the Justice system. In this regard, the ODPP’s performance hinges on the performance of all the other key players in the criminal justice sector.

Achievements for November 2017 to October 2018

Prosecution- led investigations

A number of cases have been handled under the prosecution LED investigations process. In term of prosecution led investigations, most of the cases are carried over and they take time to conclude since the prosecution team is involved in the investigations right from the beginning. A total of 18 cases have been handled and investigations therein are still ongoing due to the complexity of the matters, understaffing of both the investigators and the prosecutors.

Further, we are in the process of developing Prosecution Led Investigations Guidelines. A committee was also established for this purpose and the draft is already in place.

Prosecution of corruption related cases and money laundering cases

A number of cases have been prosecuted and concluded in court, through full trial as well as plea bargain. On the part of ACD, effort has been made to ensure that the culprits who are willing to do plea bargain do so and the cases are handled quickly thus not wasting courts time and reducing on backlog. 161 cases have been concluded for the financial year July 2017 to September 2018. Specifically 132 cases were handled in the previous financial year and 29 in the first quarter of the current financial year 2018/2019. The percentage conviction rate for the financial year 2017/18 was 67.1% and for the first quarter of 2018/2019 is 87.5%.

Additionally the ACD is the process of developing a prosecutor's manual on Plea Bargain. A committee assigned to handle this task was constituted and a draft manual is in Place.

The table below presents a highlight of the cases performance of the ODPP/ACD Department for the financial year 2017/18 and the first quarter of the financial year 2018

Case Stages	Gender Numbers			Number of Cases
	Male	Female	Juvenile	Total
NEWLY REGISTERED	161	48		231
UNDER INVESTIGATIONS & DECISION TO PROSECUTE				
Prosecution Led Investigations (on going)	24	6		18
Further Inquiries	222	57		281
Consented to Charge	35	16		42
Sanctioned		2		5
Committals	1	2		5
TOTAL	282	84		351
UNDER PROSECUTION				
Under hearing	110	32		149
On Mention	21	7		33
TOTAL	132	41		187
CONCLUDED CASES				
Convicted	38	8		45
Acquittals	18	2		15
Dismissed	9			7

Withdrawals	13	2		16
Closed Files	36	9		48
Administrative Action	1	-	-	1
Total Cases	115	21	-	132
Conviction Rate	67.1%			

First Quarter for F/Y 2018-2019

Case Stages	Gender Numbers			Number of Cases
	Male	Female	Juvenile	Total
NEWLY REGISTERED FILES	64	12	-	61
UNDER INVESTIGATION & FOR A DECISION TO PROSECUTE				
Prosecution Led Investigations (on going)	24	6		18
F/ Inquiries	69	12	-	66
Consented To	4	2	-	6
TOTAL	97	20	-	90
UNDER PROSECUTION				
Hearing	77	18	-	96
On Mention	20	4	-	21
TOTAL	97	22		117
CONCLUDED				
Convicted	8	5	-	12
Acquittals	3	-	-	1
Withdrawals	4	1	-	4
Closed	12	1	-	11
Dismissed	1	-	-	1
TOTAL	28	7	-	29
CONVICTION RATE FOR THIS QUARTER				85.7%

$$\text{Overall Conviction rate} = \frac{\text{(Conviction)}}{14} \times 100 = \dots\dots 85.7 \dots\dots \%$$

(Convictions + Dismissals + Acquittals)

Appeals and Miscellaneous applications

The ACD handles appeals and miscellaneous applications at the ACD, high court, court of appeal and the magistrate courts. In the main we have handled 75 cases on appeal both at ACD High court and Court of Appeal. We have just concluded a court of appeal session of 40 cases most of which are still pending judgement. 16 miscellaneous applications been handled at the ACD high court. Below is a summary of what has been handled for court of appeal and the ACD high court for the period November 2017 to date.

	CASE STAGES	Number of Cases	Male	Female
		Total		
1.	APPEALS AT ACD HIGH COURT	20	20	1
2.	COURT OF APPEAL CASES	55	40	8
3.	MISCELLENEOUS APPLICATIONS AT ACD HIGH COURT	16	12	3
	TOTAL	91	72	12

Asset Recovery

Recovered Funds

Between November 2017 to date, a total of **Shs. 1,174,363,766/=** has been recovered through compensation and confiscation Orders and deposited onto the Asset Recovery Account with Bank of Uganda.

Restrained Properties

For the period April to July 2018, Restraining Orders have been granted in respect of a number of properties, which include land, motor vehicles and bank accounts. For this period alone, the following properties have been restrained;

Bank Account No 3020095743 – Centenary Bank
 Busiro Block 432 Plot 456, Bumbuli
 Kyadondo Block 254 Plot 628 Balita
 Kyadondo Block 183 Plot 1812, Busasa.
 Kyadondo Block 183 Plot 1813, Busasa.
 Kyadondo Block 183 Plot 1814, Busasa.
 Kyadondo Block 183 Plot 1815, Busasa.

Kyadondo Block 183 Plot 1816, Busasa.
 Kyadondo Block 183 Plot 1817, Busasa.
 Kyadondo Block 183 Plot 1818, Busasa.
 Stanbic Bank (UGX) A/C No. 9030009189369 – Village Mall Bugolobi.
 Stanbic Bank (USD) A/C No. 9030009189296 - Village Mall Bugolobi
 LRV 3858 Folio 16/17 Plot No.1645 Kibuga Block 11 Land situated at Kabowa,
 Kampala District.
 Plot No. 932 Kibuga Block 9 Land situated at Kagugube, Mengo District.
 LRV 3829 Folio 19 Plot No.840 Kyadondo Block 262 Land situated at Makindye,
 Kampala District
 Kyadondo Block 257 Plot 691 Land situated at Munyonyo,
 Kyadondo Block 257 Plot 690 Land situated at Munyonyo.
 Kyadondo Block 257 Plot 109 Land situated at Munyonyo.
 LRV 3868 Folio 5 Plot 78 Land situated at Nakivubo Road
 Bank Account No.01407120002 Bank of Africa.

However, there are other restraining orders in respect of the pension cases which are ongoing and they get renewed every six months until the final disposal of the cases.

Training and Capacity Building for the ACD staff and other prosecutors across the country

Issues to do with corruption, money laundering, cybercrime and white collar crime generally are dynamic and complex. The cases handled at ACD are complex with evidence of a technical nature which poses challenges in analysing by the prosecutors thereby requiring external technical support. The technical capacity of the judicial officers is also inadequate in some cases.

In light of the above, the need for continuous capacity building and technical support is inevitable if the staff is to deliver effectively on their mandate. They require continuous training and hands-on support in order to be abreast with the latest developments in white collar crime.

Since November 2017, 18 staff under the ACD has been trained in the following areas, Asset Recovery, Money Laundering and Terrorism, Digital Forensics, Public Finance Management, Trial Advocacy, Financial Investigations, Regulatory Impact Assessment for the Development of the Proceeds of Crime Law, PROCAMIS, Risk Management, Leadership and Management among others. These trainings are made possible by the ODPP, and other partners like SUGAR TAF, UNODOC etc.

Challenges Encountered

- **Legislative challenges:** Anti-corruption measures call for strong legislations. However, Uganda still lacks some of the vital pieces of legislation, an Asset Recovery

Law, Anti-Corruption Regulations, Anti Money Laundering Regulations, and the witness protection Act. With regard to Asset recovery, there is no comprehensive law but sections scattered in various pieces of legislation. Additionally there is no law that allows recovery of proceeds before conviction (non-conviction based asset recovery) and as such even when the assets are traced and identified and at times restrained, they cannot be recovered until a conviction has been secured. This poses a challenge given the burden of proof on the prosecution to secure a conviction. Property gets lost or disposed of even when it is tainted but for failure to prove a charge against the person beyond reasonable doubt.

- **Lack of Mutual Legal Assistance Legislation:** Corruption cases are in most times committed across borders and even some of the assets that would be recovered can be traced across the borders. However, there is no legislation providing for mutual legal assistance in that respect. This therefore means that the properties across the border cannot be recovered.
- **Inadequate staffing:** The Office of the Director of Public Prosecutions is gravely under staffed which affects the organisational performance. The success of any organisation largely depends on the human resource which should be adequate both in terms of quality (skill, knowledge and competencies) and quantity. For example, it is not uncommon to find one prosecutor appearing in court in a corruption matter involving more than five accused persons against more than five defence attorneys. The ratio of workload to staff is really high thereby creating a case backlog and affecting the quality of investigations and prosecutions.
- **Lack of legal and institutional framework for Asset management:** Most of the assets that would be recovered are going- concerns and courts are reluctant to issue restraining orders in such cases due to the fact that there is no infrastructure for the management of such assets. Even in a case where a management order has been issued to the Official receiver, there are challenges because of lack of a clear management structure.
- **Cash Based Economy:** Uganda is mainly a cash based economy hence so many people tend to transact with cash without leaving a financial trail which may be followed for investigation purposes. This makes identifying and tracing of assets difficult. Principally the prosecution is required to prove its case beyond reasonable doubt which is an uphill task where vital pieces of information are missing to tie the evidence together in order to make a good case.
- **Inadequate Skills in Asset Tracing:** The investigators lack skills in tracing/identifying assets and at times the assets are not registered in the names of the accused and thus difficult to attach them.

- **Inadequate Tooling:** The Asset recovery unit of the ODPP does not have adequate tools such as vehicles and yet there is a lot of movement.
- **Inadequate funding:** The ODPP suffers inadequate funding to conduct prosecution led investigations which makes it hard to trace assets. In order to effectively trace and subsequently recover assets, it is important that asset recovery investigations be conducted concurrently with the main investigations. This is in most cases not possible due to inadequate funding and as result property that is tainted gets disposed of.
- **Inadequate witness funds:** the success of a case is dependent not only on the quality of evidence but also the ability to produce witnesses to testify in court. Securing witnesses for court attendance requires funding and yet sometimes there are no witness funds in courts and so witnesses cannot be summoned which leads to stagnation/ delay of cases thereby creating case backlog.
- **Lack of cooperation from witnesses:** There are cases where witnesses do not turn up when summoned leading to numerous adjournments of the cases. Some witnesses relocate making it difficult to trace them while others fail to testify due to fear for their lives since most of them are called to testify against either their colleagues or their superiors. This is worsened by the absence of Witness Protection Law. As a result some deserving cases have stalled in court while others have been withdrawn for failure of the witnesses to come and testify.

Recommendations

Legislative

- A comprehensive law to provide for asset recovery law in Uganda should be enacted.
- Legislate for Witness Protection.
- Regulations under the Anti-Money Laundering Act should be developed.
- Regulations under the Anti-Corruption Act should be developed.
- Legislate for Mutual Legal Assistance.

Funding

- There is need to increase funding for the operations of the ODPP and also remuneration of the staff.
- Provide funding for the witnesses.
- Ensure that the asset Recovery Unit is adequately tooled.

Staffing

- There is need to increase the staffing for the ODPP in general.
- Deploy more staff to the ACD

Capacity Building

Continuous training and hand-on support is needed in the following areas;

- Cyber Crime (Electronic Fraud)—Identification, extraction, preservation and presentation of evidence emanating from fraud involving use of the computer and electronic transfer of funds.
- Money Laundering (both local and international). How to identify a money laundering case.
- Mutual Legal Assistance (How to draft an effective MLA)
- Extraction and management of Evidence.
- Asset Recovery (tracing, freezing, confiscation and management)
- Financial investigation.
- Public Finance Management
- Basic auditing principles
- Digital forensics
- Trial Advocacy
- Direct case support through provision of technical assistance.

Plans for the next year 2018-2019

1. Finalise the internal Plea Bargain Manual.
2. Finalise the internal Prosecution Led Investigation Guidelines.
3. Continue to conduct prosecution Led Investigation on the on-going cases.
4. Undertake investigations in the alleged mismanagement of refuge operations in Uganda.
5. Prepare and prosecute the Pension 3 Case in court.
6. Perusal and handling of files within the stipulated timelines.
7. Continue prosecuting corruption and money laundering cases.
8. Training of staff in money laundering and corruption matters and white collar crime.
9. Enhance the capacity of Asset Recovery Unit.

Conclusion

The theme of this anti-corruption week ***“Citizen’s Participation in the Fight against Corruption: A Sustainable Path to Uganda’s Transformation”*** cannot have been put better. The need for citizenry participation in the fight against corruption and crime generally need not be over emphasized. The ODPP and the justice system generally, heavily rely on the citizens to not only report cases at police, but to cooperate with the police in the course of investigations and to come and testify in court when required. Without their involvement, the fight against corruption would be in vain. It is therefore important that all stakeholders, actively and meaningfully engage the public in the fight against corruption.