



### RE: OSP MEDIA BRIEFING

1. The Judicial Service Staff Association of Ghana (JUSAG) have noted with concern the Media Briefing by the Office of the Special Prosecutor (OSP) on Thursday, November 29, 2023 which has gained media attention over the week.
2. In the said briefing, the SP expressed his misgivings about judicial decisions involving the OSP in which he alleged a *'developing trend of regressive and dismissive judicial decisions in respect of cases involving the OSP with troubling consequences which is hampering the fight against corruption'*. The SP further cited four instances of unfavourable judicial decisions to support his assertions.
3. The learned SP correctly stated that *'the duty of the Court is to enforce and apply the law of the Republic...'*. However, he went ahead to cast aspersion on judges and the judiciary with a number of allegations including that
  - a. a Judge **'without even an enquiry'** as to why the OSP believed a subject of investigation to be a fugitive from justice, issued an injunction order that the OSP should not arrest him (the subject) for a period of ten days.
  - b. a judge was only interested in a return of the money to the person of interest and nothing more and **proceeded to erect non-existent legal barriers** to prevent the OSP from investigating the matter.
  - c. In a worse instance, a judge proceeded to prohibit the OSP from further investigating the affected persons. **The judge fell into the grievous fault of what** he accused the OSP of – **by outlandishly going beyond his jurisdiction** with a purported clothing of the affected persons with immunity from investigation and hence immunity from prosecution
  - d. The judiciary should not interfere with investigation and prosecution authorities in respect of matters which are within their statutory powers.
4. There appears to be a growing trend where anti-corruption agencies and crusaders assume immunity from criticism or unfavourable judicial decisions. Any decision against anti-corruption institution is interpreted to mean an endorsement of

corruption. However, the rule of law requires that the laws be applied and enforced on all persons and institutions without fear or favour, affection or ill-feeling.

5. Much as the Judiciary is not above the law and are not immune from criticism, the OSP is equally a creature of the statute. It derives its powers from the law. Its functions and powers are exercised within the confines of the law. The Judiciary owe it a duty to ensure that no institution goes beyond its boundaries in the exercise of its statutory powers and functions. And this duty includes the power of the Judiciary to review itself through avenues provided by law. This may include appeals, reviews or applications to set aside any impugned order or decision of Courts.
6. No matter how genuine the issues raised by the SP may seem, we all need to appreciate that the OSP is a novel institution in our 4<sup>th</sup> Republic, and will require tenacity and support of all players in the legal industry to set good precedence to guide the operations of the OSP and future judicial decisions.
7. There are judicial avenues through which the concerns raised by the OSP can be legitimately addressed. Judicial remedies referred supra exist for concerns such as so-called '*faulty judicial decisions, courts acting without or in excess of their jurisdictions, and misapplication or misinterpretation of the law*'. The cases were tried at the High Court, and if the SP disagrees or is dissatisfied with the decisions of the High Court, it could proceed to the Court of Appeal, and will still have the opportunity to appeal further to the Supreme Court for redress.
8. The OSP and legal luminaries ought to support the Courts and the Judiciary to broaden the frontiers of the justice system through judicial review. Instead of resorting to only the press briefing which does not change the '*wrong*' judicial precedence supposedly claimed by the SP, his office, the legal system and the people of Ghana are better served if he explores the avenues of judicial review provided in the Constitution of Ghana.
9. The Courts do not exist to satisfy itself or the whims and caprices of any individual or state institution. Indeed, justice emanates from the people and is exercised in

the name of the Republic by the Judiciary which is independent, and subject only to the Constitution.

10. It is our collective duty as Ghanaians to support critical state institutions such as the OSP. Equally, we owe it a duty to support the Judiciary through constructive criticism, and the use of appropriate fora to address our concerns in a manner developmental to the course of justice delivery and not detrimental.

**HAPPY FARMERS DAY TO OUR GALLANT GHANAIAN FARMERS**

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