**16TH MAY 2024 STATEMENT OF ELECTORAL COMMISSION ON SALL CONFIRMS GROSS INCOMPETENCE AND UNCONSTITUTIONAL CONDUCT OF COMMISSION**

In its latest (16th May 2024) statement, the Electoral Commission continues to throw dust into the eyes of the public. None of the points made in my response to the 14th May 2024 statement (amended by a later 15th May 2024 statement) about the conduct of the Electoral Commission on 6th and 7th December 2020 are addressed by the Commission.

The attempt to make the creation of a district by the Ministry of Local Government and Rural Development the sole reason for the Commission’s actions shows how unfaithful to the Constitution of the Republic of Ghana and how irresponsible the Commission is.

Article 47(1) makes clear the responsibility of the Electoral Commission in respect of the creation of constituencies: “Ghana shall be divided into as many constituencies for the purpose of election of members of Parliament as the Electoral Commission may prescribe, and each constituency shall be represented by one member of Parliament.” Nowhere in the clauses of that article or in the Constitution is it provided that upon the creation of a district by the Ministry of Local Government and Rural Development the Commission is to create a constituency.

The Commission already created constituencies for the previous (2016) election which placed voters in the SALL Traditional areas into the Hohoe Constituency. In article 47(5) of the Constitution, the following provision is made for the basis on which the Commission reviews its division of the country into constituencies: “The Electoral Commission shall review the division of Ghana into constituencies at intervals of not less than seven years, or within twelve months after the publication of the enumeration figures after the holding of a census of the population of Ghana, whichever is earlier, and may, as a result alter the constituencies.”

Creation of a district by the Ministry of Local Government and Rural Development is not one of the triggers the Constitution allows for the Commission to review the constituencies which it has established for the holding of Parliamentary elections. The Legislative Instrument creating the Guan District could not trigger a review by the Commission of the constituencies that had been established by the Commission. There was no “constitutional duty” on the Commission to create a new constituency, as the Commission is claiming, simply based on a letter of 13th November 2020 from the Ministry of Local Government and Rural Development about the creation of a new district. Especially as it was obvious that Parliament would not have been able to pass a Constitutional Instrument that would be effective for the conduct of the 7th December 2020 elections. Moreover, as I pointed out in my statement of 15th May 2024, a change in the boundaries of a constituency as a result of a review in terms of article 47(5) of the Constitution could not, by virtue of article 47(6), have come into effect until the next dissolution of Parliament which was 6th January 2021. Such a change would, therefore, not apply to the conduct of an election on 7th December 2020.

If the Commission were minded to perform its “constitutional duty”, all it had to do was to conduct the Parliamentary elections on 7th December 2020 was on the basis of the constituencies that it had previously established for the 2016 elections.

Instead of referring to the provisions of the Constitution that establish its responsibilities, the Commission rather starts its “duty … to educate the public on the electoral process” by relying on provisions of the Local Governance Act, 2016 (Act 936) -sections 5(1)(c), 6 and 7. The Commission proceeds to make a statement in paragraph 3 that is simply false. It claims: “The provisions of the Constitution and the Local Governance Act … provide the legal basis for creating a new constituency whenever a new district is created …”. Nothing in the Constitution nor even in the Local Governance Act provides a legal basis for creating a new constituency **whenever a new district is created**.

In offering its interpretation of the Local Governance Act to justify its misconduct, the Commission also ignores the fundamental legal point that provisions in a statute cannot override the provisions of the Constitution! In none of the statements of the Electoral Commission do we read about Article 47 of the Constitution and other important constitutional provisions on the role of the Commission.

It is interesting that the 16th May 2024 statement of the Electoral Commission ends with a quotation from paragraph 10 of the response of the Attorney –General to Parliament on 13th November 2023 in which he was basically blaming Parliament for having allowed the instrument that created the Guan District to come into effect. This is the very Attorney-General who had previously said the Electoral Commission should not have prevented the voters from the SALL Traditional areas from voting but should have had them vote in the Buem constituency! (see attached). On this same pretext, some individuals started a suit in the High Court, Hohoe, to have the election of Honourable Kofi Adams as MP for Buem Constituency nullified.

According to paragraph 10 of the 16th May 2024 statement of the Electoral Commission, had the Commission “left residents of the Guan District to vote for an MP in the Jasikan District/Buem Constituency, the election of the MP for the Buem Constituency would have been in violation of an Act of Parliament, Act 936, as the MP would have illegally become a member of more than one District Assembly, the Guan District Assembly and the Jasikan District Assembly.” So, the Electoral Commission is not on the same page as the Attorney-General after all!

It is wholly unacceptable that, rather than focus its attention on complying with article 47 of the Constitution and using the existing constituency for voters in the SALL Traditional areas, the Electoral Commission went contrary to articles 47(5) and (6) of the Constitution of the Republic of Ghana.

The facts are clear:

**THE PEOPLE OF SALL WERE DISENFRANCHISED BY THE ELECTORAL COMMISSION**.

FRANKLIN CUDJOE

17TH MAY 2024