

OUR REF: CHRAJ/ 114/2024/297

29TH OCTOBER, 2025



COMMISSION ON
HUMAN RIGHTS AND
ADMINISTRATIVE JUSTICE
(CHRAJ)

THE PRESIDENT

IMANI CENTRE FOR POLICY & EDUCATION

P.O. BOX AT 411

ACCRA

Dear Sir,

**RE: PETITION TO INVESTIGATE THE ELECTORAL COMMISSION'S CONDUCT IN
THE RETIREMENT AND DISPOSAL OF ELECTION-RELATED EQUIPMENTS:
RULING ON PRELIMINARY OBJECTION TO JURISDICTION**

Kindly find attached the ruling of the Commission on the objection to its jurisdiction raised by the 1st Respondent/Electoral Commission, in the investigation of the above-stated complaint for your compliance.

Yours Sincerely,

DANIEL AFETSI

PRINCIPAL REGISTRAR

For: Commissioner

CASE NO.: CHRAJ/114/2024/219

**IN THE MATTER OF THE COMMISSION ON HUMAN RIGHTS AND
ADMINISTRATIVE JUSTICE ACT, 1993 (ACT 456)**

AND

**IN THE MATTER OF ALLEGATIONS OF CORRUPTION, CONFLICT
OF INTEREST, CAUSING FINANCIAL LOSS TO THE STATE AND
BREACHES OF THE PROCUREMENT LAW**

BETWEEN:

**IMANI CENTRE FOR POLICY
AND EDUCATION**

COMPLAINANT

AND

- 1. THE ELECTORAL COMMISSION OF GHANA**
- 2. THALES COMPANY LTD.**
- 3. NEUROTECHNOLOGY COMPANY LTD.**
- 4. FAIRGREEN COMPANY LTD.**
- 5. SANIDASO MART AUCTIONEERS**
- 6. ELECTRO RECYCLING GHANA LTD.**

RESPONDENTS

RULING ON PRELIMINARY OBJECTION TO JURISDICTION

It is provided under Section 7(1)(a), (c) and (f) of the **Commission on Human Rights and Administrative Justice Act, 1993(Act 456)** that:

7. Functions of the Commission

(1) In accordance with article 218 of the Constitution, the functions of the Commission are,

- (a) to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair**

treatment of any person by a public officer in the exercise of his official duties;...

(e) to investigate allegations that a public officer has contravened or has not complied with a provision of Chapter Twenty-four (Code of Conduct for Public Officers) of the Constitution;...

(f) to investigate instances of alleged or suspected corruption, and the misappropriation of public moneys by an official and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from that investigation;

It is also provided under articles 218(a), (e), 284 and 287(1) of the 1992 Constitution that:

Functions of the Commission

The functions of the Commission shall be defined and prescribed by Act of Parliament and shall include the duty-

(a) to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties;...

(e) to investigate all instances of alleged or suspected corruption and the misappropriation of public moneys by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigations;

284. A public officer shall not put himself in a position where his personal interest conflicts or is likely to conflict with the performance of the functions of his office

287(1) An allegation that a public officer has contravened or has not complied with a provision of this Chapter shall be made to the Commissioner for Human Rights and Administrative Justice...who shall unless the person concerned makes a written admission of the contravention or non-compliance, cause the matter to be investigated.

The 1st Respondent/Electoral Commission of Ghana has raised a preliminary legal objection to the jurisdiction of this Commission to conduct investigations into the above stated matter lodged in this Commission on 06 May 2024 by the Complainant herein on two (2) main grounds which we would refer to shortly.

By way of background, since 2011 the 1st Respondent has been conducting public elections in Ghana deploying an electronic verification management system to ensure voter transparency and integrity. The procurement of equipment, software and ancillaries has been a necessary component of this drive.

The instant complaint was triggered by the decision of the 1st Respondent in 2020, to dispose of and procure a brand-new set of equipment, software, ancillaries and other items to replace the technological infrastructure then in use in the country particularly various biometric devices, computer gadgets, data centers and communications systems allegedly referred to by the 1st Respondent as the Biometric Voter Management System (BVMS).

The Complainant has listed the components of the BVMS as follows: Biometric Verification Devices, Biometric Voter Registration Kits, ABIS Software and Databases and datacenters. On the 7 August 2024, the Complainant decided to expand the scope of its petition to cover what it described as Very Small Aperture Terminal (VSAT) allegedly also procured by the 1st Respondent.

The beef of the Complainant is that the procurement and disposal of some components of the BVMS by the 1st Respondent reeks of corruption, bid rigging, improper auctioning of equipment, misappropriation, waste, misuse of resources, suppression of inventory records, facilitation of undue commercial profiteering, infractions of laws, regulations and standard protocols relating to the management of electoral systems, data protection and public financial management; non-compliance with the Code of Conduct for Public Officers under Chapter 24 of the Constitution, abuse of power, causing financial loss to the state, non-compliance with financial regulations and procurement breaches contrary to the Public Procurement Act, 2003(Act 633) as amended as seen in the allegations which are summarized hereunder:

1. That in 2020, the 1st Respondent/Electoral Commission embarked on a process to procure new equipment, software, ancillaries, and other items to replace technological equipment then in use in Ghana for Public Elections;
2. That these technological equipment constituting the Biometric Voter Management System (BVMS) are of four (4) categories to wit: Biometric Verification Devices (BVDS), Biometric Voter Registration Kits(BVRs), ABIS Software, and Databases and Datacentres;
3. That the Complainant opposed the procurement of these items after examining the claims of the 1st Respondent particularly its claim that the existing Biometric Voter Management System (BVMS) was obsolete because it was procured in 2011.

4. That the Complainant rejected the claims of the 1st Respondent in paragraph 3 above because it had information showing that until 2020 the 1st Respondent operated a policy of buying new devices to replace faulty or degraded ones.

5. That further to this reason, there were Biometric Verification Devices (BVDs) and Biometric Voter Registration Kits (BVRs) that had been bought after 2011, some as late as 2018 and 2019 and therefore the entire BVDs and BVRs could not be said to have been procured in 2011 and therefore not obsolete.

6. That a component of a single BVR such as digital camera **could be** old or faulty whilst within the same set another component such as fingerprint scanner or laptop could be brand new and in perfect working order.

7. That in instances such as paragraph 6 above, what the 1st Respondent, until 2020, customarily did was to replace the old or faulty component in the set without tampering with the other components.

8. That in 2020, the 1st Respondent proceeded to procure tens of thousands of BVDs and thousands of BVRs at great cost to the nation instead of replacing those that were faulty or unserviceable as has been in the past.

9. That the procurement process for the BVDs and BVRs attracted additional criticism from the Complainant including allegations of bid rigging, manipulation and engineering of preferred outcomes.

10. That the procurement process for the ABIS Software was shrouded in secrecy and that the Complainant criticised same for seeming inflation of costs.

11. That in 2024, the Complainant discovered that **thousands of the Biometric Verification Management System** components were found in a recycling plant in Accra owned or operated by a company called Electro Recycling Ghana i.e the 6th Respondent.

12. That the 1st Respondent's response following public reactions by the Complainant heightened the latter's suspicion that the 1st Respondent's action amounts to a breach of the Code of Conduct for Public officers i.e Chapter 24 of the 1992 Constitution.

13. That the approach by the 1st Respondent to the disposal of these items was dictated partly by the need to suppress inventory records and to evade accountability and partly by the need to facilitate undue

commercial profiteering by the beneficiaries of the 1st Respondent's disposal methods.

14. That the 1st Respondent's conduct breaches the high standards expected of a major constitutional body, laws, regulations, and standard protocols relating to management of electoral systems, data protection, and public financial management.

15. That the 1st Respondent awarded multi million contracts to the 2nd, 3rd, 4th and 5th Respondents and others in 2020 to procure new Biometric Verification Management System (BVMS) termed the legacy equipment.

16. That the roughly 245,000 other obsolete items that the 1st Respondent asked the Ministry of Finance to approve for public auction must have contained many laptops/notebooks, scanners, printers, cameras and other ancillaries that could not have been said to be obsolete and therefore should not have been auctioned off on the basis of their being obsolete.

17. That the 1st Respondent's equipment are used highly infrequently, checked and serviced before and after use and some refurbished periodically and therefore have a residual value far longer than other organisations.

18. That the 1st Respondent intends to use BVMS equipment procured in 2020 for the 2024 elections, even though it has declared equipment purchased in 2018/2019 as obsolete for the 2020 elections.

19. That the classification of all these equipment as uniformly or entirely obsolete instead of clustering them into sets based on their actual acquisition date, state of condition, brand or make, made the auction rigged from the outset to handover a large number of valuable legacy equipment to lucky buyers who will be able to profit from their resale or continuous commercial utilisation to the detriment of the state.

20. That the Respondent should have known that many state institutions such as the National Identification Authority, the Ghana Police Service, Ghana Passport Office could have benefitted from this electronic equipment aware of the financial constraints facing the country.

21. That by bundling the legacy equipment with unserviceable automobiles and motorcycles and thus failing to describe the items properly i.e. instead of using their descriptive names such as laptops, digital cameras, scanners, printers including providing brand

information, the Respondent ensured that the auction will fail to fetch the right pricing for these legacy equipment.

22. That by failing to describe the legacy equipment properly, honestly, and transparently, the advertisement in the Daily Graphic in or around February 2023 was deceptive and unlikely to ensure that the state obtains value for money from the auction.

23. That the Respondent did not conscientiously comply with the letter and spirit of Public Procurement Authority's rules ie Guidelines for Disposal of Goods & Equipment for the disposal of such items.

24. That the purported request for a valuation report from the state valuer and the seeming compliance with the Board of Survey requirement in the regulation were compromised by a failure to ensure adequate categorisation of the legacy equipment to ensure the right valuation outcomes.

25. That the absence of effective classification and similar problems led to an underestimation of the original acquisition cost of these items and of an appreciation of their life cycle value overtime due to refurbishment which in turn led to the wrongful use of the public auction method rather than the public tender method.

26. That since the public tender method has more stringent criteria for safeguarding public resources, the Respondent's conduct may have been necessitated by the need to avoid the transparency, Public Procurement Authority oversight, and stricter even-handedness required in public tenders; The Complainant believes that this constitutes an element of procurement abuse, corruption, and conflict of interest.

27. That in a proper valuation exercise, considering the dates and costs of acquisition of the various electronic items, the value of the disposed/discarded legacy equipment would exceed the threshold making a public tender mandatory.

28. That the full costs would include costs of configuration, logistics, installation, refurbishment, and consulting to achieve their final form for use in public elections.

29. That the selection of auctioneers should have been made public to ensure full compliance with public agency financial regulations in Ghana.

30. That the Auction House selected, Sanidaso Mart, as stated by the Director of Electoral Services of the Respondent on Television, appears not to be duly registered with the Auctioneers Registration Board of the Ministry of Interior.

31. That the Complainant believes that upon the acquisition of the legacy equipment, the successful bidder sifted through the equipment, and differently extracted massive commercial value from the equipment purchased and or refurbished at great cost to Ghana and then sold or transferred the older and lower-end equipment to the 6th Respondent/Electro Recycling Ghana limited.

32. That the 1st Respondent has in a Statement admitted to not knowing that the legacy equipment was in the custody of a recycling company and therefore involved the Police to retrieve and test a sample of the devices.

33. That for such sensitive equipment, the proper conduct of the 1st Respondent should have involved a special agreement with the acquirers to ensure that the right controls were in place for the handling of the equipment.

34. That special processes for destroying sensitive electronic media were not followed by the 1st Respondent, the winning bidder and the recycling plant.

35. That the 6th Respondent/Electro Recycling Ghana Limited at the time that it received parts of the legacy equipment did not have any relevant certifications, recognition or partnerships with the likes of the Data Protection Commission, the Cybersecurity Authority, or the National Information Technology Agency that could have equipped it with capacity to ensure the safe handling of devices containing sensitive personal data of millions of voters as well as in case of the BVDs, voting verification data neither did it have certifications from reputable auditing organisations attesting to its capacity to handle sensitive data;

36. That the legacy suppliers based on correspondence, Exhibit 4 have refused to accept the characterization of the entire equipment sold at various intervals in Ghana as being obsolete contrary to the claims of the 1st Respondent supported by documents circulated from HSB International and Genkey, key suppliers of principal components of the legacy BVMS;

37. That the legacy suppliers have also attested that these devices were valuable as at the time of their premature retirement from service by the 1st Respondent in 2020;

38. That letters relied on by the 1st Respondent in aid of its position, date from 2018 before certain new consignments of legacy were delivered, existing stock of legacy equipment refurbished and various legacy BVR ancillaries serviced and subject to maintenance for use in the Referendum of late December 2018 and the District Assembly Elections of 2019.

39. That credible and peaceful public voting exercises were conducted with the legacy equipment in 2018 and 2019 after these letters were written.

40. That the legacy BVMS equipment purchased in the years 2011 and 2012 were refurbished overtime whilst some were considered to be in good condition until 2016 and that the 1st Respondent has a practice of replacing truly obsolete or outmoded equipment in its portfolio without assuming that any replacement cycle must cover the entire portfolio.

41. That the fact that some laptops, cameras, scanners, printers and BVDs may be obsolete or outmoded within the larger BVMS portfolio does not warrant the discarding of the entire portfolio at fire sale prices. Proper financial management conduct would require careful sorting, classification, and valuation, leading to differential treatment of the items;

42. That there is ample evidence from the Ministry of Finance, Parliamentary subcommittee and the Auditor-General records that this legacy equipment were purchased at different intervals since 2011, and therefore many of the equipment at the time of their premature retirement by the 1st Respondent in 2020 and their disposal in 2023 were relatively new, in good condition, and fully serviceable.

43. That records of the Special Budget Committee of Parliament that oversees spending by the 1st Respondent show that the 1st Respondent routinely budgeted for replacements and refurbishments of portions of the legacy BVMS equipment at intervals between 2012 and 2019.

44. That the 1st Respondent's assessment of the obsolescence of the BVMS legacy equipment cannot be divorced from the self-interest of some of its officials, the vendors and consultants engaged by these officials.

45. That some consultants connected with 4th Respondent/Fairgreen Limited had incentives to push for a brand new BVMS because of the consulting and other vendor opportunities on offer if the 1st Respondent followed their advice;

46. That the scant pieces of evidence relied upon by the 1st Respondent to ground its claim that the entire portfolio of legacy BVMS equipment is obsolete have never included a detailed item by item evaluation by a truly independent assessor without any commercial interest or expectations of a commercial relationship with the 1st Respondent.

47. That the only independent basis for the premature retirement of the legacy BVMS equipment provided by the 1st Respondent is their performance during elections held in 2018 and 2019, such as Referenda and District Assembly Elections. Analysis by the Complainant, corroborated by legacy BVMS suppliers and independent electoral observers contradict the Respondent's claims that the performance of the legacy equipment during public elections in 2018 and 2019 attest to their obsolescence.

48. That a trend analysis of BVD failures, BVR underperformance and manual verification incidence do not show any out of the ordinary performance issues associated with the legacy equipment in 2018 and 2019. CODEO for example in its comment on the legacy BVDs used in 2018 referendum exercise stated emphatically that it did not see a failure of any of the BVDs. Again, during the 2019 District Elections, the last one during which the legacy equipment was deployed, CODEO recorded a 6.7% failure rate; and

49. That in the 2020 General Elections where brand new BVMS were used, the failure rate was 10.3% significantly higher than comparative failure rates witnessed during the use of the legacy equipment in the various previous elections. In 2016 for example, the BVD failure rate was less than 4% according to the European Union Observer Mission whilst CODEO recorded a failure rate of 6%.

The paragraphs highlighted above largely encapsulate the allegations.

Despite the density and plurality of these allegations, the 1st Respondent has chosen to conveniently attack the jurisdiction of the Commission on two (2) grounds as follows:

1. That the petition/complaint invites the Commission to investigate EC's alleged violation of data protection laws in relation to the disposal of the Biometric Voter Management System, a mandate that is vested in the Data Protection Commission which under section 3(c) of the Data Protection Act 2012(Act 843) is mandated to investigate any complaint under this Act [The Data Protection Act] and determine it in the manner the Commission considers fair.

2. That the petition further invites the Commission to investigate the EC for allegedly causing financial loss to the state, a criminal offence that does not fall within the jurisdiction of the Commission but rather the Economic and Organised Crime Office (EOCO) which is mandated under Section 3(a)(i) of the Economic and Organised Crime Act, 2010 (Act 804) to investigate and under the authority of the Attorney-General, prosecute serious offences involving causing financial loss to the state; and more generally under the investigative and prosecutorial authority of the Attorney-General and the Ghana Police Service.

The 1st Respondent posits in conclusion that the jurisdiction of this Commission cannot be **extended to matters expressly reserved by law for other authorities**.

The response of the Complainant per its Solicitors Gyandoh Asmah & Co, vide letter dated 11 September 2025 is to urge this Commission to overrule the objection. Complainant argues that the petition raises fundamental issues of administrative justice, abuse of power, corruption, and conflict of interest under Articles 23, 218, 284 and 287 of the 1992 Constitution, which squarely invoke the Commission's constitutional oversight role. Complainant contends that the retirement and disposal of election related equipment touch on the integrity of Ghana's electoral process, a matter of overriding public interest warranting the Commission's oversight.

On the allegation of causing financial loss to the state, the Complainant whilst conceding that causing financial loss to the state has been criminalized under the Criminal Offences Act, 1960 (Act 29) and investigable by the EOCO, states that the Complainant has not petitioned to conduct a criminal trial but to investigate whether the administrative decisions and procurement processes of the Electoral Commission in the disposal of election related equipment, amounted to maladministration, corruption, conflict of interest or abuse of public office. Complainant states that the Commission's jurisdiction under Article 218(a)-(c) explicitly includes the investigation of corruption, abuse of power and breaches of procurement law and that where investigations disclose evidence of criminal conduct, CHRAJ may refer the matter to the Attorney-General or EOCO but that does not oust its primary jurisdiction.

The plaint of the Complainant viewed from any lens, and as understood by this Commission is that the procurement and disposal of the Biometric Voter Management System is tainted with corruption, procurement irregularities, conflict of interest, bid rigging etc. These are matters falling within the constitutional and statutory mandate of the Commission under Article 218, 284 and 287 of the Constitution and Act 456 cited supra although arguable some institutions may have similar mandates.

However, the exclusivity of this Commission to investigate allegations of conflict of interest or matters falling under Chapter 24 of the Constitution has been stated authoritatively by the Supreme Court in **Okudzeto Ablakwa (No 2) & Another v. Attorney-General & Obetsebi-Lampitey (No 2) [2012] SCGLR 845**. Brobbey JSC reading the lead judgment of the majority held at page 868 of the decision as follows:

Article 284 is part of Chapter 24 of the 1992 Constitution which is headed: "CODE OF CONDUCT FOR PUBLIC OFFICES". The complaints of the plaintiffs were made against officials of the Lands Commission...they are public officers...The issue of conflict of interest raised here can easily be resolved by recourse to article 287 of the 1992 Constitution. Article 287 mandates that complaints against a public officer under chapter 24 of the 1992 constitution are to be investigated exclusively by the Commission for Human Rights and Administrative Justice...

That being the case, whereas in the instant complaint an allegation of conflict of interest is made relating to the disposal and procurement of the Biometric Voter Management System, the Commission's view is that the **Data Protection Act 2012 (Act 843)** cannot be called in aid to oust the constitutional mandate of this Commission. In our view, although the Data Protection Commission is mandated under section 3(c) of Act 843 to "investigate any complaint which the Commission considers fair" regarding data processing, this does not preclude constitutional scrutiny.

This applies mutatis mutandis to allegations of corruption and its species such as abuse of power, bid rigging, procurement breaches, improper auctioning of equipment, misappropriation, waste, misuse of resources, suppression of inventory records, facilitation of undue commercial profiteering, infractions of laws, regulations and standard protocols relating to the management of electoral systems, non-compliance with financial regulations.

The second leg of the preliminary objection to jurisdiction relates to the offence of causing financial loss to the state. Admittedly, the act of causing financial loss to the state is a criminal offence under Section 179A(3)(a) of the Criminal Offences Act, 1960(Act 29).

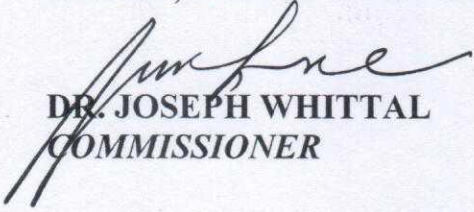
However, it has been argued that financial loss to the state is an element of corruption (See Article by M Mulyono entitled **Analysis of Handling State Losses in Corruption Crimes** published by the International Journal of Social, Policy and Law accessed on 25 October 2025 at <https://ijospl.org>).

Since it is a form of corruption, the argument that it is a criminal offence amenable to investigations and prosecution only by the Attorney-General, the Police and the EOCO is with respect, untenable; the simple reason being this Commission has the mandate under Article 218(e) to investigate **“all instances of alleged or suspected corruption.”**

The Commission agrees with the Complainant that where in its investigations criminal matters are found it can refer same to the Attorney- General for prosecution. This argument aligns with Article 218(e) of the Constitution which mandates the Commission **“to investigate all instances of alleged or suspected corruption and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigation;”**

For these reasons, the Commission overrules the preliminary legal objection to its jurisdiction and accordingly directs the 1st Respondent to cooperate with the Commission for a successful investigation.

**DATED AT THE COMMISSION ON HUMAN RIGHTS AND
ADMINISTRATIVE JUSTICE (CHRAJ), OLD PARLIAMENT HOUSE,
ACCRA, THIS 28TH DAY OF OCTOBER, 2025.**



**DR. JOSEPH WHITTAL
COMMISSIONER**