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**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

**MEDIA STATEMENT ISSUED AT THE INSTANCE OF THE CHAIRPERSON OF
THE COMMISSION**

21 October 2021

1. Mr Arthur Fraser has made statements that have been widely reported in the media that the Chairperson of the Commission has:
 - (a) denied him the opportunity to give evidence before the Commission and to defend himself against witnesses who have implicated him, and,
 - (b) denied him the opportunity to cross-examine witnesses who have implicated him in the Commission.

2. In response to media requests for the Chairperson's response to these statements, the Commission wishes to make it clear that Mr Fraser's statements are not true. The position is the following:
 - (a) despite public calls made by the Chairperson of the Commission from February 2018 to early in 2020 inviting past and present Directors-General and Ministers who had knowledge of alleged acts of state capture and corruption to come forward and give that information to the Commission, Mr Fraser did not, over more than two years, come forward to share such information with the Commission.

- (b) in terms of Rule 3.3. of the Rules of the Commission, any person who is implicated by a witness in the Commission and who wishes to testify and defend himself or herself against allegations or evidence of wrongdoing is required to apply to the Commission for leave to give evidence and that application is decided by the Chairperson. Mr Fraser has never submitted an application to the Commission for leave to give evidence. It is not clear why, if Mr Fraser felt that he had been implicated by certain witnesses in wrongdoing, he did not follow the Rules and apply for leave to testify. In this regard it is to be noted that Mr Fraser is legally represented by lawyers who are familiar with the Rules of the Commission. If Mr Fraser wanted to testify, he needed to comply with the Rules that govern the position of persons who want to testify to defend themselves against witnesses who have implicated them.
- (c) on 5 August 2020 an investigator of the Commission called Mr Fraser's then attorney (not the current one) after becoming aware of statements by Mr Fraser that he would disclose secrets about Presidents and Judges in regard to state capture and/or corruption. The investigator spoke to Mr Fraser's attorney and asked for an arrangement in terms of which Mr Fraser would be interviewed by the Commission's investigators to obtain information that was within his knowledge. According to that investigator Mr Fraser's attorney was uncooperative and told the investigator that Mr Fraser did not want to engage with the Commission and they would use their "own channels and methods". The investigator concerned reported this to his senior who in turn sent an email to the Head of the Legal Team (Adv PJ Pretorius SC) and the Head of the Investigation Team (Mr T Nombembe). These two investigators have deposed to affidavits which confirm this.
- (d) On 14 April 2021 Mr Fraser's application to the Commission for an order compelling the Minister of State Security and the State Security Agency to give him various documents that he said he needed for his submission before the Commission was to be heard. There is a transcript of the proceedings of the 14th April 2021 which reflects that the Head of the

Commission's Legal Team, Adv. Pretorius SC called upon Mr Fraser to cooperate with the Commission's investigators even at that late stage to conduct an investigation in respect of the information he was saying he had which he said would expose Presidents and Judges but to date Mr Fraser has not co-operated with the Commission's investigators. By agreement between the parties the Chairperson postponed that application to enable Mr Fraser and the State Security Agency to have discussions and try and agree on documents that the SSA could release to Mr Fraser. The understanding was that, if Mr Fraser was not given the documents at all or was given some but not others and he still felt aggrieved after such discussions, he would revert to the Commission so that his application could be heard and decided by the Chairperson. Mr Fraser has never reported back to the Commission on how that process unfolded.

(e) the Commission does have an application by Mr Fraser for leave to cross-examine certain witnesses which should have been decided about two or so months ago but was not because Mr Fraser filed comprehensive written submissions at the time which needed to be considered. That application is to be decided shortly.

3. In conclusion it is only Mr Fraser who can explain why he has never lodged an application for leave to give evidence before the Commission if he wants to testify before the Commission, particularly because he did see it fit to lodge two other applications including one for leave to cross-examine certain witnesses which is provided for in the same Rule that provides for an application for leave to testify and the one for an order compelling the SSA to give him certain documents.

Prof. Itumeleng Mosala

Issued by the Secretary of the Commission at the instance of the Chairperson

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