THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

CIVIL DIVISION

MISCELLANEOUS CAUSE NO. 028 OF 2025

KALALI STEVEN :: APPLICANT

VERSUS

1. ATTORNEY GENERAL

2. EXODUS CO-OPERATIVE SAVINGS & CREDIT

SOCIETY LTD :: RESPONDENTS

BEFORE: HON. JUSTICE BONNY ISAAC TEKO

RULING

Introduction

This is an application for the enforcement of fundamental human rights brought under Article 50(2) of the Constitution of the Republic of Uganda, 1995 (as amended), and the Judicature (Fundamental and Other Human Rights and Freedoms) Enforcement Procedure) Rules, S.I No. 31 of 2019. The application was originally instituted at the High Court of Uganda at Mpigi as Miscellaneous Cause No. 001 of 2024, and was subsequently transferred to the Civil Division of this Court at Kampala, where it was registered as Miscellaneous Cause No. 028 of 2025.



The Applicant, Kalali Steven is an adult male Ugandan citizen and an Advocate of the High Court of Uganda. He does not bring the application as a serving police officer, but as a citizen and self-described "beneficiary" of police services, invoking Article 50(2) of the Constitution, which permits any person to institute proceedings for the enforcement of the rights of another person or group where that person or group is unable to bring the action in their own name.

The 1st Respondent is the Attorney General of Uganda, sued in a representative capacity as the principal legal advisor to Government under Article 119 of the Constitution, and by extension as representing the interests of Government as employer of the Uganda Police Force. The 2nd Respondent, Exodus Co-operative Savings and Credit Society Limited ("Exodus SACCO"), is a Savings and Credit Co-operative Society registered under the Co-operative Societies Act, whose membership is drawn predominantly from serving police officers and their spouses.

Background

The Applicant's case in brief, is that beginning with the 19th intake of police recruits passed out at Kabalye Police Training School in 2015 and continuing to date, newly recruited and passing out police officers have been enrolled as members of Exodus SACCO without their free, express or written consent, and that monthly deductions ranging between approximately UGX 20,000 and UGX 50,000 have thereafter been made from their salaries at source as



SACCO contributions, without their consent and without meaningful opportunity to exit the SACCO.

The Applicant further contends that Exodus SACCO has throughout the relevant period, carried on the business of accepting deposits and issuing loans to its members without the licence required under the Tier 4 Microfinance Institutions and Money Lenders Act, 2016.

The Applicant accordingly seeks among other reliefs, declarations that serving police officers enjoy a right to freedom of association, that their compulsory enrolment into the 2nd Respondent's membership without consent violates that right, that the resultant salary deductions are illegal, that the 2nd Respondent's operations without the requisite licence are illegal, permanent injunctions restraining the Respondents from continuing the impugned conduct, an order for an audit of the 2nd Respondent's affairs and a declaration that the 1st Respondent has failed in its obligation, as employer and principal legal advisor to Government, to protect the rights of serving police officers.

The Respondents resist the application. The 2nd Respondent denies that membership is compulsory, asserts that its by-laws require a formal application for membership and contends that it is regulated, audited, and in the process of regularising its licensing position with Bank of Uganda.



The 1st Respondent denies any knowledge of or responsibility for the deductions complained of and denies that the rights of police officers have been violated.

Representation

At the commencement of the proceedings, the Applicant was represented **M/s Mwina-Wananda & Co. Advocates.** The record shows however, that by the time of filing of the final submissions in rejoinder, the Applicant elected to conduct the matter in person, the submissions in rejoinder being drawn and filed by "the Applicant" directly.

The 1st Respondent has throughout been represented by the Attorney General's Chambers. The 2nd Respondent was represented on record by **M/s Mpeirwe & Co. Advocates** the Court notes, as raised by the Applicant in rejoinder, that the 2nd Respondent's written submissions on file were filed under the name of a firm styled **"Moria Advocates,"** in respect of which no notice of change of advocates or notice of instructions appears on the court record. This is an administrative irregularity that Counsel on record for the 2nd Respondent is directed to regularise but it does not, in the circumstances, affect the Court's consideration of the substance of the submissions filed, which the Court has in any event treated as the 2nd Respondent's submissions of record.

Preliminary objections

The 2nd Respondent raised two points of law:

1. That, pursuant to section 142(1)(a) of the Co-operative Societies Act, any dispute relating to the business of a registered society between the society and its members or persons claiming through members, must be referred to arbitration and that this Court accordingly lacks jurisdiction to entertain the application and;
2. That in any event, the application discloses no cause of action against the 1st Respondent, the Attorney General.

The Applicant opposes both objections, contending that the application is one for enforcement of a constitutional right, exclusively within the original jurisdiction of the High Court under Article 50(1) and (2) of the Constitution and section 14(1) of the Judicature Act, and that it is not a dispute "relating to the business of the society" of the kind contemplated under section 142(1)(a) of the Co-operative Societies Act.

On the second objection, the Applicant contends that the 1st Respondent as the employer of serving police officers and as principal legal advisor to Government under Article 119(3) of the Constitution, bears an obligation to protect its employees from the violation of their constitutional rights, including protection from unlawful alteration of their salaries under Article 158(1) of the Constitution, and is a proper party to these proceedings.



Determination of the preliminary objections

1. **Jurisdiction / Arbitration Clause**

The jurisdiction of this Court to hear and determine applications for the enforcement of fundamental rights and freedoms is conferred directly by Article 50(1) and (2) of the Constitution and is given procedural effect by the Judicature (Fundamental and Other Human Rights and Freedoms) Enforcement Procedure) Rules, S.I No. 31 of 2019, made pursuant to that constitutional provision as well as by section 14(1) of the Judicature Act, which vests the High Court with unlimited original jurisdiction in all matters.

Section 142(1)(a) of the Co-operative Societies Act by contrast, is concerned with disputes touching the internal business of a registered society for example, disputes over loans, shares, or governance among members, past members and the society and is not, on a plain reading, apt to oust the constitutional jurisdiction of the High Court over an application alleging violation of a right guaranteed under Chapter Four of the Constitution.

It is a well-established principle that the jurisdiction of a superior court of record derived directly from the Constitution cannot be ousted by a provision of an ordinary Act of Parliament except by clear and express words, which section 142(1)(a) does not contain.

The subject matter of the present application whether police officers were compelled, contrary to their constitutional right to freedom of association, to join and remain members of the 2nd Respondent, and whether resultant



deductions from their salaries were lawful is not, in substance, a dispute over the internal business of the society of the kind arbitrable under the Co-operative Societies Act it is a dispute as to whether a constitutional right has been violated in the first place, which only this Court, exercising its Article 50 jurisdiction, is competent to determine.

The authority relied upon by the 2nd Respondent is, on the Applicant's account, distinguishable on its facts, as it concerned a dispute over repayment of a loan made pursuant to an agreement containing its own arbitration clause, which is not the character of dispute before this Court. This preliminary objection accordingly fails and is overruled.

2. **Cause of Action against the 1st Respondent**

A cause of action is disclosed where the plaint (or, in the case of an application of this nature, the founding affidavit and notice of motion) discloses facts which, if proved, would entitle the applicant to the relief sought against the respondent in question.

The Applicant's case against the 1st Respondent is that, as the employer of serving police officers, the Government bears an obligation under Article 20(2) of the Constitution to respect, protect and promote the rights of its employees, including their right to freedom of association, and a specific obligation under Article 158(1) not to permit alteration, to their disadvantage, of the salary of a public officer paid from the Consolidated Fund.



It is not in dispute that police officers are public servants whose emoluments are paid from public funds. Whether the 1st Respondent is ultimately found liable, and to what extent, is a matter properly resolved on the merits and not at the threshold what is required at this stage is only that a triable cause of action be disclosed, and it is. This preliminary objection also fails and is overruled.

Both preliminary objections having been overruled, the Court proceeds to determine the application on its merits.

Issues for determination

1) *Whether all serving police officers/cadets have a right to freedom of association or to join an association of their own.*
2) *Whether the involuntary/mandatory recruitment of police cadets into the 2nd Respondent's SACCO from the 2015 (19th) intake to date, without their express, formal or written consent, violates their right to freedom of association.*
3) *Whether the compulsory monthly deduction, as a membership contribution to the 2nd Respondent SACCO, made against the wish/will of the affected police officers, is legal and lawful.*
4) *Whether the operation of the 2nd Respondent without a valid licence, as mandated by law, is legal and lawful.*
5) *What remedies are available to the parties.*



Summary of the parties' submissions

Applicant's Submissions

The Applicant submitted that Article 29(1)(e) of the Constitution, Article 22(1) of the International Covenant on Civil and Political Rights, and Article 10(1) of the African Charter on Human and Peoples' Rights, to which Uganda is a signatory, guarantee the right to freedom of association, including the freedom to join and to form associations, and that this right necessarily includes the negative freedom not to be compelled to join an association against one's will.

It was submitted that involuntary recruitment occurs where individuals are incorporated into an organisation without exercise of free will, and that the burden lay on the 2nd Respondent, under section 106 of the Evidence Act, to prove that officers from the 2015 intake to date applied voluntarily in the manner prescribed by its own by-laws, in particular Article 7(b), which requires a formal application for membership. It was submitted that the 2nd Respondent failed to produce a single signed application form for any officer of the 2015 intake, including the deponent Isabirye Eliphaz, despite being granted opportunity and directed by Court, to file supplementary evidence. Reliance was placed on the deposed affidavit of Isabirye Eliphaz, a police officer of the 19th (2015) intake, corroborated by a WhatsApp message exchanged among police officers on the “Exodus” group, telephone recordings of several serving officers denying that they had voluntarily joined or



consented to the deductions made, and the report of the Parliamentary Committee on Defence and Internal Affairs on its inquiry into the operations of the Uganda Police Force Exodus SACCO (2024), which is said to record, at pages 9 to 11, that officers of the 19th intake passed out at Kabalye in 2015 were coerced into membership without their consent.

It was further submitted that discrepancies between the amounts stated in the consent forms produced by the 2nd Respondent and the amounts actually deducted from named officers, upon verification, showed the forms to be unreliable. On the licensing issue, it was submitted that sections 36 and 38 of the Tier 4 Microfinance Institutions and Money Lenders Act, 2016 make registration and licensing mandatory for any SACCO carrying on financial services business, that the 2nd Respondent's own supplementary affidavit admits that it had, as at October 2024, only just applied for a licence from Bank of Uganda, and that its continued operation prior thereto was accordingly illegal. It was prayed that all reliefs sought in the Notice of Motion be granted.

Respondents' Submissions

The 2nd Respondent, while maintaining its preliminary objections, submitted without prejudice that it agreed that police officers, like other Ugandans, enjoy the right to freedom of association, but denied that recruitment into its membership was involuntary. It relied on the affidavits of its Chairperson, Dr. Omoding Wilson Otuna, and its Board Secretary, Ogwok Daniel, to the effect



that membership is voluntary, that members apply and sign relevant forms, that the by-laws regulate admission and withdrawal, that members are sensitised on buying shares and savings, and that they receive dividends and interest on savings and access loans at preferential rates.

It contended that the applicant had failed to demonstrate how the cadet officers were conscripted into membership, relying on the principles for co-operative societies set out in **Nandala Mafabi & 2 Others v Attorney General, Constitutional Petition No. 46 of 2012**. It objected to the admissibility of the CD recordings and WhatsApp message for want of compliance with the authenticity requirements applicable to electronic evidence, and to the Parliamentary Committee report as hearsay.

On the deductions, it submitted that the Employment Act does not apply to police officers, that Article 158(1) of the Constitution was cited out of context as there had been no "alteration" of salary, and that any inconsistencies in the consent forms produced were minor and immaterial.

On licensing, it submitted that there exists a conflicting regulatory framework between the Co-operative Societies (Amendment) Act, 2020 and the Tier 4 Microfinance Institutions and Money Lenders Act, 2016 and the Microfinance Deposit-Taking Institutions Act, 2003, such that it could not fairly be said to be operating illegally, that licensing is "a process, not an event," and that it had already embarked on that process.



The 1st Respondent, through the affidavit of Ronald Hanyerere, denied ever authorising or condoning the deductions complained of, denied knowledge of any complaints, and averred that the 2nd Respondent is an autonomous association for which the 1st Respondent bears no responsibility. Both Respondents prayed that the application be dismissed with costs.

Analysis and Determination

Issue 1: Whether serving police officers have a right to freedom of association

Article 29(1)(e) of the Constitution guarantees to every person the right to freedom of association, including the freedom to form and join associations or unions, including trade unions and other civic organisations, for the protection of their interests.

There is no exception in the Constitution excluding serving members of the Uganda Police Force from the enjoyment of this right, save to the extent that Parliament may, by law, impose reasonable and demonstrably justifiable restrictions in the interests of matters such as defence, public safety or public order, in accordance with Article 43 of the Constitution. No such restriction specific to police officers has been placed before this Court.

This position is, in any event, common ground between the parties: both the Applicant and the 2nd Respondent, through its Chairperson's affidavit, expressly agree that police officers enjoy this right. Facts admitted need not



be proved, in accordance with section 57 of the Evidence Act. Accordingly, this issue is resolved in the affirmative: serving police officers, like all other persons in Uganda, enjoy the constitutional right to freedom of association under Article 29(1)(e), which includes the corollary freedom not to be compelled to join, or remain in, an association against their will.

Issue 2: Involuntary/mandatory recruitment into the 2nd Respondent's SACCO

Freedom of association, properly understood, protects both the positive freedom to join an association of one's choosing and the negative freedom not to be compelled to join or remain a member of an association against one's will, a right of association that in reality affords no genuine freedom of choice is reduced to a right of no practical value.

The 2nd Respondent's own by-laws, at Article 7(b), prescribe that membership is to be obtained by way of a formal application. Where, as here, a party asserts that a particular fact (voluntary application by specific individuals) exists within its own special knowledge and records, the burden of proving that fact lies on that party, in accordance with section 106 of the Evidence Act.

Despite that burden, and despite having been afforded the opportunity, upon the directions of Court, to adduce supplementary evidence, the 2nd Respondent did not produce a single signed application form for Isabirye Eliphaz, a serving police officer of the 2015 (19th) intake who deposed that he



and others were never afforded the opportunity to apply, but were enrolled and had deductions made from their salaries without their consent.

The averments of Dr. Omoding Wilson Otuna and Ogwok Daniel that membership is voluntary and that members sign application and deduction-authorisation forms are, on the state of the evidence, general assertions unsupported, for the officers of the 2015 intake in issue, by any documentary proof. This gap in the 2nd Respondent's evidence is significant; given that it is the party that would ordinarily be expected to hold such records if they existed.

The Applicant's account receives some corroboration from the report of the Parliamentary Committee on Defence and Internal Affairs on its inquiry into the operations of the Uganda Police Force Exodus SACCO.

While the Respondents object that the report is hearsay as against the Applicant, who was not himself before the Committee, official reports of a Parliamentary Committee tabled in the House on a matter of public administration are records of an official public inquiry, and this Court, sitting in proceedings for the enforcement of human rights, is entitled to have regard to such a report for what it is an official record of findings made after inquiry by a body with the mandate to investigate the very institution and practice in issue and to weigh it accordingly, rather than to exclude it altogether; its weight, rather than its admissibility, is what is properly in question.



The WhatsApp message and telephone recordings relied upon by the Applicant were not the subject of any formal application to expunge, nor were the officers whose voices are said to be recorded cross-examined or their identities seriously disputed by the Respondents; in the circumstances, this evidence may properly be given corroborative, though not determinative, weight.

On the totality of this evidence, the Court finds that the 2nd Respondent has not discharged its burden of proving that officers recruited from the 2015 (19th) intake applied for, and voluntarily consented to, membership in the manner required by its own by-laws. The pattern disclosed on the record enrolment of newly passing-out officers at training institutions, followed by salary deductions, in the absence of any signed application falls short of the free and informed consent that the exercise of the right to freedom of association demands.

This issue is accordingly resolved in the affirmative: the recruitment of police officers into the 2nd Respondent's membership, as practised and evidenced on this record, without proof of their free and voluntary application, violates their right to freedom of association under Article 29(1)(e) of the Constitution. This finding is made on the basis of, and is confined to, the evidence on record relating to affected officers from the 2015 intake to date; it is not a finding as to the position of any individual officer whose personal circumstances are not before this Court.



Issue 3: Legality of the compulsory monthly deductions

It is common ground that police officers are public servants and that their salaries and allowances are paid from the Consolidated Fund. Article 158(1) of the Constitution prohibits the alteration, to the disadvantage of a public officer, of the salary or allowance to which that officer is entitled and which is charged on the Consolidated Fund.

A deduction made at source from an officer's salary, without that officer's free and informed consent, for the benefit of a third-party institution, is on its face an alteration of that salary to the officer's disadvantage within the contemplation of Article 158(1).

The 2nd Respondent's contention that the Employment Act does not apply to police officers, and that sections 44 and 45 of that Act were accordingly cited out of context, need not be finally determined, as the Applicant's case on this issue is sufficiently grounded in Article 158(1) of the Constitution itself, which applies to public officers generally and is not dependent on the scope of the Employment Act.

The Court notes, without deciding the point conclusively, that the precise scope of the exclusions under section 2 of the Employment Act as it relates to disciplined forces should be independently verified before any final reliance is placed on that Act in the signed ruling.

On the evidence, the consent forms relied upon by the 2nd Respondent were shown, on verification with several named officers, to be inconsistent with the



amounts those officers stated were actually being deducted from their salaries the forms reflecting one figure while the officers stated a materially higher figure was in fact being withheld.

Such an unexplained and material inconsistency between an entity's own documentary evidence and independently verified information goes to the reliability of that documentary evidence, and, in the absence of any explanation from the 2nd Respondent, this Court is not satisfied that the consent forms in question reliably establish informed consent to the specific amounts deducted.

The Court accordingly finds that the 2nd Respondent has not proved that the monthly deductions made from the salaries of the affected police officers were made with their free, informed and documented consent, and that, to that extent, the deductions as practised are not shown to be lawful.

This finding does not impugn the lawfulness of a SACCO membership and savings scheme as such, nor does it affect officers who freely and knowingly consented to membership and deductions it is confined to the deductions made from officers whose consent has not been established on this record. This issue is resolved substantially in favour of the Applicant.

Issue 4: Legality of the 2nd Respondent's operation without a licence

Section 36(1) of the Tier 4 Microfinance Institutions and Money Lenders Act, 2016 provides that a SACCO shall not carry on the business of financial services unless it is a registered society and is licensed under that Act.



Section 38(1) requires a SACCO intending to carry on the business of financial services among its members to apply to the Uganda Microfinance Regulatory Authority for a SACCO licence, and section 110 vests Bank of Uganda with power to license SACCOs whose capital exceeds the prescribed threshold. These provisions are framed in mandatory terms.

The 2nd Respondent's own supplementary affidavit, sworn by its Board Secretary on 14th October 2024, avers that, having been advised that the Uganda Microfinance Regulatory Authority does not license SACCOs whose savings exceed the threshold of UGX 1.5 billion, and that the 2nd Respondent's savings are "way beyond" that threshold, it had "embarked on the process of applying for a licence from Bank of Uganda," attaching a copy of an application dated 11th October 2024.

This is, in substance, an admission that as at the institution and pendency of these proceedings, the 2nd Respondent held no licence from either regulator, notwithstanding that its own evidence is that its savings had for some time exceeded the statutory threshold requiring such a licence.

The 2nd Respondent's submission that there exists a conflicting regulatory framework between the Co-operative Societies (Amendment) Act, 2020 and the Tier 4 Microfinance Institutions and Money Lenders Act, 2016, and that licensing is "a process, not an event," does not, in the Court's view, excuse continued operation without a licence. Registration under the Co-operative Societies Act and licensing under the Tier 4 Act serve different regulatory



purposes, and the existence of any overlap or tension between the two statutory regimes is not, without more, a basis on which a regulated entity may lawfully continue to accept deposits and disburse loans while unlicensed; at most, it may explain administrative delay in obtaining a licence once diligently sought.

Court cannot sanction a state of illegality merely because it has been brought about, or is said to be explained, by an asserted inconsistency in the regulatory framework once such illegality is apparent on the record, the Court is bound to take notice of it. The Court finds that the 2nd Respondent operated its financial services business without the requisite licence for a substantial period, in contravention of sections 36 and 38 of the Tier 4 Microfinance Institutions and Money Lenders Act, 2016, and that this issue is resolved in favour of the Applicant.

Issue 5: Remedies

Article 50(1) and (2) of the Constitution, read together with section 9(1) of the Human Rights Enforcement Act, 2019, empowers this Court to grant such remedies, including declarations, injunctions and orders, as it considers appropriate upon a finding that a right has been, or is likely to be, violated.

In fashioning remedies in this matter, the Court is mindful that the 2nd Respondent is a substantial institution serving tens of thousands of members, a significant proportion of whom have not complained and who derive genuine benefit from its savings and loan products; remedies should accordingly be



proportionate to the violations established, and should protect the rights found to have been violated without unnecessarily disrupting the legitimate interests of members who are not shown to be affected.

FINDINGS

1) All serving police officers enjoy the constitutional right to freedom of association under Article 29(1)(e) of the Constitution.

2) The 2nd Respondent has not proved that officers recruited from the 2015 (19th) intake to date applied for and voluntarily consented to membership in the manner required by its own by-laws, and the recruitment of such officers, as evidenced on this record, violates their right to freedom of association.

3) The 2nd Respondent has not proved that the monthly salary deductions made from the affected officers' salaries were made with their free, informed and documented consent, and such deductions, to that extent, are not shown to be lawful and are in breach of Article 158(1) of the Constitution.

4) The 2nd Respondent operated, and as at the hearing of this matter continued to operate, its financial services business without a licence from the Uganda Microfinance Regulatory Authority or Bank of Uganda, as applicable, contrary to sections 36 and 38 of the Tier 4 Microfinance Institutions and Money Lenders Act, 2016.



5) The 1st Respondent, as employer of serving police officers, did not adduce evidence of any step taken to investigate, verify, or remedy the matters raised in the report of the Parliamentary Committee on Defence and Internal Affairs concerning the 2nd Respondent's operations, notwithstanding that report having been tabled before Parliament.

ORDERS OF COURT

1) A declaration is hereby issued that all serving police officers have a right to freedom of association, including the freedom to join or to decline to join any association of their own choosing.

2) A declaration is hereby issued that the involuntary recruitment of members of the Uganda Police Force, from the 2015 (19th) intake to date, into the membership of the 2nd Respondent, without their free, express and documented consent, violates their right to freedom of association under Article 29(1)(e) of the Constitution.

3) A declaration is hereby issued that the monthly deductions made from the salaries of the affected officers as contributions to the 2nd Respondent, in the absence of proven free and informed consent, are unlawful.

4) A declaration is hereby issued that the operation of the 2nd Respondent's financial services business without a licence from the Uganda Microfinance Regulatory Authority or Bank of Uganda, as



applicable, is illegal and in contravention of the Tier 4 Microfinance Institutions and Money Lenders Act, 2016.

5) The 2nd Respondent is directed, within six (6) months from the date of this ruling, to: (a) regularise the membership of all affected officers by affording them a documented opportunity to elect to continue as members or to exit the SACCO, without penalty, and with full access to their accumulated savings and any accrued dividends should they elect to exit and (b) finalise its pending application for a licence from Bank of Uganda, failing which it shall cease accepting new deposits and disbursing new loans until such licence is obtained, save that it may continue servicing existing loans and maintaining the accounts of members who elect to remain.

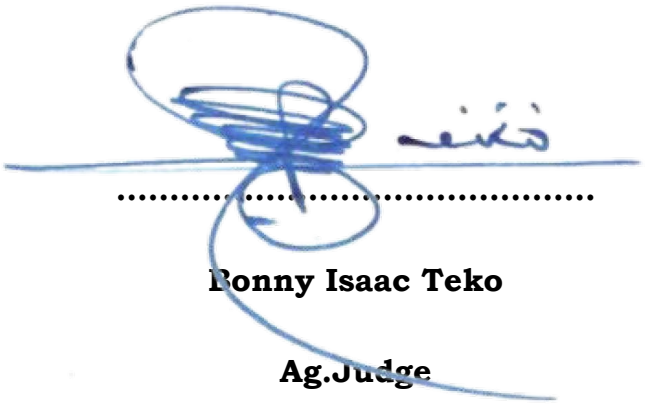
6) The Registrar of Co-operatives is directed to cause an audit to be conducted of the 2nd Respondent's membership records and accounts relating to officers recruited from the 2015 intake to date, to verify compliance with Order 5 above, and to report the outcome to this Court within nine (9) months of this ruling.

7) The 1st Respondent is directed to issue appropriate guidance to the Uganda Police Force and to the 2nd Respondent to ensure that no further recruitment of serving officers into the 2nd Respondent's membership, or deduction of their salaries for that purpose, occurs otherwise than upon documented, free and informed consent.



8) The Applicant shall have the costs of this application.

Delivered via ECCMIS this 15th day of July 2026.



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Bonny Isaac Teko

Ag.Judge