



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI COUNTY

COURT NAME: MILIMANI HIGH COURT

CASE NUMBER: HCACECPET/E019/2026

JOSEPH KIMANI WACHIRA VS STATE LAW OFFICE AND ODPP AND 2 OTHERS

JUDGMENT

BEFORE HON. JUSTICE JOSEPH KIPKOECH BIOMDO

1. The Petitioner herein moved this court by way of a Petition dated 30 March 2026 pursuant to Articles 22, 23, 165(3)(b), and 258 of the Constitution, seeking the protection, enforcement and vindication of his rights. These rights allegedly arose from the conduct of the Respondents following the events of 9 March 2026, which the Petitioner termed as an abuse of investigative and prosecutorial powers, and therefore unlawful, irrational, procedurally unfair and unconstitutional.
2. The Petitioner sought various reliefs, including a declaration that his arrest, detention, summoning, harassment, continued investigation, and any intended prosecution based on the said facts and events be deemed unconstitutional, unlawful, procedurally unfair, and hence void ab initio, ultra vires, and a violation of his constitutional rights and fundamental freedoms. He also sought orders prohibiting and restraining the 2nd and 3rd Respondents from undertaking further investigations or prosecuting him based on the events of 9 March 2026; orders quashing any action taken by the Respondents arising from that day; a declaration that the use of entrapment, fabrication of evidence and manipulation of the investigative process is unlawful and



unconstitutional; and an order for compensation by way of general, exemplary and aggravated damages for the Respondents' unconstitutional conduct.

3. The Petition is based on the facts and law set out therein, the Supporting Affidavit sworn by the Petitioner on 30 March 2026, and his Further Affidavit sworn on 24 June 2026. The Petitioner's case is that in or about February 2026, he was approached by Mr Okiri Thomas Awili, who requested that he meet the 1st Respondent to take instructions on a possible legal brief relating to matters pending before the High Court Commercial and Tax Division concerning the 1st Respondent's properties.
4. The Petitioner stated that he attended three meetings with the 1st Respondent at Entim Sidai Wellness Sanctuary in Karen: the first in February 2026, the second on 22 February 2026, and the third on 9 March 2026, following the delivery of an adverse ruling against the 1st Respondent in Milimani HCCOMM/E636/2024. He stated that the meeting of 9 March 2026 took place at the same venue but in a different, unoccupied villa, and was attended by Mr Okiri Thomas Awili and the late former Justice Joseph Mutava. During this meeting, the 1st Respondent briefed them on the impact of the adverse ruling before producing Ksh. 1,000,000/- in cash and placing it on the table without any demand, solicitation, or prior discussion.
5. The Petitioner maintained that he did not take the money, but instead excused himself from the meeting to retrieve his notebook from a waiting vehicle outside the villa. It was then that officers from the 2nd Respondent (the Ethics and Anti-Corruption Commission) arrested him on allegations of soliciting a bribe from the 1st Respondent. He was subsequently escorted to the 2nd Respondent's offices, where he was detained overnight before being released the following day on a cash bail of Ksh. 200,000/- following the intervention of the Law Society of Kenya.
6. Denying the allegations, the Petitioner stated that the arrest was recorded by the 1st and 2nd Respondents, who unlawfully and maliciously leaked the recordings to the public, causing him severe harm, prejudice, and reputational damage. He relied on a Statutory



Declaration sworn by Mr Okiri Thomas Awili which exonerated him from the allegations of bribery and misconduct, stating that the arrest on 9 March 2026 was a pre-arranged entrapment and set-up orchestrated by the 1st Respondent for selfish gain.

7. Simultaneously, the Petitioner filed a Notice of Motion Application dated **30 April 2026** seeking, inter alia, conservatory orders pending the hearing and determination of both the application and the Petition. The application was compromised, and the interim orders staying his arrest and prosecution were extended pending the final determination of the Petition.
8. The 1st Respondent opposed the Petition through a replying affidavit sworn on 9 July 2026, denying allegations that he conspired with the 2nd and 3rd Respondents to orchestrate the arrest, fabricate evidence, entrap the Petitioner, or violate his constitutional rights. He maintained that the 2nd and 3rd Respondents are independent entities that acted within their legal and constitutional mandates when investigating the incident.
9. The 2nd Respondent opposed the Petition through a replying affidavit sworn on 5 June 2026 by Emmanuel Kubasu, an investigator attached to the Commission. The 2nd Respondent denied the Petitioner's allegations, stating that they acted on a complaint lodged by the 1st Respondent on 9 March 2026. In that complaint, the 1st Respondent alleged that three people—the Petitioner, Mr Okiri Thomas Awili, and the late former Justice Joseph Mutava—had requested a financial advantage of Ksh. 10,000,000/-. The money was allegedly intended for a sitting judge of the High Court to secure a favourable ruling in Case No. HCCCOMM/E636/2024 (Dari Ltd & Raphael Tuju vs Garam Investment Auctioneers & others).
10. Upon receiving the complaint, the Commission commenced investigations, briefed the 1st Respondent on the use of an audio-visual recording device to record conversations with the suspects, provided him with treated money, and accompanied him to the meeting venue. At 4:00 PM, acting on a signal from the 1st Respondent, they arrested the Petitioner, Mr Okiri Thomas Awili, and the late former Justice Joseph Mutava inside the villa, where they recovered the treated money



and escorted the suspects to their offices for processing.

11. The 2nd Respondent denied participating in any bribery scheme or entrapping the Petitioner, stating that it acted within the law in investigating a complaint, lawfully seized relevant material in the possession of the suspects, and extracted messages from the Petitioner's phone after obtaining the necessary authorization from the court.
12. The 3rd and 4th Respondents filed grounds of opposition dated 30 June 2026 and 7 April 2026 respectively, wherein they denied the allegations and stated that the matter is premature and founded on disputed facts that could only be determined in a full hearing after consideration of the evidence by the trial court. They both denied any wrongdoing attributable to them, stating that no evidence of wrongdoing or a decision to charge any person in relation to the events of 9 March 2026 has been placed before the court to warrant the orders sought. Consequently, they urged the court to dismiss the Petition.
13. The Petition was canvassed by way of written submissions. The Petitioner filed written submissions dated 23 April 2026, further submissions dated 3 July 2026, and a supplementary submissions dated 15 September 2026. The 1st, 2nd, and 3rd Respondents filed written submissions dated 5 August 2026, 8 September 2026, and 6 July 2026 respectively, all of which I have duly read and considered.

Analysis and Determination

14. Having considered the pleadings , the rival submissions and the law, I narrow down the issues for determination as follows:

i. Whether the evidence against the Petitioner was obtained through entrapment, and if so, what is the effect thereof.

ii. Whether the investigations against the Petitioner are lawful.

iii. Whether the Petitioner's constitutional rights have been violated, and if so, what is the appropriate remedy.



iv. What reliefs should the court grant.

i. Whether the evidence against the Petitioner was obtained through entrapment, and if so, what is the effect thereof

15. The Petitioner pleaded that the evidence forming the basis of his arrest, investigations, and intended prosecution was obtained through entrapment in violation of his constitutional rights. He contends that on 9 March 2026, the 2nd Respondent manufactured the crime by deploying its investigators to the venue in advance, installing surveillance equipment, providing treated currency, and strategically positioning arresting teams before the Petitioner arrived.
16. He argued that this is further evidenced by the sudden change of venue to an unoccupied villa, the unsolicited production of cash by the 1st Respondent, and the statutory declaration by Mr Okiri Thomas Awili demonstrating a choreographed scheme. He cited the case of **Mohamed Koriow Nur vs AG (2011) KEHC 4302 (KLR)**, where the High Court held that evidence obtained through entrapment by a state agent is illegal and inadmissible. He further submitted that he was not the 1st Respondent's advocate in the proceedings giving rise to the ruling, and that there was no evidence of solicitation on his part.
17. The 1st Respondent denied the allegations of entrapment, contending that these are evidentiary questions requiring viva voce evidence and cross-examination, making them incapable of determination through affidavit evidence. He cited the case of **Kuria & 3 others vs AG (2002) 2KLR 69**, where the court held that constitutional litigation should not become a substitute for criminal trials.
18. The 2nd Respondent denied that the Petitioner was entrapped, submitting that the recordings were done by the 1st Respondent, who was a participant and a complainant who had been requested to give a bribe to the Petitioner. Relying on the Supreme Court decision in **Chitembwe vs the Tribunal Appointed to Investigate into the Conduct of Hon. Justice Said Juma Chitembwe, Judge of the High Court (2023) KESC 114 (KLR) and Gicheru vs Kenya**



National Spelling Bee Ltd & anor (2026) KEELRC 1760 (KLR), it was argued that the 2nd Respondent merely acted on the 1st Respondent's complaint, which provided reasonable suspicion that a criminal activity was being committed, and provided equipment to the complainant and participant to secure evidence of the criminal activity.

19. It was further submitted that the 2nd Respondent did not induce the Petitioner to solicit and/or receive the bribe, contending that even without the 2nd Respondent's intervention and participation, the offence would nevertheless have been committed.

20. Entrapment is defined by Black's Law Dictionary, Tenth Edition, page 650 as:

"1. A law enforcement officer's or government agent's inducement of a person to commit a crime, by means of fraud or undue persuasion, in an attempt to cause criminal prosecution against that person.

2. The affirmative defense of having been so induced. To establish entrapment (in most states), the defendant must show that he or she would not have committed the crime but for the fraud or undue persuasion."

21. The Supreme Court in **the Chitembwe case (Supra)** observed as follows on entrapment:

".....We emphasize finally on this question that judicial response to entrapment is based on the need to uphold the rule of law. A person entrapped will be excused, not because he is less guilty of the offence he may have committed as a result, but because of the inappropriate behavior of the law enforcers. The situation is what Lord Steyn described in R v Latif [1996] 1 WLR 104, 112 as "state-created crime" which is not only unacceptable but also improper."

22. The Canadian Supreme Court in **R vs Mack (1988) 2 SCR 903** stated that entrapment occurs when:



“(a) the authorities provide a person with an opportunity to commit an offence without acting on a reasonable suspicion that this person is already engaged in criminal activity or pursuant to a bona fide inquiry; and

(b) although having such a reasonable suspicion or acting in the course of a bona fide inquiry, they go beyond providing an opportunity and induce the commission of an offence.”

23. The High Court, in the cases of ***Mohamed Koriow Nur vs Attorney General (2011) eKLR (relying on R vs Mack (Supra) and Lydia Lubanga v Inspector General of Police & 4 others [2016] eKLR***, dealt with the question of entrapment. The court clarified that entrapment occurs when: first, the authorities provide a person with an opportunity to commit an offence without acting on a reasonable suspicion that the person is already engaged in criminal activity; and second, although having such a reasonable suspicion or acting in the course of a bona fide inquiry, they go beyond providing an opportunity and induce the commission of an offence.

24. Similarly, in ***Cyprian Nyakundi & another v Director of Criminal Investigations & 2 others; Victoria Commercial Bank (Interested Party) [2021] KEHC 12701 (KLR)***, the court in addressing entrapment held that the decisions in the ***Mohamed Koriow Nur and Lydia Lubanga*** cases (Supra) emphasized the test of timing, nature, and the extent of involvement by investigators in a particular matter.

25. The Supreme Court in the ***Chitembwe*** case accepted the Tribunal's finding that for covert recordings to be admissible in evidence, the following principles must be considered:

i. The recording must have been done by a participant in the conversation and not by a third party;

ii. The recording must be of a conversation between parties who were privy to the truth of the matter they were discussing and were freely talking about it;



iii. The court or tribunal must have direct evidence from the participant who made the recording; and

iv. The recording must be of great probative value.

26. The key distinguishing factor set out in all the cited cases is the role and involvement of law enforcement officers. Thus, where law enforcement officers act as agent provocateurs (see **Mohamed Koriow Nur's** case), entrapment occurs, and any evidence obtained thereunder is tainted and inadmissible. On the other hand, where investigators only enter the picture after the offence is already being committed and merely facilitate recording for the purpose of gathering evidence (see **Lydia Lubanga's** case), entrapment does not arise.
27. In the present case, the evidence shows that the Petitioner had previous engagements with the 1st Respondent, culminating in the meeting of 9 March 2026. Material placed before the court shows that the 1st Respondent complained to the 2nd Respondent that the Petitioner, Tom Awili, and Joseph Mutava (deceased) had solicited a bribe of Ksh. 10,000,000/- from him. They claimed the money was to be given to a sitting judge to secure a favourable ruling in HC COMM/E636/2024, and they were scheduled to meet on 9 March 2026 at Entim Sidai Villa in Karen to discuss the matter further. Consequently, the 2nd Respondent opened a formal inquiry into the matter as mandated by law and assisted the 1st Respondent in gathering evidence through the use of a recording device and treated currency.
28. The evidence on record indicates that the Petitioner voluntarily attended the meeting, which took place as planned. The 1st Respondent, acting as a participant, recorded the discussions and produced Ksh. 1,000,000/- in treated currency. At the time of arrest, one of the participants in the meeting, Tom Awili, was alleged to have been counting the money. An extract of the recording indicates that this was a continuation of a conversation that had commenced earlier. There is no doubt that the said evidence possesses great probative value. While some elements constitute contested facts requiring further inquiry, the events leading to the meeting of 9 March 2026, the meeting itself, and the subsequent events are largely uncontroverted. I make this observation with caution, bearing in mind that at this stage,



investigations are ongoing and no formal charges have been preferred.

29. The 2nd Respondent's role was strictly limited to facilitating the collection of evidence. It neither set up the meeting nor influenced the discussions therein. Based on these facts, I find that there was no entrapment.

ii. Whether the investigations against the Petitioner are lawful

30. The Petitioner contends that whereas the 2nd Respondent is mandated to investigate, detect, and prevent corruption under Section 11 of the Ethics and Anti-Corruption Commission Act, it can only do so within the legal limits set out in Article 249(2) of the Constitution, which do not extend to the manufacture of crime or the conduct of a premeditated investigation. The Petitioner averred that the investigative process, which by itself is the genesis of the alleged offence, and the manifest disregard of the exculpatory evidence in the form of the Statutory Declaration by Mr Awili, are unlawful and unconstitutional.
31. He submitted that based on the facts and evidence herein, the decision by the 2nd Respondent to rely on manufactured evidence and disregard the exculpatory evidence is irrational, procedurally unfair, and in violation of Article 47(1) and (2) of the Constitution. Reliance was placed on the case of ***Maina & 4 others vs DPP & 4 others (2022) KEHC 15 (KLR)***, where the court held, inter alia, that investigations pursued outside the law, undertaken in bad faith, or that are vexatious or oppressive, run against public policy and warrant judicial interference.
32. The 2nd Respondent denied the allegations, stating that it is mandated to investigate acts of corruption, bribery, or economic crimes under Article 79 of the Constitution as read with Section 11(1)(d) of the Ethics and Anti-Corruption Commission Act (EACC Act). It was averred that the 2nd Respondent commenced investigations in this matter after receiving a complaint of corruption, economic crime, bribery, and conspiracy involving the Petitioner and two other persons from the 1st Respondent, which is in line with Section 13(2) (c) of the EACC Act.



33. It was submitted that the evidence obtained pointed to the commission of the offence of bribery contrary to Section 6(1) of the Bribery Act. It was the 2nd Respondent's case that the Petitioner was arrested immediately after receiving the treated money and that an extract from the recording provides evidence of prior communication on the subject matter between the 1st Respondent and the Petitioner, as well as evidence of receiving a bribe. The Respondent submitted that while the Petitioner advances a different set of facts from the findings of the investigations, that controversy and contestation can only be examined in a trial where parties will have an opportunity to adduce and challenge evidence. Reliance was placed on the case of ***Saisi & 7 others vs DPP & 2 others (2023) KESC 6 (KLR)***, where the Supreme Court held that serious contestations of facts, evidence, and interpretation of law are better suited for examination by a trial court.
34. It was further submitted that the seizure of the Petitioner's phone and subsequent extraction of evidence therein were lawfully undertaken by the 2nd Respondent, who applied for and obtained warrants to investigate the mobile phone of the Petitioner in Misc. Appl. No. E339 of 2026.
35. The main grounds relied upon by the Petitioner are that the investigations emanate from a tainted process where evidence was manufactured by the Respondents—which is against public policy, an affront to constitutional order, and unlawful—and that the 2nd Respondent has disregarded exculpatory evidence, thus acting irrationally, unfairly, and unconstitutionally. The first element is closely tied to allegations of entrapment, which this court has already addressed in the preceding paragraphs.
36. The first consideration is whether the investigative powers exercised by the 2nd Respondent amount to administrative actions within the scope and ambit of Article 47 of the Constitution. This matter was conclusively addressed by the Supreme Court in ***Ethics and Anti-Corruption Commission & another v Ojienda & 2 others (2022) KESC 59 (KLR)***, which held as follows at Paragraph 58:

“Does the 1st appellant's investigative powers fall within the corners of this definition? Part IV of the ACECA specifically provides for the 1st appellant's investigative



powers. The powers granted therein include powers, privileges and immunities of a Police Officer under Section 23(3), to search premises under Section 29, to apply for surrender of travel documents under Section 31, to arrest persons under Section 32 amongst others. Strictly speaking, these powers when exercised cannot be described as “administrative action” within the meaning of Article 47. For example, how can “conducting a house search” or “effecting an arrest” be considered as exercising administrative action? On the contrary, these are special powers conferred by a specific legal regime, to be exercised for a special purpose.”

37. In this case, the actions complained of emanate from the 2nd Respondent's exercise of its investigative powers. Having found that investigative actions by the 2nd Respondent are not administrative actions within the meaning of Article 47 of the Constitution, I find no basis for holding that the Petitioner's rights were violated through non-compliance with Article 47 of the Constitution.
38. This Court has carefully evaluated the pleadings, submissions, and established jurisprudence. As a matter of law, courts will generally decline to interfere with the special investigative mandate of the EACC except where exceptional circumstances call for intervention. The independence of the Commission is constitutionally ring-fenced under Article 249 to insulate it from external manipulation and premature judicial hurdles.
39. However, this investigative mandate is not absolute. Under Article 165, this Court retains residual supervisory jurisdiction but will only interfere with an active EACC investigation under exceptional circumstances which include:
- i. Where clear, cogent evidence demonstrates that the process is malicious and completely detached from the legitimate pursuit of justice;
 - ii. Where the intended prosecution is demonstrably devoid of any legal or factual basis, constituting an affront to the right to a fair trial;



iii. Where the Commission acts outside its enabling statutory frameworks or seeks to usurp the prosecutorial powers of the ODPP under Article 157; or

iv. Where evidence is unconstitutionally obtained through illegal means.

40. In the present scenario, the leaking of an arrest video or a covert bribe recording, while potentially raising separate questions under the Data Protection Act, does not automatically sanitize or invalidate an investigation into corruption or bribery. The public interest in fighting corruption and promoting the transparency and accountability remains paramount.

41. Section 11(1) (d) of the EACC Act empowers the Commission to investigate corruption, economic crimes, and bribery as integrated by the Bribery Act, 2016, while Section 11(1)(c) of the said Act provides that the EACC can receive complaints, allowing it to launch investigations either independently or via public reports. See ***Benson Muteti Masila & 5 others v Chief Magistrate Milimani & another (2020) KEHC 10175 (KLR)***, where it was held that under Section 11(1)(d) of the EACC Act, the Commission has an express statutory mandate to receive complaints and trace suspected bribery trails.

42. Material placed before the court shows that the 2nd Respondent received a complaint from the 1st Respondent on 9 March 2026 concerning bribery allegations involving the Petitioner. The statement by the 1st Respondent, annexed as “EK1” to the Replying Affidavit sworn by Emmanuel Kubasu on 5 June 2026, provided details of the allegations and material facts underpinning the complaint. Based on this complaint, the 2nd Respondent commenced investigations into the allegations, which led to the arrest of the Petitioner later that day. There is no evidence to suggest that the 2nd Respondent had previously participated in the matter or acted illegally. While the Petitioner has challenged the manner in which the evidence was obtained, as set out in the Chitembwe and Lydia Lubanga cases, evidence secured through video recording is not inherently illegal or inadmissible.

43. Regarding the Statutory Declaration by Mr Awili, it is apparent that it



advances a different set of facts from that of the Respondents. These are controversies and contestations of fact and evidence that can only be properly evaluated by a trial court. See *Saisi & 7 others vs DPP & 2 others* (Supra). It cannot, therefore, be said that the 2nd Respondent has ignored exculpatory evidence by the Petitioner, since these are questions of fact and evidence to be determined after a proper evaluation of all material factors at trial, and not at the investigative stage currently before this court.

44. In ***Benson Muteti Masila & 5 Others v Chief Magistrate Milimani Law Courts & 4 others* (Supra)**, it was held that courts should exercise restraint in interfering with the processes of investigative agencies and the Office of the Director of Public Prosecutions when carrying out their legislative mandates, unless in the clearest of cases where a party establishes a manifest violation of rights. The court stated:

“As reaffirmed in *Benson Muteti Masila & 5 Others*, courts maintain the judicial stance that investigative and prosecutorial bodies must be permitted to execute their constitutional and statutory mandates unhindered, intervening only in exceptional instances where a clear constitutional violation is proven.”

45. In this case, the Petitioner has failed to demonstrate that the EACC's probe has crossed the high threshold of malice, clear lack of factual foundation, illegality, or ultra vires action to warrant judicial interference.

iii. Whether the Petitioner's constitutional rights have been violated, and if so, what is the appropriate remedy

46. The Petitioner contends that his constitutional rights have been violated by the Respondents. In particular, it was pointed out that the Petitioner's right to fair administrative action under Article 47, the right to a fair hearing and the presumption of innocence under Article 50, the rights to equality and dignity under Articles 27 and 28, and the right to privacy under Article 31 of the Constitution have been violated.



47. The Respondents deny the allegations, contending that the Petitioner has not set out with sufficient particularity the constitutional rights which are said to have been violated, as required under the principles established in **Anarita Karimi Njeru vs Republic (1979) KEHC 30 (KLR)**.
48. This court has extensively addressed the issue of Article 47 of the Constitution and will not delve any further into that matter. The claim for the violation of Article 50(2)(a) of the Constitution is primarily founded on the manner in which evidence was gathered, which has been addressed previously, and the leaking of information concerning the matter to the public. This is closely tied to the claim for the violation of the rights to equality and dignity under Articles 27 and 28, which I will address jointly.
49. This case is still at the investigative stage, and the Petitioner has not been formally charged so as to entitle him to the rights of an accused person under Article 50(2)(a) of the Constitution. The Supreme Court in **Khalid & 16 others vs AG & 2 others (2019) KESC 93 (KLR)** clarified that the right to a fair trial under Article 50(2) of the Constitution accrues strictly to an accused person, and for one to invoke the said right, they must take a plea and let the trial process commence.
50. The gist of the Petitioner's allegations relates to the manner in which evidence was obtained, the prejudice likely to have been suffered by the unlawful "leakage" of that evidence, and its impact on the entire trial process, which he deems to be unfair. While these are grave allegations, such matters can only properly be considered within the context of Article 50(4) of the Constitution, that is, whether such evidence amounts to illegally obtained evidence that ought to be excluded. The said Article provides:

"Evidence obtained in a manner that violates any right or fundamental freedom in the Bill of Rights shall be excluded if the admission of that evidence would render the trial unfair or would otherwise be detrimental to the administration of justice."

51. Article 50 (4) does not state that all evidence that is illegally obtained is

automatically inadmissible; rather, such evidence becomes inadmissible only if its admission would render the trial unfair or would otherwise be detrimental to the administration of justice. In the case of ***Philomena Mbete Mwilu vs Director of Public Prosecutions & 3 others; Stanley Muluvi Kiima (Interested Party): International Commission of Jurists Kenya Chapter (Amicus Curiae) [2019] eKLR***, the court observed that Kenya's stance against the automatic exclusion of illegally obtained evidence aligns with other jurisdictions, noting that deciding whether such evidence renders a trial unfair falls under the trial court's jurisdiction.

52. This court considers it premature to determine this issue at the investigative stage before any formal charges are laid. The determination of whether leaked evidence compromises the fairness of the trial remains properly vested in the trial court considering criminal charges, if and when they are preferred.
53. Regarding the alleged violation of Article 31 of the Constitution via the warrantless seizure and extraction of mobile devices, the right to privacy is not absolute and must be balanced against public interest, as affirmed by the Supreme Court in the ***Chitembwe*** case.
54. Under Section 23(4) of the EACC Act and Section 25 of the Criminal Procedure Code, EACC officers possess police powers including search and seizure. The seizure on 9 March 2026 was lawful while the extraction of evidence from the seized devices is supported by a valid court warrant issued in Misc. Criminal Appl. No. E339 of 2026, authorizing the investigation of the Petitioner's Samsung Galaxy Z Fold 6 and OPPO A17K devices. The Petitioner has not established any constitutional breach on a balance of probabilities.

iv. What reliefs should the court grant

55. The Petitioner having failed to meet the threshold for grant of the orders sought, it follows that the Petition cannot succeed. Accordingly, the court finds Petition No. E19 of 2026 unmerited and it is dismissed in its entirety. For avoidance of doubt, all interim orders granted herein are vacated.
56. Costs follow the event and it is ordered that the Petitioner shall bear



the costs of the Petition.

Dated, Signed and Delivered virtually at Nairobi this 7th day of October
2026

JOSEPH KIPKOECH BIOMDO

JUDGE

SIGNED BY:
HON. JUSTICE JOSEPH KIPKOECH BIOMDO



THE JUDICIARY OF KENYA.
MILIMANI HIGH COURT
HIGH COURT ANTI CORRUPTION AND ECONOMIC CRIMES
DATE: 2026-10-07 10:40:07+03

