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ECCMIS USED TO RATIFY REPRESSION: ULS CONDEMNS DISMISSAL OF BESIGYE & LUTALE BAIL APPLICATION

Kampala, Uganda – 10 July 2026: The Uganda Law Society (ULS) strongly condemns Judge Emmanuel Baguma's ruling of 8 July 2026 dismissing the bail application (MA 213/2026) filed by Dr. Kizza Besigye and Hajji Obeid Lutale, who are accused of treason in Criminal Session Case No. 335 of 2025. Delivered via the Electronic Court Case Management Information System (ECCMIS) under the *Chief Justice's Administrative Circular No. 1 of 2026*, the decision exemplifies the dangers flagged in the *ULS Preliminary Response to the Judiciary's Paperless Transition* (4 June 2026), particularly **Observation 3 (Risk to judicial impartiality and flexibility in complex/high-stakes cases) and Observation 6 (Failure to address persistent judicial misconduct issues).**

Observation 3 warns that purely electronic handling under ECCMIS can **"hollow out impartiality** and **human elements in sensitive matters,"** leaving critical fairness decisions to the **"arbitrary discretion of the courts"** and risking conflict between the Bench, the Bar, and the public. **This risk materialised in MA 213/2026.**

The court was informed on 30 June 2026 of a **sudden material adverse change** in the applicants' legal representation: lead counsel Erias Lukwago had been abducted from his home, forcibly disappeared, detained incommunicado, tortured, charged with a treason-related offence (15–18 June), and remained on remand in ill health. Meanwhile co-lead counsel Martha Karua, SC, a former Kenyan Minister of Justice and Constitutional Affairs, had been declared ***persona non grata*** at Entebbe International Airport on 22 June and permanently barred from entering Uganda. Her two smartphones — essential work tools — were unlawfully confiscated, and her private and confidential client communications including emails and case notes, were exposed to possible breach.

Despite supporting counsel from 13 law firms on record, the applicants (through Besigye, on 3 July 2026) explicitly stated they could not fairly prosecute the bail application without their chosen lead counsel and sought an adjournment ***sine die*** (with no appointed date).

Instead of exercising the human flexibility demanded by these unprecedented circumstances, the Court used ECCMIS to deliver a ruling five days later dismissing the application, with highly prejudicial language branding the applicants' legitimate constraints and the application itself as **"abuse of court process... delaying tactics... in disguise of fair trial....dishonesty which this court cannot condone."**

Requests for reasonable accommodation, including Martha Karua's audio-visual address prior to the ruling, were ignored. This rigid, electronic approach in a high-stakes bail matter — directly engaging liberty, dignity and the presumption of innocence — deprived the proceedings of essential impartiality and humanity.

Display of Judicial Misconduct

Observation 6 emphasises that ECCMIS does not, by itself, resolve **"judicial arrogance, lack of compassion, delays, or exclusionary tendencies."** It is merely a tool whose effectiveness depends on the **"mindset and integrity of its users,"** with the Circular providing no meaningful safeguards against idiosyncrasy or abuse.

Judge Baguma's ruling illustrates these failings. The court displayed **indifference to the security of officers of the court** and the practical impossibility created by **gross interference with the defence team.** Rather than inquiring into the representation crisis as required by fairness and the court's **duty to protect its officers from intimidation, hindrance, harassment, improper interference, travel restrictions, political persecution, and professional reprisals**, the decision imputed ill motive to the applicants while they remain victims of a coordinated campaign of repression against their lawyers.

Judge Baguma's erroneous assumption that supporting counsel or *pro se* appearances (on one's own behalf) under duress, could adequately substitute for lead counsel further reflects a lack of compassion and judicial discretion.

Meanwhile, at an earlier stage when State counsel were absent, Judge Baguma readily exercised judicial flexibility. He rejected the defence application to dismiss, for "want of prosecution," the State's application to conceal witness identities, and instead stood the matter over for 2 hours until their arrival. **The double standard is stark**. Where, then, is the equality of arms?

By facilitating a **rushed dismissal** for "want of prosecution" **via ECCMIS**, instead of affording the applicants a reasonable adjournment or the guarantees required for the effective functioning of their lawyers, **the ruling converted a digital case-management platform into an instrument of exclusionary and mechanical decision-making,** imposing unnecessary prejudice in a matter where liberty was at stake.

Display of Prosecutorial Misconduct

The DPP's conduct aggravated these judicial shortcomings. Urging the court to invoke inherent powers under Section 37 of the Judicature Act to dismiss the application outright — despite the reported attacks on lead counsel — fell short of the standard in ***Wilson Ndege & Another v Uganda*** [1978] UGCA 2.

That decision requires a prosecutor to act as a **"minister of justice"**: exercising fairness, candour, and a paramount duty to ensure justice is done, not merely procedural advantage. A **prosecutor fulfilling this role would have supported (or at least not opposed) reasonable adjournment** to protect fair hearing rights under Article 28(3), acknowledged the interference with defence counsel, and prioritised the integrity of the process over pressing for immediate dismissal while the applicants remained on remand at Luzira.

President Museveni's public address of 4 July 2026, in which he characterized the court proceedings of 3 July 2026 as **"promoting impunity,"** constitutes clear ***sub judice*** contempt and unconstitutional executive interference with the judiciary. The ULS immediately condemned the remarks as an assault on Article 28 fair trial rights, Chapter Four freedoms, and judicial independence.

The combined effect of the DPP's position, the President's interference, and the Court's ECCMIS-driven ruling was to ratify the repression of the defence and to endorse a systemic attack on the administration of justice.

Conclusion and Call to Action

Judge Baguma's handling of MA 213/2026 highlights how the current ECCMIS framework, without adequate safeguards for high-stakes cases or mechanisms to address judicial rigidity, undermines core constitutional protections.

The ULS demands:

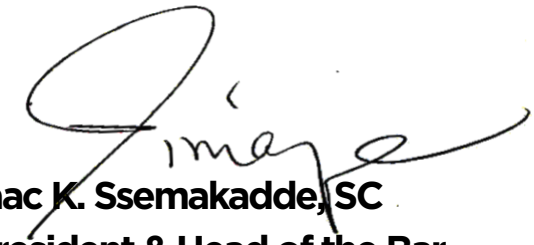
- **Immediate suo motu review and setting aside of the dismissal order** "for want of prosecution," and the relisting of MA 213/2026 for hearing of the bail application within 3 days. Besigye and Lutale must be afforded the opportunity to appear with counsel of their choice, or to address the Court in person should they so elect. **Should this not be done within 3 days, the ULS shall, upon request, facilitate legal representation for the applicants.**

- **Immediate suspension of rigid ECCMIS directives** in all bail and human rights matters, pending stakeholder consultation. This must include reforms to permit hybrid hearings, contingency flexibility protocols, and safeguards against representation crises. **The ULS commends the example of good practice set by Judge Susan Okalany** in *Hon. Muwanga Kivumbi & 22 Others v Uganda* (MA 13/2026), heard at the International Crimes Division.

- **Immediate enforcement of the Wilson Ndege "Minister of Justice" principle, the UN Basic Principles on the Role of Lawyers, and the IBA Standards for the Independence of the Legal Profession.** These must be incorporated into all Judiciary and DPP training manuals, practice directions, and guidelines, and binding on the entire justice chain. The DPP, Judiciary, and Security Agencies must be held accountable where lawyers are targeted for discharging their duties.

- **Accountability and redress for the 3 July 2026 proceedings.** This must include an independent review of the Court's conduct, and remedial orders to restore the applicants' right to counsel of choice and ensure non-repetition.

The rule of law requires more than digital efficiency. In cases involving attacks on the Bar and fundamental liberties, courts must preserve human judgment, compassion, and impartiality. The ULS will continue to defend these essential safeguards for all Ugandans.



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