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High Court Rules Laikipia Ebola Quarantine Arrangement Unconstitutional

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Court confirms that the Constitution binds the Executive in its dealings with foreign governments and in public health emergencies

The High Court today quashed the government's arrangement with the United States to set up a quarantine and treatment facility at Laikipia Air Base for American citizens exposed to Ebola. Justice Patricia Nyaundi gave judgment in the consolidated petitions brought by Katiba Institute and the Law Society of Kenya against the Attorney-General and the Cabinet Secretary for Health.

The Court:

- **Declared** that the Cabinet Secretary for Health failed to uphold the national values and principles of governance in Article 10 of the Constitution, including transparency, accountability and public participation, in the process leading to the setting up of the facility at Laikipia Air Base;
- **Declared** that the Respondents are in breach of Article 35(3) of the Constitution for their continued failure to make available the full terms of any agreement, memorandum, arrangement or negotiations relating to the facility; any public health, environmental, biosafety or security assessments; any approvals obtained from Parliament, regulatory agencies or county governments; and the protocols for the admission, handling, isolation and treatment of exposed persons;
- **Ordered** the Cabinet Secretary for Health, by an order of mandamus, to make these documents and this information available to the public, to the petitioners and to the Court within 45 days; and
- **Prohibited** the Cabinet Secretary for Health from undertaking any further works on the Laikipia facility, or operationalising it, until the Court certifies that the disclosure order has been satisfactorily complied with.

The Court made no order as to costs, as the petitions were brought in the public interest.

Katiba Institute filed the petition on 28 May 2026, hours before the facility was due to open. The Court suspended the project that day and later ordered the Government to disclose the agreement. The documents disclosed included no environmental and social impact assessment and no safety contingency plan. In June, the Court found the Cabinet Secretary of Health in contempt for allowing construction to continue in breach of its orders.

"Today's judgment confirmed what we have said from the first day: Kenyans cannot be kept in the dark about decisions that put their lives and health at stake," said Nora Mbagathi, Executive Director of Katiba Institute. "The Government now has 45 days to put everything on the table: the agreement, the assessments, the approvals, and the protocols. Until it does, and the Court is satisfied, the Laikipia facility cannot go further.

"The lives and health of Kenyans are not bargaining chips in international diplomacy. No government can negotiate away the people's constitutional rights behind closed doors and expect the courts to look the other way. The Constitution must govern even when the Executive finds it inconvenient." said Joshua Malidzo Nyawa, counsel for Katiba Institute.

Katiba Institute calls on the Government to:

1. **Publish** all the documents and information listed by the court in full, within the 45 days allowed
2. **Respect** the prohibition on any further work, or the use of, the Laikipia facility, and account publicly for the admission of foreign nationals to the facility in July while the Court's orders were in force;
3. **Bring** any future international health arrangement before Parliament and the public before it is concluded; and
4. **Put** its energy into the national Ebola preparedness that Kenyans need, as the country works towards being declared Ebola-free.

Katiba Institute will monitor compliance closely and will return to the court if the orders are not obeyed.

We thank the Law Society of Kenya, KELIN, the Kenya Human Rights Commission and the County Government of Laikipia, and above all the people of Laikipia who spoke up. We remember those who lost their lives during the protests.

-Ends-

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