

**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT LODWAR  
JUDICIAL REVIEW MISC. E002, E003, E004 and E005 all OF 2025  
IN THE MATTER OF APPLICATION FOR AN ORDER OF MANDAMUS**

**AND**

**IN THE MATTER OF THE CONSTITUTION OF KENYA, 2010**

**AND**

**IN THE MATTER OF THE WILDLIFE CONSERVATION AND  
MANAGEMENT ACTNO. 47 OF 2013, LAWS OF KENYA**

**AND**

**IN THE MATTER OF THE WILDLIFE CONSERVATION AND  
MANAGEMENT COMPENSATION REGULATIONS 2017**

**AND**

**IN THE MATTER OF THE LAW OF REFORM ACT CAP 26**

**BETWEEN**

**REPUBLIC.....APPLI**

**CANT**

**VERSUS**

**CABINET SECRETARY  
MINISTRY OF TOURISM AND  
WILDLIFE.....RESPONDENT**

**JOHN AKUUT LOSINYONO (Suing as a Legal Representative of the  
Estate of**

**MIKE EMURIA AKUUT and 3 OTHERS.....EXPARTE  
APPLICANTS**

**RULING**

**The background.**

1. On the 30.10.2025 when this matter was mentioned before the court, the applicants 'counsel told the court that the Notice of Motion had been served but no response had been received in the above four matters, the court consolidated the four matters to be heard together and one decision rendered.

2. That decision was informed by the fact that the material facts in all are similar save for the dates of attack and the names of the victims. This decision is on and shall bind the four files.
3. From the material filed, it is clear that while the victim in JR No. E003 of 2025 was attacked and killed by wildlife on the 14.07.2023, the victim in JR No. E002 of 2025 was attacked on 25.07.2022, the victim in JR No. E004 of 2025 was attacked on the 16.10.2023 while the victim in JR No E005 of 2025 was attacked and also killed on the 20.03.2024. Despite the difference on the dates of attack, the two committees sat and dealt with all the four matters on the same date, 07.07.2025 and all the matters having resulted in deaths, each claimant was awarded kshs 5,000,000/ for compensation.

#### **The facts**

4. On 07/10/2025, the court granted the ex-parte applicants orders for leave to apply for orders of mandamus to compel the Respondent to release the sum of Kshs. 5,000,000.00 as the compensation recommended, verified by the Wildlife Conservation & Compensation Committee and approved by the ministerial conservation compensation Committee for death of the deceased persons said to have been attacked and killed crocodiles on diverse dates.
5. Pursuant to the terms of the said orders for leave, the ex parte applicants filed separate substantive Notices of Motion on 19/09/2025 and sought the substantive order of mandamus compelling the Respondents to pay & release to the applicants the sum or amount of Kshs. 5,000,000/= each. The applicants equally prayed for the costs of the application as well as any other remedy the court may deem just and appropriate to grant.
6. The applications are grounded on the respective statutory statements all dated 19/09/2025 and the respective affidavits verifying statement sworn by each ex parte applicants, on the same date.

7. The ex parte applicants aver, in the Affidavits of verification, that the deceased persons were all fatally attacked by crocodiles on the diverse dates while fishing at the shores of Lake Turkana. That the incidents were promptly reported to the nearby Police Stations and to the local administration through the chiefs. That the Respondent's officers visited the scenes, documented the details of the attacks, and provided the families with the necessary assurance that the statutory compensation processes would be initiated.
8. The applicants added that being the personal representatives of the deceased persons' estates, they fulfilled all statutory prerequisites claim forms provided by the KWS, but for nearly two years following the reports, engaged in repeated follow-ups with the Respondent's offices in Lodwar and Nairobi only to later realise that the actual deliberation of the claims was delayed due to the late constitution of the Turkana County Wildlife Compensation Committee.
9. Later, on 07/07/2025, the Community Wildlife Conservation Committee finally convened and deliberated on the claims. The committee verified that the deaths were indeed caused by crocodiles with no contributory negligence on the part of the deceased. The county compensation committee recommended sum of Kshs for each of the applicants after which, the Ministerial Wildlife Compensation Committee validated the award for the statutory maximum of Kshs. 5,000,000.00.
10. The applicants assert that the said approvals were communicated and documented and that despite this final administrative hurdle being cleared, the Respondent has remained silent on the disbursement. The applicants contend that as of September 2025, over sixty days had passed since the committee's final approval without any of the compensation being paid, in direct violation of the timelines envisioned under Section 27 of the WCMA and the 2017 Regulations.

**Response to the Application.**

11. Despite service demonstrated by Affidavits of service filed, the respondent only filed Memoranda of appearance in JR No. E003, E004 and E005 without any substantive response to the applications. In law therefore, the four applications stand as unopposed.
12. The court however recalls that there was also JR No E001 of 2025, whose facts are similar to the facts in this consolidated matter, in which a response was filed by way of a Replying Affidavit sworn Diana Sigei on the 13/10/2025. In that Affidavit the Respondent does not contest its liability to pay or the approval of the claim but rather centres its resistance to the enforcement application on budgetary constraints, national backlogs and the systemic challenges of the Wildlife Compensation Scheme arguing that the Ministry of Tourism and Wildlife only recently commenced the nationwide constitution of County Compensation Committees following an allocation of funds by the State.
13. In that related matter, the Respondent argues that there is a massive national backlog of unpaid claims dating back to 2014. That due to limited funds, the Ministry decided to clear the oldest claims first to ensure an orderly and fair distribution of resources. The Respondent further contends that the 30-day timeline provided under the regulations was an ambitious goal that did not account for the sheer volume of human-wildlife conflict cases or the specific funding challenges currently facing the Treasury.
14. The Respondent further asserts in the same affidavit that they have documentation and have documented the details of all claimants, including the applicants, and are keeping them informed of the inevitable circumstances resulting in the delay. It hints at an internal administrative arrangement where KWS serves as the secretary but the actual disbursement is a function of the Cabinet Secretary, implying that the Service should not be held solely responsible for the Treasury's delay in releasing funds. It is stressed that the service is not refusing to act,

instead, it is are unable to act with the speed requested by the applicants due to the fiscal realities of the national budget.

15. Even though there was never a response specifically filed for these four instant files, the court in determining the applications shall have the earlier response filed in mind in coming to the decision.

### **Analysis and Determination**

16. The court is called upon to determine whether the respondent has a public duty to perform and capable of enforcement by the order of mandamus.
17. Section 25 of the Wildlife conservation and Management Act is the primary provision at play here. It stipulates states that where a person is injured or killed by wildlife listed under the Third Schedule, the injured or the personal representative may launch a claim to the County Wildlife Conservation and Compensation Committee. The process involves CWCC verification of the claim under Section 25(2) then submitting it with recommendations to the Cabinet Secretary. The Cabinet Secretary, through the MWCC, considers the recommendations and, where appropriate, pays compensation. The Act specifies a mandatory amount of five million shillings in the case of death.
18. Part IV, Regulation 27 of the Wildlife Conservation and Management (Compensation) Regulations, 2017, provides the operational timelines of 30 days, from the date of receipt of the claim for compensation to be effected. Although the Respondent, by conduct, appears not keen to always comply with the timelines, it remains the law that binds the duty bearers. The court interprets the regulations to require the settlement of verified claims within 30 days of the claim being lodged.
19. Having said so, the court must commence its mandate by resolving whether the applicants has established the criteria for the judicial review by way of mandamus. The Court of Appeal discussed the nature of and when to issue the remedy of mandamus in **Republic vs Kenya National**

**Examinations Council ex parte Githinji & 8 Others [1997] eKLR**, by citing with approval, the author of **Halsbury's Laws of England 4<sup>th</sup> Vol. 7 p. 111 para 89**, as follows: -

**“The order of mandamus is the most extensive remedial nature and is in form, a command issuing from the High Court of Justice, directed to any person, corporation or inferior tribunal, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. Its purpose is to remedy the defects of justice and accordingly it will issue, to the end that justice may be done, in all cases where there is a specific legal right and no specific legal remedy for enforcing that right and it may issue in cases where although there is an alternative remedy, yet that mode of redress is less convenient, beneficial and effectual...”** **These principles mean that an order of mandamus compels the performance of a public duty which is imposed on a person or body of persons by a statute and where that person or body of persons had failed to perform the duty to the detriment of a party who has a legal right to expect the duty to be performed.”** (Emphasis added)

20. In the circumstances of this matter, the first requirement is a public legal duty to act. Section 25(3) of the WCMA states that the Cabinet Secretary *shall* pay compensation. While the section includes the qualifier *where appropriate*, the appropriateness is determined by the CWCC and MWCC during the verification and recommendation stage. Once the MWCC validated the applicants's claim on 07/7/2025, the discretionary element of the duty was exhausted. The duty to disburse the funds became an absolute and imperative ministerial act.
21. On the requirement that the applicants must have a clear right to the performance of that duty, the applicants have satisfied all statutory

conditions: reporting the incident, filing the claim and obtaining the approval of the national-level committee. There is no further action required from the applicants; the ball is entirely in the Respondent's court.

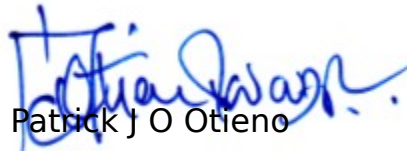
22. On the existence of a prior demand for performance and a reasonable time to comply, it has not been disputed that the applicants have made follow-ups for over two years. Even after the final approval in July 2025, nearly three months had passed by the time the notice of motion application was filed. Under Regulation 27(2), the period is capped at 30 days.
23. Finally, the right to and sum for compensation having been established, mandamus specifically remains the designed appropriate remedy to enforce a decision already made by a public body but left unimplemented.
24. The court appreciates the Wildlife Compensation Scheme as a creation of the law enacted by Parliament and must thus be funded as part of the National budget. It isn't a discretionary tokenism at the whim of the minister or indeed the National Treasury. The court takes the position that the duty to compensate is a public duty bestowed upon the respondent who by dint of article 47 bound to act fairly and expeditiously.
25. In the case of **Joseph Boro Ngera & Supaduka Nakuru vs Kenya Wildlife Service Civil Appeal NO. 71 of 1997**, the Court of Appeal observed that the duty to manage national parks and reserves comes with the attendant responsibility to shoulder claims arising out of loss, injury or damage to property and human life. Therefore, it is the duty of the 1<sup>st</sup> Respondent to compensate the applicants.
26. Further, in **Republic vs Kenya Wildlife Service & 2 others; Oguna [2025] KEHC 2019 (KLR)** the court while faced with an identical situation where a claim for a crocodile was made in the sum of 5,000,000.00 after the same had been approved but remained unpaid for over four years, ruled that the delay was a violation of the regulatory

timeline and issued a mandamus order compelling the KWS to release the funds. The court noted that KWS continues to collect parking and park entry fees and thus cannot plead total poverty while ignoring statutory debts to victims.

27. On the Respondent's argument, elsewhere in a related matter to these, that it must pay claims from 2014 first, the court holds that such a queue is a creation by the respondent out of abdication of duty, is not codified in the Act nor the Regulations and deserves no prominence in further breach of the law.
28. To the court an award by the statutory committee is a vested property and therefore force the applicants to wait for indeterminate period for payment of the compensation, maybe until the beneficiaries shall have themselves passed away, is a violation of the principle of expeditious administrative action under Article 47 as well as an obvious arbitrary deprivation of property. There being no resistance filed, and even when the court has gone out of its way to consider the respondents position disclosed in a related matter, the court finds that it is duty bound to issue the mandamus sought. If not for anything else, to express disapproval of the respondent's abdication of statutory duty and thus breach of the law. That is never the duty of nor expectation from a court of law.
29. In conclusion, the applicants have satisfied the court that the Respondent, by operation of the law, owes them the amount of Kshs.5,000,000.00/= in form of compensation for the deaths caused by wildlife attacks.
30. Consequently, the court finds this application as wholly merited and allow it as prayed. Consequently, there is hereby issued an order of mandamus directed at the respondent and compelling it to pay to each of the applicants the approved compensation in the sum of Kshs 5,000,000 with interests thereon, from the date of the chamber summons for leave till payment in full.

31. Because the applicants have succeeded and the law commands that costs follow events, the costs go to the applicants.
32. Orders accordingly.

Dated, signed and delivered virtually this 18<sup>th</sup> day of March, 2026.

  
Patrick J O Otieno  
Judge

ORIGINAL