

BETWEEN: BERGMANS IATI
Applicant

AND: REPUBLIC OF VANUATU
Respondent

Date of First-Conference Hearing: 18 February 2026

Coram: Hon. Chief Justice Vincent Lunabek

Counsel: Eric Molbaleh for the Applicant
Manen H Mala for the Respondent

Date of written decision 23 February 2026

Decision striking out Constitutional Application

1. A First Conference hearing is listed in this case before me on 18 February 2026 at 2:00 pm.
2. Mr. Molbaleh appears on behalf of the Applicant. Ms Mala appears on behalf of the Respondent.
3. I informed counsel that I inquire into the matter as to whether there is a cause of action that is founded in the breaches of the fundamental rights under Article 5 and for any breach of other provisions of the Constitution (Article 6 and 53).
4. I told counsel that I need only to hear from Mr. Molbaleh. I do not need to hear from the Respondent Counsel.
5. I ask Mr. Molbaleh to assist me with the basic facts to this case, which are:
 - a) The Applicant, Mr Bergmans Iati, was the Director General (DG) of the Ministry of Education and Training and was appointed as such since 17 April 2024.
 - b) On 11 September 2025, the Acting Prime Minister (Hon. Johnny Kuanapo) transferred the Applicant to the Ministry of Justice, Youth and Community Services as D.G of that Ministry. A transfer instrument was made by the Acting Prime Ministry on the same date.
 - c) The Applicant worked in the Ministry of Justice, Youth and Community Services as D.G until 13 January 2026.
 - d) On 13 January 2026, the Acting Secretary of the Public Service Commission (Mr Jean Yves Bibi) wrote a letter to the Applicant advising him to return to his substantive position as D.G of the Ministry of Education and Training.
 - e) The Applicant has returned to his substantive position as the D.G of the Ministry of Education and Training.

- f) While the Applicant was working as the D.G of Ministry of Justice, Youth and Community Services, he was paid the same level of salary as when he was working as the D.G of Education and Training.
6. The Applicant seeks orders to the effect that:
- 1) The transfer of the Applicant is unconstitutional and of no effect.
 - 2) Monetary compensation to the Applicant in the sum of VT 5 million for emotion distress and tarnishing his reputation.
7. When I questioned Mr. Molbaleh further, Mr. Molbaleh informed the Court and admitted that the Acting Prime Minister has power under Article 58 (2) to transfer the Applicant from the Ministry of Education and Training to the Ministry of Justice, Youth and Community Services as Senior Public Servant.
8. Article 58 (1) (2) provides:
- 58. Exclusion of security tenure in relation to political advisers and transfer of public servants**
- (1) *the rule of security of tenure provided for in Article 57 (5) shall not apply to the personal political advisers of the Prime Minister and Ministers.*
 - (2) *Senior public servants in Ministries may be transferred by the Prime Minister to other posts of equivalent rank.*
9. I ask Mr. Molbaleh to show which Article of the Constitution has been infringed in relation to the Applicant.
10. Mr. Molbaleh is unable to show any. Mr Molbaleh recognised and admitted that from changing the location from D.G of education and Training to Justice, Youth and Community Services, there is no prejudice suffered by the Applicant from 11 September 2025 to 13 January 2026. There is no breach of any Constitutional rights.
11. The Constitutional application is misconceived. It has to be struck out. Mr. Molbaleh accepted that position.
12. I order that the Constitutional Application No. 127 of 2026 is hereby struck out.
13. There is no order as to costs.

Dated at Port Vila, this 18th day February, 2026.

BY THE COURT

Hon. Chief Justice Vincent Lunabek

