April 24, 2026

SENIOR COUNSEL FORUM

The Clerk to Parliament
Parliament of Uganda
Kampala, Uganda
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Dear Sir,

MEMORANDUM OF SUBMISSIONS ON THE *PROTECTION OF SOVEREIGNTY BILL* 2026 FROM THE SENIOR COUNSEL FORUM

1. Background

1.1. The *Protection of Sovereignty Bill*, 2026 ("the Bill") was gazetted on 13 April 2026 as Bills Supplement No. 5 to the *Uganda Gazette* No. 39, Volume CXIX.

1.2. The Bill is a 30-clause statute organized in five Parts. Its declared object is to protect the sovereignty of the people of Uganda; to designate the Department responsible for peace and security in the Ministry of Internal Affairs as the regulator of "agents of foreigners"; to provide for the registration of such agents; and to regulate funding from foreigners. The Memorandum identifies a perceived gap created by the absence of a specific law on national sovereignty.

2. Erroneous premise of the Bill

2.1. With respect, the premise of the Memorandum is misconceived. The sovereignty of the people of Uganda is already comprehensively secured by the Constitution of the Republic of Uganda, 1995 (in particular Articles 1, 2, 3, 8A, 79, 99 and 111). Conduct of the kind the Bill seeks to address is, to a significant extent, already criminalized or regulated by an extensive body of subsisting legislation, including, among others, *Penal Code Act*, Cap. 128; *Anti-Terrorism Act*, Cap. 130; *Anti-Money Laundering Act*, Cap. 118; *Public Finance Management Act,* Cap. 171; *Computer Misuse Act,* Cap. 95; *Income Tax Act,* Cap. 340; *Political Parties and Organisations Act*, Cap. 178.

2.2. Where new statutory intervention is contemplated, the proper question is not whether to enact a fresh, parallel regime, but whether identifiable gaps in the existing framework can be addressed by targeted amendment to the relevant statutes. The Bill, as drafted, does the opposite: it creates a sweeping new offence regime, administered by the security services, that overlays the existing law without expressly repealing or harmonizing it. The

result is a substantial risk of double jeopardy, regulatory duplication and forum-shopping by prosecutors.

2.3. More fundamentally, the Bill raises serious concerns of constitutionality and it has direct, immediate and adverse implications for the independence of the Bar, legal professional privilege, the right to counsel and access to justice.

3. Infringement of fundamental rights and freedoms

3.1. Several provisions of the Bill, as currently drafted, are incapable of being reconciled with the Bill of Rights in Chapter Four of the Constitution.

3.2. The pertinent rights and freedoms include:

Article 21: equality and freedom from discrimination

The definition of "foreigner" in clause 1 includes "a Ugandan citizen residing outside Uganda." This effectively converts members of the Ugandan diaspora into "foreigners" in their own country, and converts persons in Uganda who deal with them — family members, lawyers, business partners, returning students — into "agents of foreigners." This is a discrimination on the ground of place of residence inconsistent with Articles 21 and 18 (the right to a Ugandan passport) and difficult to reconcile with Article 17(1)(b) (the duty of every citizen to engage in lawful activity).

Article 27: right to privacy of person, home and property.

Clause 28 confers on "a person appointed by the Minister" the power to inspect premises of an agent of a foreigner "at any reasonable time" without judicial warrant. Clause 21(2) makes declarations of funding sources available to "any member of the public." Both provisions intrude on privacy and confidentiality without the safeguards required by Article 27.

Article 28(3) & (12): right to a fair hearing (incl. legal certainty).

Several offences in the Bill (clauses 5(4), 6(4), 7(4), 8, 12 and 13) are framed in language so vague — "interests of Uganda," "operations of Government," "weakens or damages the economic system," "influencing the will and consent"

that they fail the test of legal certainty. A criminal offence must be defined with sufficient precision to enable a person of ordinary intelligence to know in advance what conduct is prohibited

Article 29(1): freedom of thought and conscience, expression (including press), assembly, and association.

Clauses 5, 7, 8, 10, 12, 13 and the definition of "disruptive activities" in clause 1 directly criminalize expressive and associational conduct including "influencing the public to

oppose the policy of Government" (clause 2(2)(g)), "engaging or participating in a riot or unlawful demonstration or assembly" (definition of "disruptive activities"); and publishing information said to weaken the economic system (clause 13). These restrictions are neither demonstrably justifiable in a free and democratic society (Article 43) nor narrowly tailored.

Article 38: civic participation and activities.

Citizens have the right to participate in peaceful activities to influence the policies of Government through civic organisations. Clauses 7(3), 8(3), 8(4) and 12 substantially burden, and in places extinguish, this right by criminalizing conduct that constitutes its core exercise.

4. Implications on legal practice in Uganda

4.1. By placing the regulation of "agents of foreigners" in the Department responsible for peace and security under the Minister of Internal Affairs, and by deeming the conduct of advocates (and other professional service providers) to fall within that regime where they happen to act for foreign clients, the Bill encroaches on the constitutional and statutory mandates of the Law Council (under *Advocates Act*, Cap. 295) as well as like statutorily-mandated bodies for other professional services. This raises serious separation-of-powers and constitutional-organ concerns.

4.2. The definition of "agents of foreigners" is extraordinarily broad. It captures any person who acts "at the order, request, or under the direction or control" of a foreigner, or of a person whose activities are "directly or indirectly supervised, directed, controlled, financed, or subsidized" by a foreigner. The chain of "indirect" financing is, in modern economies, effectively unlimited. On a literal reading, the following scenarios can play out as agency of foreign interests:

(a) an advocate retained by a foreign client—whether a multinational corporation, an embassy, a foreign individual or a Ugandan in the diaspora—is an "agent of a foreigner".

(b) an advocate who represents the interests of a foreigner before any agency or official of the Government of Uganda is an agent of a foreigner (clause 2(2)(c)).

(c) an advocate who solicits, collects, disburses or dispenses contributions, loans, money or other things of value for or in the interest of a foreigner (which describes ordinary professional fee arrangements with foreign clients) is an agent of a foreigner (clause 2(2)(b)).

An advocate who represents a Ugandan client in the diaspora is, on the definitions, also captured.

4.3. To that end, no advocate can lawfully practice without first being registered, vetted and certified by the Department responsible for peace and security—on pain of a fine of 50,000 currency points (UGX 1 billion) or ten years' imprisonment under clause 14(2). This is regulatory overreach of an extraordinary kind

4.4. On the other hand, the definition of "disruptive activities" encompasses, among others, "engaging or participating in a riot or unlawful demonstration or assembly," and "disrupting or interfering with the lawful activities, business operations, peace or human rights of any person." These are already criminal under the *Penal Code Act* and the *Public Order Management Act*, where applicable. Their re-criminalization here, with a foreign-funding overlay, exposes lawyers advising on protest, demonstration and labour-relations matters to liability as "agents of foreigners."

4.5. The consequences are as follows.

(a) Firstly, no advocate may act for any such client unless and until that advocate has applied for, obtained and is holding a current certificate of registration issued by the Minister of Internal Affairs (clauses 14, 15, 17). The application must disclose, *among others*, the names and addresses of all foreign clients, the character of their business, copies of every written agreement (including, by necessary implication, the retainer letter), the terms of every oral agreement, and the nature and method of performance of every such contract (clause 15(2)(c) and (d)).

(b) Secondly, the Minister may grant the certificate "subject to such conditions as the Minister may consider necessary" (clause 17(2)).

(c) Thirdly, the Minister may suspend or revoke the certificate where, among other things, the holder "poses, or their activities pose, a security threat to national security" or "engages in disruptive activities" (clause 20(2)(f) and (g)). An advocate so deprived of a certificate cannot lawfully act for the client without committing an offence punishable by ten years' imprisonment (clause 14(2)).

4.6. This regime is at odds with foundational principles of legal practice in Uganda.

(a) *Independence of the Bar*: By making a right to act for any "foreign" client (broadly defined) contingent on a certificate granted, conditioned, suspended or revoked by the Minister of Internal Affairs—acting on the recommendation of the Department responsible for peace and security—the Bill places the Executive at the gateway to a substantial portion of the legal services market.

(b) *Lawyer-client confidentiality and legal professional privilege*: Clause 15(2)(c) and (d) of the Bill require an applicant for registration as an agent of a foreigner to file with the Minister true and complete copies of every written agreement and a full statement of every oral agreement with the foreign client, together with a comprehensive statement of the nature and method of performance of every such

contract. Clause 21(2) makes the resulting declarations available for inspection by any member of the public on payment of a fee. Clause 25 obliges "supervised institutions" (banks and other money-transfer entities) to disclose payments to agents of foreigners. Clause 28 authorizes inspection of the agent's premises and seizure of records on demand.

Each of these clauses strikes at the heart of the privilege. An advocate who declines to disclose such information to the Minister or inspector commits an offence (clause 28(2)). An advocate who discloses it betrays the client.

(c) *Right to counsel of one's choice:* The Bill creates a regime which licenses the choice of counsel—by making it an offence for the chosen advocate to act, unless and until the Minister has approved—and this directly burdens that right for, for instance, foreign businesspeople in commercial disputes with Government, victims of cross-border human-rights abuses, and Ugandans in the diaspora whose property or family interests are at stake.

5. EAC Obligations: Bill's Sovereignty v. Doctrine of "Pooled Sovereignty"

5.1. The Bill presents a significant legal tension with the doctrine of "pooled sovereignty" established by international legal regimes such as the East African Community. The doctrine of pooled sovereignty in the Community requires the Partner States to delegate specific sovereign powers to regional institutions to achieve integration.

5.2. The Treaty position the Community law and institutions to have precedence over national laws in matters of regional integration. The Bill's broad definitions of "foreigners" and "agents of foreigners" (clause 1) is likely to be seen as a clawback of this delegated authority by subjecting regional actors to a restrictive national oversight.

(a) By an expansive "foreigner" definition, the Bill includes Ugandan citizens abroad (including in the other Partner States), effectively undermining the Common Market Protocol regarding the free movement of persons and services.

(b) The free movement of services within the EAC includes legal services. The Bill seeks to restrict foreign legal services and cross-border practice. To that end, a Ugandan advocate engaged by a Tanzanian or Kenyan corporation to act in matter in Uganda (or before Uganda courts) would, on the Bill's definitions, be an agent of a foreigner. Conversely, Kenyan or Tanzanian advocates practising in Uganda under a temporary practising certificate would face the same characterization.

(c) In its economic sabotage clause, the Bill criminalizes information deemed damaging to the economic system, and this is likely to restrict the free flow of information and technology required for an export-oriented regional economy.

(d) Finally, the Bill's mandatory registration regime requires "agents" to register with the Ministry of Internal Affairs for 2-year certificates. This imposes national barriers on regional entities that should operate under harmonized Community standards.

5.3. The East African Court of Justice (EACJ) has consistently ruled that when Partner States join the Community, they **cede a portion of their sovereignty** to a superior regional legal order. In its earliest cases in 2006, in *Prof. Anyang' Nyong'o v. Attorney General of Kenya* —the definitive case on "pooled sovereignty"—the Court ruled that once a Partner State voluntarily enters the EAC Treaty, it cannot invoke its internal/municipal laws to justify a breach of Treaty obligations. As the result of this doctrine, the Court has consistently applied certain principles:

(a) Community law is an autonomous legal order that ranks above national laws and constitutions in areas where power has been delegated to the EAC.

(b) Partner States are responsible for the actions of all its branches—including the **Legislature** and Judiciary—if their acts (such as passing a Bill that violates Treaty principles) infringe upon the Treaty.

(c) "Sovereignty" cannot be used as a shield to bypass regional commitments.

6. Concluding Remarks and Recommendations

6.1. In conclusion, while the Bill 2026 is ostensibly presented as a measure to safeguard the country from external interference, its actual effect is the centralization of power within the Executive at the expense of the citizenry. By criminalizing ordinary civic participation and imposing draconian penalties on broad, undefined activities, the Bill fundamentally alters Uganda's democratic fabric.

6.2. The Bill is untenable under current law for the following reasons:

(a) The Bill is materially in contravention of the Constitution in terms of, among others, articles 1, 2, 21, 26, 27, 28(3) & (12), 29(1), 38, 40(2), 43 and 44.

(b) The Bill stands in direct conflict with the EAC Treaty and the principle of pooled sovereignty, with the Common Market Protocol undermined by the Bill's restrictive "foreigner" definitions and registration barriers.

(c) The "economic sabotage" clause and foreign funding caps threaten to stifle essential capital inflows, damage investor confidence, and criminalize legitimate professional activities such as financial analysis and investigative journalism.

6.3. The Forum therefore recommends that this Bill be **withdrawn immediately**.

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