

Case *Note*

CASE NOTES & COMMENTARY
ODPC & HIGH COURT, KENYA

ONE RULING, DIGESTED ON ITS OWN – THE FACTS, THE HOLDING, AND THE PRACTICE POINT

📅 [2026] KEHC 8819

The High Court's data protection jurisdiction is "staggered," not absent

Mwaniki v Safaricom PLC

SUIT STRUCK OUT FOR NON-EXHAUSTION CASE NOTED DATA PROTECTION · ADMINISTRATIVE LAW

BY THE EDITORIAL BOARD, MUCHANGI PATRICK & CO. ADVOCATES

A plaintiff sued Safaricom directly, alleging it had launched a financial product substantially identical to one he had developed and shared with the company, in violation of his data protection rights. Safaricom's preliminary objection argued the High Court lacked jurisdiction entirely, since data protection claims sit exclusively with the ODPC. The Court rejected that framing as "mistaken and misconceived": the High Court does have jurisdiction over data protection claims, but that jurisdiction is deferred, or staggered — the ODPC investigates and determines first, and the High Court's role follows, either on appeal or by adoption and enforcement of the resulting award. On the facts, the suit was struck out because the plaintiff had not gone to the ODPC first.

PRACTICE POINT

Resist any argument that the ODPC's existence strips the High Court of jurisdiction altogether — the correct characterisation, now stated plainly by the Court, is a staggered jurisdiction where the ODPC goes first and the High Court's constitutional role remains fully intact, just deferred.

Cite this page: Muchangi Patrick & Co. Advocates, "The High Court's data protection jurisdiction is "staggered," not absent: Mwaniki v Safaricom PLC" (dataprivacyadvocates.co.ke, 2026)
<<https://dataprivacyadvocates.co.ke/case-mwaniki-v-safaricom-plc.html>>.

HOW THIS TOUCHES A LIVE ODPC MATTER

Whether you are defending a complaint, appealing a determination, or bringing a privacy claim of your own, the forum you choose and the procedural record you build early usually decide the outcome.

Muchangi Patrick & Co. Advocates represents complainants and respondents before the Office of the Data Protection Commissioner and on appeal, judicial review and constitutional petition before the High Court.

[Book a Consultation](#)

[Chat on WhatsApp](#)

CONTINUE READING

← [A family business is ordered to stop using a relative's KRA](#) [All Case Notes on the Blog](#) [Kenya's courts decline a blanket AI moratorium, but](#)



This case note summarises and comments on a published High Court judgment reviewing a determination of the Office of the Data Protection Commissioner, or a first-instance privacy matter. It is prepared for general informational purposes, reflects our own analysis and characterisation of the judgment, and does not constitute legal advice. The citation is provided so readers can access the full judgment on Kenya Law; organisations should consult qualified legal counsel before acting on any point summarised here.

Prepared by the Editorial Board of Muchangi Patrick & Co. Advocates · Nairobi · Not legal advice – consult qualified counsel before acting on this analysis.

For essential site functionality and to remember your preferences, we use a small number of cookies. With your consent, we also use cookies to understand how visitors use this site. See our [Cookie Notice](#).

Essential Only

Accept All