

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 4642

Persistent calls, secret filming and a WhatsApp group about a neighbour cost Kshs 1 million

Onduko v Squier & Another

DECLARATIONS, INJUNCTIONS & DAMAGES CASE NOTED DATA PROTECTION · ADMINISTRATIVE LAW

BY THE EDITORIAL BOARD, MUCHANGI PATRICK & CO. ADVOCATES

A petitioner was subjected to persistent unwanted phone calls and messages, had images and video of her residence taken and circulated, and was discussed in a neighbourhood WhatsApp group created specifically about her, ostensibly over animal welfare concerns. The respondents argued this was a lawful, reasonable response to noise complaints and that the petitioner should have pursued alternative dispute resolution. The Court held the doctrines of exhaustion and constitutional avoidance did not bar the petition, that unauthorised surveillance and dissemination of material about a neighbour violated Articles 28 and 31, and awarded substantial compensation and permanent injunctions restraining further contact and filming — while dismissing a companion defamation claim for want of evidence.

PRACTICE POINT

Privacy protection under Article 31 is not limited to data controllers and the ODPC's statutory framework — it reaches ordinary neighbour-to-neighbour surveillance, filming, and group messaging conducted outside any commercial or institutional context.

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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.

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