

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 3809

A recycled mobile number is a "digital identifier" the state must protect, the High Court rules

Odhiambo & Another v Attorney General & Another

ALLOWED IN PART – MANDATORY ORDERS ISSUED CASE NOTED DATA PROTECTION · ADMINISTRATIVE LAW

BY THE EDITORIAL BOARD, MUCHANGI PATRICK & CO. ADVOCATES

Two prisoners challenged the unregulated reassignment of deactivated but previously registered mobile numbers, arguing such numbers constitute a person's digital identity and that mechanical reassignment after a period of inactivity — including inactivity caused by imprisonment — exposes personal information to third parties without any real safeguard. The Court agreed that a registered mobile number is a digital identifier attracting Article 31 protection, and that deactivation and reassignment without regard to a subscriber's circumstances poses a genuine privacy risk — while separately confirming that restricting prisoners' access to personal phones is itself a constitutional limitation. It ordered the Attorney General to develop safeguards against unfettered reassignment, with a default order that reassignment cease altogether if no regulatory scheme was implemented by a fixed deadline.

PRACTICE POINT

This is the clearest judicial recognition yet that a mobile phone number is more than a communications tool — it is a digital identifier that Article 31 protects, and telcos and regulators should expect scrutiny of how recycled numbers are handled. It also sits alongside, and reinforces, the Taifa DT Sacco ruling in Volume I on who counts as a "data subject" when a number changes hands.

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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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