

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 4814

## Filing a petition four days after an ODPC complaint is forum shopping, not urgency

Otieno v University of Nairobi & 8 Others

PETITION DISMISSED CASE NOTED DATA PROTECTION · ADMINISTRATIVE LAW

BY THE EDITORIAL BOARD, MUCHANGI PATRICK & CO. ADVOCATES

A university employee alleged his phone had been accessed and the information used to terminate his employment, in violation of Articles 28 and 31. He had lodged a complaint with the Data Protection Commissioner — and then filed a constitutional petition on largely the same facts just four days later, before the ODPC's own 90-day statutory investigation window under Section 56(5) had even begun to run. The Court dismissed the petition, holding that running parallel proceedings on the same complaint amounted to forum shopping and offended both the doctrine of exhaustion and constitutional avoidance.

### PRACTICE POINT

Lodging an ODPC complaint and then filing a parallel constitutional petition before the ODPC has had a real opportunity to investigate is not a way to speed up relief — it is treated as forum shopping and risks losing both routes.

**Cite this page:** Muchangi Patrick & Co. Advocates, "Filing a petition four days after an ODPC complaint is forum shopping, not urgency: Otieno v University of Nairobi & 8 Others" (dataprivacyadvocates.co.ke, 2026) <<https://dataprivacyadvocates.co.ke/case-otieno-v-university-of-nairobi-and-8-others.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

← [An advocate cannot be sued in a data-privacy petition for evidence filed on a client's behalf](#)

[All Case Notes on the Blog](#) [Mental incapacity as a jurisdictional objection needs evidence, not just an assertion](#)

⇒



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