

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 3987

Mandamus compels the ODPC to act after 90 days of silence

Republic v Office of Data Protection Commissioner; HS & 2 Others
(Interested Parties); GEI & Another (Ex Parte Applicants)

MANDAMUS ISSUED CASE NOTED DATA PROTECTION · ADMINISTRATIVE LAW

BY THE EDITORIAL BOARD, MUCHANGI PATRICK & CO. ADVOCATES

The family of a minor wrongly identified as deceased in a newspaper photograph lodged a complaint; the ODPC acknowledged it, assigned a complaint number — and then went silent, well past the 90-day statutory determination window under Section 56(5). With no determination issued, the family had no appeal to file either. The Court found all eight classic conditions for mandamus satisfied and ordered the ODPC to admit the complaint within 10 days and issue a determination within 60 days of admission — a rare and pointed judicial rebuke of regulatory inertia.

PRACTICE POINT

If the ODPC has acknowledged a complaint and gone silent past the 90-day mark, mandamus — not an appeal that doesn't yet exist — is the available remedy, and the statutory timeline is treated as mandatory, not aspirational.

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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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