



Ouma v University of Nairobi & another; Commission for University Education & another (Interested Parties); University Academic Staff Union University of Nairobi Chapter (Proposed Interested Party) (Employment and Labour Relations Petition 192 of 2024) [2025] KEELRC 1511 (KLR) (26 May 2025) (Ruling)

Neutral citation: [2025] KEELRC 1511 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS PETITION 192 OF 2024**

**MN NDUMA, J
MAY 26, 2025**

BETWEEN

BRIAN OUMA PETITIONER

AND

THE UNIVERSITY OF NAIROBI 1ST RESPONDENT

ETHICS AND ANTI-CORRUPTION COMMISSISON 2ND RESPONDENT

AND

COMMISSION FOR UNIVERSITY EDUCATION INTERESTED PARTY

APOSTLES OF JESUS PHILOSOPHICUM INTERESTED PARTY

AND

**UNIVERSITY ACADEMIC STAFF UNION UNIVERSITY OF NAIROBI
CHAPTER PROPOSED INTERESTED PARTY**

RULING

- 1 The application serving before court is for joinder by the proposed 3rd Interested Party named University Academic Staff Union – University of Nairobi Chapter.
- 2 The dispute is between the Petitioner, Brian Ouma, who holds the position of Director, University Advancement and Institutional Development. He holds a Bachelor of Philosophy Degree which was awarded to him by Pontifical Urbaniana University Rome, Italy on 15/1/2023 and a Master of Business Administration Degree from University of Nairobi. The 1st and 2nd Respondents, are University of Nairobi and Ethics and Anti-Corruption Commission. The 2nd Respondent directed the



- 1st Respondent to take administrative action against the Petitioner for holding a Bachelor Degree not recognized in Kenya.
- 3 The 1st Respondent wrote to the Petitioner pursuant to the direction in the letters dated 7/11/2024 and 22/11/2024, directing the Petitioner to present a defence or clarification in response to the EACC's allegation.
- 4 The Commission for University Education has been enjoined as the 1st Interested Party as it is the Institution mandated to determine which degrees are recognized in Kenya. The Apostles of Jesus Philosophicum is also enjoined as the 2nd Interested Party being the institution where the Petitioner enrolled at being a major seminary affiliated with Pontifical Urbaniana University (PUN) for his Bachelor of Philosophy.
- 5 The issue is whether the proposed Interested Party has met the threshold for joinder as established under the law and as set out by the Supreme Court in the case of Francis Kariuki Muruatetu and another versus Republic and 5 others [2010] eKLR where the court laid the following checklist where a party seeks to be joined in proceedings as an Interested Party:-
- a. The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral.
 - b. The prejudice to be suffered by the intended interested party in case of non-joinder, must also be demonstrated to the satisfaction of the court. It must also be clearly outlined and not something remote.
 - c. Lastly, a party must, in its application, set out the case and/or submissions it intends to make before the court and demonstrate the relevance of those submissions. It should also demonstrate that these submissions are not merely a replication of what the other parties will be making before the court
- 6 The basis laid by the proposed Interested Party for joinder is that it is a union with a Collective Bargaining Agreement with the 1st Respondent and represents all the unionisable academic staff. That the proposed Interested Party naturally therefore has a genuine interest in any matter that attracts the welfare of the academic staff of the 1st Respondent including terms and conditions of their service.
- 7 That the Petitioner seeks an order against the 1st Respondent and has stated that the position the Petitioner holds as Acting Chief Operations Officer is one above the position of Director Human Resource and so the Petitioner has a functionality that relates to academic staff of the 1st Respondent hence the interest of the proposed Interested Party in the matter.
- 8 That the proposed Interested Party being the only representative of the academic staff of the 1st Respondent has a direct role in all aspects involving stewardship of Human Resource function, formulation and upkeep of human resource policies and procedures and therefore has special experience and knowledge that it would share with the court as set out in its submissions before court.
- 9 That the 1st Respondent has taken no action on the directive by the 2nd Respondent and so there is danger of possible collusion between the Petitioner and the 1st Respondent to defeat the ends of justice.
- 10 That the intent of proposed Interested Party and the entire body of academic staff in response stands to suffer irreparably if the application is not granted.
- 11 The petitioner filed a Replying Affidavit to the application for joinder opposing the grant and deposes, inter alia, that whether the Bachelor of Philosophy degree awarded to him by Pontifical Urbaniana



University is recognized in Kenya is an issue that is within the statutory mandate of the Commission for University Education which is already a party to this Petition. Accordingly, evidence regarding whether his academic qualifications are recognized in Kenya can only be properly adduced before this Honourable Court by the Commission for University Education and not UASU-UoN Chapter.

- 12 That in essence, UASU-UoN Chapter seeks to regurgitate positions already taken in the Petition and its joinder Motion confirms this fact. Other than increase the number of parties in the suit, UASU-UoN Chapter will not add any value to the proceedings.
- 13 That UASU-UoN Chapter has not demonstrated a clearly identifiable stake and/or legitimate legal interest distinct from that sought to be advanced/ articulated by the Respondents. Hence, UASU-UoN Chapter. will not suffer any prejudice if joinder is declined, and which has, in any event, not been demonstrated
- 14 The 1st and 2nd Respondents did not file any opposition to the joinder however the proposed Interested Party filed a Supplementary Affidavit to establish its application and joined issues with the deposition by the Petitioner in the Replying Affidavit.

Determination

- 15 The court has carefully considered the deposition by the Applicant and the response by the Petitioner. The court has considered the matter vis a vis the threshold for joinder of Interested Party set by the Supreme Court in the Muruatetu case (supra) and is of the finding that the validity of the academic qualification of the Petitioner is a matter between the Petitioner, the 1st Respondent and the Commission for University Education, the 1st Interested Party.
- 16 The proposed 3rd Interested Party has in the courts view failed to set out in the application identifiable and proximate interest in the matter to be determined whether or not the Petitioner obtained his Bachelor Degree from a University recognized by the 1st Interested party in Kenya.
- 17 The proposed Interested Party has not demonstrated the prejudice it would suffer if it is not joined in this matter which is a matter personal to the Petitioner and in the sole jurisdiction of the 1st Interested Party to guide accordingly as requested by EACC.
- 18 The court finds that the application for joinder lack merit and is dismissed.

DATED AT NAIROBI THIS 26TH DAY OF MAY 2025

MATHEWS NDUMA

JUDGE

Appearance:

Mr. Ogembo Advocate for proposed 3rd Interested Party

Mr. Mabechi for Petitioner

Mr. Omondi for 1st Respondent

M/s. Kendiwe for 2nd Respondent

M/s. Achar for 1st Interested Party

Mr. Kemboi – Court Assistant

