



**Kenya Union of Commercial, Food and Allied Workers v Irrico International Limited
(Cause E823 of 2021) [2025] KEELRC 1529 (KLR) (22 May 2025) (Judgment)**

Neutral citation: [2025] KEELRC 1529 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E823 OF 2021**

S RADIDO, J

MAY 22, 2025

BETWEEN

**KENYA UNION OF COMMERCIAL, FOOD AND ALLIED
WORKERS CLAIMANT**

AND

IRRICO INTERNATIONAL LIMITED RESPONDENT

JUDGMENT

1. The Kenya Union of Commercial, Food & Allied Workers (the Union) sued Irrico International Ltd (the Respondent) on 1 October 2021, and it stated the Issue in Dispute as:
Recognition agreement.
2. The Respondent filed a Response on 11 November 2021.
3. On 1 December 2021, the Court directed the County Labour Officer to undertake a census to establish the number of the Respondent's employees who had joined the Union and file a report in Court within 45 days.
4. The County Labour Officer undertook the exercise and he prepared a report dated 9 March 2022. The report was filed in Court on 11 May 2022.
5. In the report, the County Labour Officer noted that the Union had attained the simple majority threshold at the material and appropriate time.
6. On 6 December 2022, the Court entered a consent between the parties.
7. The Respondent later moved the Court to set aside the consent and the Court conceded to the application and vacated the consent on 28 February 2023.



8. When the parties appeared in Court on 15 February 2024, the Court directed that the hearing take on 25 April 2024.
9. Due to various reasons, the hearing only proceeded on 2 April 2025.
10. The Union opted not to call any witness while the Respondent called its Human Resources Manager to testify.
11. The Union filed its submissions on 25 April 2025, and the Respondent on 19 May 2025.
12. In its submissions, the Union asserted that it had recruited 42 out of 70 unionisable employees of the Respondent thus meeting the simple majority threshold established by section 54(1) of the [Labour Relations Act](#), and that it was the right union in the sector the Respondent operated in.
13. The Respondent submitted that the Union had only recruited 27 out of 75 employees and had consequently not met nor proved that it had achieved the simple majority threshold and it cited case law (Kenya Tea Growers Association v Kenya Plantation and Agricultural Workers Union (2012) eKLR, Kenya Union of Commercial Food and Allied Workers v G4S Security Services of Kenya Ltd (2013) eKLR and Scientific Research International Technical and Allied Workers Union v Kenya Agricultural Research Institute & Ar (2013) eKLR).
14. The Respondent further urged that some of the employees said to have signed the check-off forms had disowned the Union
15. The Court has considered the pleadings, evidence and submissions.
16. The dispute concerns a recognition agreement and the threshold a trade union should meet to be granted recognition by an employer has been set by section 54(1) of the [Labour Relations Act](#).
17. The Respondent's witness testified that at the material time it had 75 unionisable employees and only 27 had expressed a desire to join the Union by signing Form S.
18. The witness also testified that out of the 27 employees, only 15 were still employed at the time of hearing (he stated some had been dismissed and others resigned).
19. The Court has already alluded to the order directing the County Labour Officer to conduct a census.
20. In his report, the County Labour Officer indicated that the census had established that the Union had met the legal threshold for grant of recognition.
21. The County Labour Officer performed a statutory function backed with a Court order. The report has not been vacated and is still valid.
22. The legal threshold for recognition is gauged with the number of unionisable employees a trade union has recruited at a particular point in time.
23. Addressing the question of simple majority threshold, the Court of Appeal stated in *Civicon Ltd v Amalgamated Union of Kenya Metal Workers* (2016) eKLR) that:

We cannot help, looking at these averments, but find mischief on the part of the appellant, by a deliberate effort to diminish the numbers of eligible employees in order to frustrate the recognition process. How else can one explain the numerous identical letters purportedly written on more or less the same dates by eligible staff members withdrawing membership? Those purported withdrawals were of no consequence in light of the Court's factual finding, on evidence presented at the time that section 54(1) aforesaid had been satisfied by the



Respondent by demonstrating that 345 unionisable employees had joined the Respondent. At that stage the appellant ought to have signed the recognition agreement as it dutifully continued to remit union dues of the recruited members to the Respondent.

24. In the instant case, the Union forwarded to the Respondent the schedule of employees who had joined it and sought for recognition through a letter dated 10 November 2020. That is the relevant date for determination of whether the Union had met the simple majority threshold.
25. The County Labour Officer's report established that the Union had met the legal threshold and there is nothing on record to make the Court doubt or ignore the materiality of the report.
26. It is regrettable that a dispute concerning recognition took nearly 4 years to determine. Recognition disputes should always be given priority due to the fluid nature of the employment scene.

Conclusion and Orders

27. The Court finds and declares that the Union had met the threshold for grant of recognition by the Respondent and the Court orders:
 - (i) The Respondent to grant the Claimant recognition within the next 30 days.
28. Due to the anticipated social partnership between the parties, the Court directs each party to bear own costs.

DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 22ND DAY OF MAY 2025.

RADIDO STEPHEN, MCI Arb

JUDGE

Appearances

For Claimant Mr Nyumba, Industrial Relations Officer

For Respondent Ms Amutavi instructed by Okatch & Partners Advocates

Court Assistant Wangu

