



**Hassan & 2 others v Universities Academic Staff Union & another (Cause E1029 of 2024) [2024] KEELRC 13387 (KLR) (9 December 2024) (Ruling)**

Neutral citation: [2024] KEELRC 13387 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E1029 OF 2024  
S RADIDO, J  
DECEMBER 9, 2024**

**BETWEEN**

**OMARI HASSAN ..... 1<sup>ST</sup> CLAIMANT  
GEORGE ORUTA ..... 2<sup>ND</sup> CLAIMANT  
JOSEPHINE WAIRIMU ..... 3<sup>RD</sup> CLAIMANT**

**AND**

**UNIVERSITIES ACADEMIC STAFF UNION ..... 1<sup>ST</sup> RESPONDENT  
UNIVERSITIES ACADEMIC STAFF UNION- NAIROBI UNIVERSITY .... 2<sup>ND</sup>  
RESPONDENT**

**RULING**

1. Through a Motion dated 3 December 2024, the Claimants seek an interim order of injunction stopping the Universities Academic Staff Union (the Union) and the University of Nairobi chapter of the Union (the chapter) from proceeding to vote on 10 December 2024, on proposed amendments to the Union’s Constitution pending the hearing and determination of the Motion/Cause.
2. The primary grounds advanced by the Claimants in seeking the interim injunctive relief are that the process of amendment did not involve the membership contrary to Article 23 of the Union’s Constitution; the Committee set up to spearhead the review process did not place the proposed amendments before the National Executive Council for approval as demanded by Article 23 of the Union’s Constitution; some of the Union’s chapters did not have officials or delegates and that no prejudice will be occasioned to the Union since there is a valid Constitution in place and hence there would be no vacuum.
3. The University of Nairobi chapter of the Union supported the course presented by the Claimants for grant of interim relief.



4. The Claimants filed an affidavit of service attesting to service upon the Union.
5. In order to succeed in their quest, the Claimants were expected to demonstrate a prima facie case (see *Mrao Ltd v First American Bank of Kenya* (2003) KLR 125).
6. The Court has considered the Motion and brief submissions by the advocates present and can make the following deductions.
7. At this juncture, the Court has not heard the case of the Union, being one of the substantive Respondents.
8. Material on record suggests that the review process commenced in 2022, and that only 5 chapters of the Union did not participate in the process.
9. A copy of the Notice calling for the Conference to deliberate on the proposed amendments indicates that a vote will be taken on the floor or plenary of the Conference. The Claimants and the delegates would therefore have an opportunity to deliberate on the review process.
10. This Court also reserves the power to invalidate the amended Constitution if it is passed contrary to the requirements of the current Constitution.
11. For these reasons, the Court declines to grant ex-parte or ex tempore injunctive orders.
12. The Court directs:
  - i. The Respondents to file and serve responses to the Motion on or before 20 December 2024.
  - ii. The Claimants to file and serve a further affidavit if necessary, and submissions before 21 January 2025.
  - iii. The Respondents to file and serve submissions before 30 January 2025.
13. The Cause to be mentioned on 5 February 2025 to confirm and give further directions.

**DELIVERED VIRTUALLY, DATED AND SIGNED IN NYAHURURU ON THIS 9<sup>TH</sup> DAY OF DECEMBER 2024.**

**RADIDO STEPHEN, MCIARB**

**JUDGE**

**Appearances**

For Claimants Bryan Khaemba, Kamau & Kamau Advocates

For 1<sup>st</sup> Respondent not on record

For 2<sup>nd</sup> Respondent Ogembo & Associates Advocates

Court Assistant Wangu

