

# SAMWEL MOHOCHI ADVOCATE

c/o The Kenya Section of the International Commission of Jurists Ph +2547396439224,  
Vihiga Rd off Makueni Rd | P.O. Box 66735, 00800 Nairobi Kenya

Your Ref: OP/PA1/93A

Our Ref: GO/JR/01/817

August 22, 2017

Mr. J.W. Irungu, CBS  
Principal Administrative Secretary  
Ministry of Interior & Coordination  
of National Government  
Harambee House, Harambee Avenue  
P.O Box 30510-00100  
Nairobi.

{On a "Without Prejudice Basis"}

Dear Sir,

**RE: MEETING OF MULTI-AGENCY COMMITTEE TO REVIEW STATUS OF KHRC & AFRICOG AND IN THE HIGH COURT OF KENYA AT NAIROBI, JUDICIAL REVIEW DIVISION, MISC. APP NO 504 OF 2017 AFRICOG & 7 OTHERS VERSUS YOURSELVES AND 6 OTHERS**

I act for Africog and its directors who are in receipt of your letter dated 22<sup>nd</sup> August 2017 and are under instructions to respond as hereunder;

That we moved Court under Certificate of Urgency and successfully argued our Application on the 16<sup>th</sup> August 2017 before Justice Enoch Chacha who granted leave to apply for the Orders of *Cetiorari* and *Mandamus* and that, such leave was to operate as Stay pending hearing and determination of the Judicial Review Application.


We are thus shocked and dismayed to learn that, notwithstanding being served with the Court order with an express Penal Notice on the 18<sup>th</sup> August 2017, you have continued purporting to act on this issue contrary to the aforesaid Court Order.

**TAKE NOTICE** that your conduct so far is in flagrant disobedience of the Court Order, thereby attracting appropriate Contempt of Court proceeding.

**TAKE FURTHER NOTICE** that your Multi Agency Committee should forthwith cease and desist from deliberating and or acting on any matter relating to our clients. We have once more enclosed herewith a copy of the Court Order for your record and attention.

In the circumstances, we are thus unable to attend any meetings convened by yourselves over the said subject matter. Any future or further communication in this regard should be directed to the undersigned.

Yours Faithfully,



Samwel Mohochi Advocate

Cc Client

Encl. Copy of the Court Order dated 17th August 2017

REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
CONSTITUTIONAL AND JUDICIAL REVIEW DIVISION  
JUDICIAL REVIEW APPLICATION NO.504 of 2017

IN THE MATTER OF:

AN APPLICATION BY AFRICAN CENTRE FOR OPEN GOVERNANCE  
AND SEVEN(7) OTHERS FOR LEAVE TO APPLY FOR JUDICIAL REVIEW  
AND ORDERS OF CERTIORARI AND PROHIBITION

AND

IN THE MATTER OF:

THE COMPANIES ACT (ACT NO 17 OF 2015)

AND

THE NGO'S COORDINATION ACT 1990

BETWEEN

AFRICAN CENTRE FOR OPEN GOVERNANCE .....

JOHN GITHONGO.....

MAINA KIAL.....

DR. FUNMI OLONISAKIN.....

STELLA CHEGE.....

DONALD DEYA.....

CHARLES WANGUHU.....

GLADWELL OTIENO.....

1<sup>ST</sup> APPLICANT

2<sup>ND</sup> APPLICANT

3<sup>RD</sup> APPLICANT

4<sup>TH</sup> APPLICANT

5<sup>TH</sup> APPLICANT

6<sup>TH</sup> APPLICANT

7<sup>TH</sup> APPLICANT

8<sup>TH</sup> APPLICANT

VERSUS

THE CABINET SECRETARY,

MINISTRY OF INTERIOR AND CO-ORDINATION OF NATIONAL

GOVERNMENT.....

ATTORNEY GENERAL.....

NON-GOVERNMENTAL ORGANISATIONS COORDINATION BOARD.....

THE EXECUTIVE DIRECTOR (NGO COORDINATIONS BOARD).....

THE DIRECTOR CRIMINAL INVESTIGATIONS .....

THE GOVERNOR, CENTRAL BANK OF KENYA.....

THE LAW SOCIETY OF KENYA.....

1<sup>ST</sup> RESPONDENT

2<sup>ND</sup> RESPONDENT

3<sup>RD</sup> RESPONDENT

4<sup>TH</sup> RESPONDENT

5<sup>TH</sup> RESPONDENT

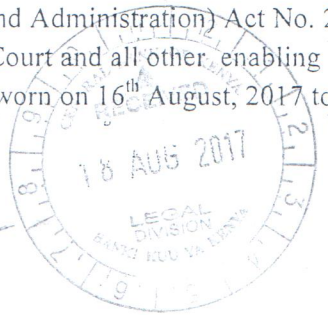
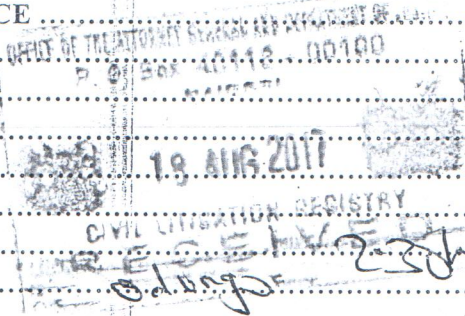
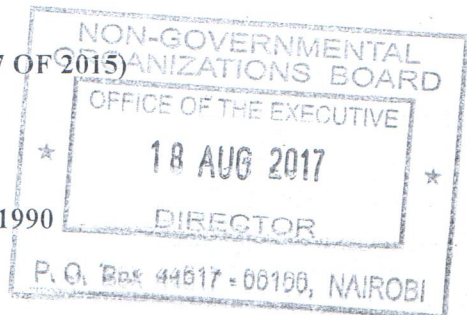
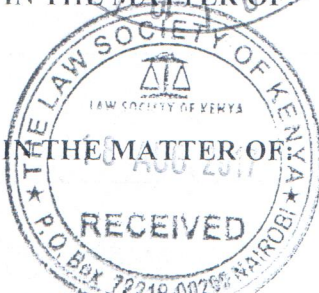
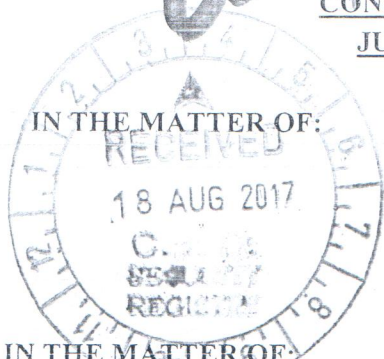
6<sup>TH</sup> RESPONDENT

7<sup>TH</sup> RESPONDENT

IN COURT ON 16<sup>TH</sup> AUGUST, 2017  
BEFORE THE HON. MR JUSTICE E.C MWITA

ORDER

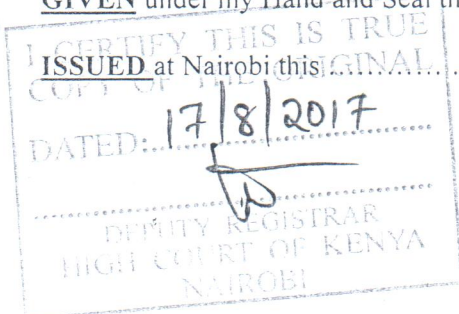
UPON READING the application dated 16<sup>th</sup> August, 2017 and presented to Court on the same day by Counsel for the ex-parte applicant brought (Under Order 53 Rules 1(1), (2) & (4) of the Civil Procedure Rules; Section 8(2) and 9 of the Law Reform Act, Cap 26, Section 17 (3) of the High Court (Organization and Administration) Act No. 27 of 2015 of the Laws of Kenya; the inherent power and jurisdiction of the Honorable Court and all other enabling provisions of the law) AND UPON READING the affidavit of Gladwell Otiemo sworn on 16<sup>th</sup> August, 2017 together with the annexures thereto AND UPON HEARING Counsel for the Applicant ;



**IT IS HEREBY ORDERED:**

1. **THAT** the application dated 16<sup>th</sup> August 2017 and filed on 16<sup>th</sup> August 2017 is hereby allowed on grounds of urgency and is allowed to be heard during the vacation.
2. **THAT** the Chamber Summons dated 16<sup>th</sup> August 2017 is allowed and leave be and is hereby granted to the applicant
  - (a) to apply for Judicial Review and an Order of Certiorari to remove into the High Court and quash the decision of the 4<sup>th</sup> Respondent on his own accord and on behalf of the 1<sup>st</sup> and 3<sup>rd</sup> Respondents contained in its letter referenced NGOB/5/30A/8/VOL.VI dated 15<sup>th</sup> August, 2017 urging and directing the 5<sup>th</sup> and 6<sup>th</sup> Respondent to forthwith close down the operations of the 1<sup>st</sup> Applicant, effect arrest and initiate prosecution of the 2<sup>nd</sup>, be granted leave 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Applicant.
  - (b) to apply for Judicial Review and an Order of Prohibition directed to the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents prohibiting the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Respondents from carrying out or performing any acts or conduct whatsoever (physical or otherwise), intended at forthwith closing down the operations of the 1<sup>st</sup> applicant.
  - (c) to apply for Judicial review and an Order of Prohibition directed to the 5<sup>th</sup> and 7<sup>th</sup> Respondents prohibiting the 5<sup>th</sup> and 7<sup>th</sup> Respondents from effecting arrest of, commencement of, and prosecuting the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Applicants in any criminal proceedings under the Non-Governmental Coordination Act (1990) relating to activities and/or operations of the 1<sup>st</sup> Applicant.
  - (d) to apply for Judicial Review and an Order of Prohibition directed to the 6<sup>th</sup> Respondent prohibiting the 6<sup>th</sup> Respondent from taking any measures aimed to freezing of bank accounts in the name of the 1<sup>st</sup> Applicant and funds therein on any orders, instructions, proceedings and/or directions by the 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents made under the Non- Governmental Coordination Act (1990).
3. **THAT** the applicants shall file and serve the main Motion within 21 days from the date hereof.
4. **THAT** the leave granted shall operate as stay in terms of Prayers (G) and (H) of the chamber summons until the hearing and determination of the main Motion to wit;
  - (a) leave granted do operate as stay of the decision of the 1<sup>st</sup> Respondent to forthwith close down the operations of the 1<sup>st</sup> Applicant, and with the assistance of 5<sup>th</sup> and 7<sup>th</sup> Respondents effect arrest and initiate prosecution of the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Applicant.
  - (b) leave granted do operate as stay of the decision of the 1<sup>st</sup> Respondent with the assistance of the 6<sup>th</sup> Respondents from freezing of bank accounts in the name of the 1<sup>st</sup> Applicant and funds therein.
5. **THAT** costs shall abide by the result of the main Motion .

**GIVEN** under my Hand and Seal this Honorable Court at Nairobi this 16<sup>th</sup> day of August, 2017.



17<sup>th</sup> day of August 2017.

  
DEPUTY REGISTRAR

**HIGH COURT OF KENYA, NAIROBI**

**PENAL NOTICE** that any party served with this order and disobeys the same shall be guilty of contempt of Court and liable to imprisonment for a term not exceeding (6) months or both fine and imprisonment.