

# INFORMATION STATEMENT ON ONGOING CASES INVOLVING BRIDGE INTERNATIONAL ACADEMIES LTD

23<sup>rd</sup> March 2017

Bridge International Academies Ltd (BIA) is a for-profit, commercial, private chain of nursery and primary schools with over 400 institutions and an enrolment of more than 100,000 children in informal settlements and peri-urban areas. BIA opened its first school in Mukuru kwa Njenga slum in Kenya in 2009, and has expanded further into Uganda, Nigeria and India since 2015. BIA aims at reaching 10 million pupils by 2025.

In the recent past, both the Government of Uganda and the Government of Kenya have moved to suspend the opening of new Bridge schools. In the case of Uganda and of one county in Kenya, Busia county, the authorities also expressed their intention to close BIA schools under their jurisdiction over allegations of failing to meet the required standards of operation for institutions of basic education and failing to register legally. In both instances, BIA has resorted to court action to challenge the government action against them. BIA is also party to other court cases in Kenya.

Given the recent debates that the closure of BIA in Uganda spearheaded, and the lawsuit that followed, this brief intends to provide an update on known pending legal proceedings involving Bridge International Academies in Uganda and Kenya with the intention of bringing increased transparency to these cases and the issues they seek to address.

## UGANDA

### *Bridge International Academies (K) Ltd v Attorney General*

On 9<sup>th</sup> August 2016, the Ugandan Ministry of Education, Science Technology and Sports [announced](#) the closure of all Bridge International Academies (BIA) in Uganda on the allegation of failing to respect the national standards, particularly that “material used could not promote teacher pupil interaction” and that “poor hygiene and sanitation [. . .] put the life and safety of the school children in danger”.

BIA filed for judicial review of the Ministry’s order to close the schools. BIA also moved to the High Court to stop the decision and on 11<sup>th</sup> August 2016, the court granted a [temporary injunction](#) restraining the Attorney General from enforcing the decision of the Ministry of Education, Science Technology and Sports to close all BIA schools in Uganda until 2<sup>nd</sup> September 2016. This interim order is procedural and not based on the substance of the suit.

The case failed to proceed on 22<sup>nd</sup> September and the temporary orders suspending the closure of the schools were extended until the hearing of the case and the final judgment of the court.

On Friday 4<sup>th</sup> November, Bridge International Academies' (BIA) court case in Uganda relating to the closure of Bridge schools was [dismissed with costs](#). The injunction was lifted and Bridge International Academies will have to close its schools in Uganda, if the government maintains their decision to have them closed.

**Bridge International Academies plans to appeal.**

## KENYA

### *Bridge International Academies limited v the County Education Board – Busia & the County Director of Education – Busia*

In June 2016, the Busia County Education Board issued an order to close all the Bridge International Academies schools in the county for failing to meet required minimum standards and not being registered to operate.

On 29<sup>th</sup> June 2016, BIA went to court against the order for closure, challenging the legality of the procedure followed by the County in closing the schools and seeking orders that their schools remain open and the County to consider their application for registration.

On 4<sup>th</sup> July 2016, the Court allowed BIA to proceed with the case against the County, and granted [interim orders](#) that BIA schools are to remain open and operational until the case is heard and a final decision is made by the court. Like the case in Uganda, this order is not based on the substance of the suit.

On 16<sup>th</sup> February, the High Court of Kenya in Busia [dismissed the complaint by Bridge](#). The Court upheld the closure of 10 out of 12 Bridge academies in Busia county. Bridge schools are to remain open until the end of the school term in April, to allow the County time to secure placement in public schools for the affected children. Busia County has 45 days from the date of the judgement to show evidence that replacement schools have been found.

**Bridge plans to appeal.**

### *Republic v District Education Board & Sub-county Health Officer, Nyeri South District, ex parte Bridge International Academies Limited*

On 13<sup>th</sup> January 2017, the High Court of Kenya in Nyeri [dismissed](#) with costs a judicial review case brought by Bridge International Academies (BIA) against health and education officials in Nyeri county. BIA asked the court to quash a letter by the Nyeri sub-county health officer recommending closure of the BIA school in Othaya for not meeting the required minimum health standards, and to issue an order prohibiting both the District Education Board and the health officer from implementing the decision to close the school.

BIA lost the case after it failed to comply with the court directions and rules of procedure.<sup>1</sup>

### *Other cases involving Bridge International Academies in Kenya*

This is not the first time that BIA has been involved in legal proceedings against the Government of Kenya. On at least one other occasion, BIA sued for judicial review orders against the State's attempts to suspend operations of a BIA school for not complying with the law.<sup>2</sup>

Further, BIA and its employees have been arraigned as accused persons in criminal proceedings where Quality Assurance and Standards Officers have sought to close BIA schools found operating without a registration license which amounts to a criminal offence under the law.<sup>3</sup>

There are also at least seven separate cases before the Employment and Labour Relations Court of Kenya, instituted by former employees at BIA and by BIA itself. Two other cases are before the Commercial and Admiralty court.

As far as we could find at the time of research, the final outcomes of the above cases were not available with certainty, either because the final determination is to be made by a Magistrate Court whose decisions are not available online, because it was still on-going, or in the event it was settled out of court. Additional information will be provided as soon as available.

In one other case, BIA has sued a former employee, alleging that he violated the non-compete clause in his employment contract. In dismissing the suit, the court held that BIA did not give any evidence in support of their claims and no suffering, loss or damage was demonstrated.<sup>4</sup>

For more information or suggestions related to this brief, please contact:

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<sup>1</sup> *Republic v District Education Board & Sub-county Health Officer, Nyeri South District, ex parte Bridge International Academies Limited*, Judicial Review Application No. 3 of 2014, available at <http://kenyalaw.org/caselaw/cases/view/129773/>

<sup>2</sup> *Bridge International Academies Ltd v District Education Officer – Loitoktok*, Miscellaneous Application No 11 of 2014, available at <http://kenyalaw.org/caselaw/cases/view/96715/>.

<sup>3</sup> Section 78, Basic Education Act, No 14 of 2013.

*Republic v Faith Wangoi*, Criminal Miscellaneous No 1 of 2015 (Kajiado), available at <http://kenyalaw.org/caselaw/cases/view/117312/index.html>; *John Gisiri Mwana v Republic*, Criminal Appeal No 62 of 2014 (Migori), available at <http://kenyalaw.org/caselaw/cases/view/104319/>; *John Gisiri Mwana, Jane Wanjiku and Bridge International Academies Ltd v Republic*, Miscellaneous Criminal Application No 78 of 2013 (Kisii) available at <http://kenyalaw.org/caselaw/cases/view/95484/>.

<sup>4</sup> *Bridge International Academies Ltd v Robert Kiarie*, Civil Case No 56 of 2014 (Nakuru), available at <http://kenyalaw.org/caselaw/cases/view/112454/>.