

INFORMATION STATEMENT ON ONGOING CASES INVOLVING BRIDGE INTERNATIONAL ACADEMIES LTD

21st February 2018

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, Liberia 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 spurred by the closure of BIA in Uganda, 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 9th 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 11th 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 2nd September 2016. This interim order is procedural and not based on the substance of the suit.

The case failed to proceed on 22nd 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 4th November, Bridge International Academies' (BIA) court case in Uganda relating to the closure of Bridge schools was [dismissed with costs](#) and the temporary injunction was lifted, in effect allowing the government to close the Bridge schools.

In response, BIA filed a Notice of Appeal against this decision of the High Court and on 12th January 2017 received a [court order](#) suspending the closure of the schools pending the disposal of their Appeal. However, BIA [withdrew](#) their intended appeal in an effort to negotiate an amicable agreement with the Ministry of Education. There is therefore no pending appeal in this case and the orders of the High Court directing the closure of the schools still stand.

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 29th 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 4th 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 16th February 2017, 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.

Rather than filing an appeal against this decision, in May 2017 Bridge filed a new judicial review application seeking to challenge the alleged decision of the County Education Board not to review the applications BIA submitted for registration of the 10 schools previously ordered to close.¹ On 8th June 2017 Bridge received ex parte [interim orders](#) suspending the implementation of the February 2017 judgment and the County Education Board's decision to close the schools, and granting BIA leave to apply for orders to compel the Board to reconsider its applications for registration for the 10 schools in Busia. Bridge is yet to follow up with the substantive application.

¹ *Bridge International Academies Ltd vs. the County Education Board Busia and Busia County Director of Education*; Judicial Review Misc. Case No. 01 of 2017.

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

On 13th 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.²

Bridge International Academies Limited v Kenya National Union of Teachers and Wilson Sossion

Following the launch of a [report](#) by the Kenya National Union of Teachers (KNUT) and Education International and the subsequent press statements highlighting BIA's lack of compliance with national standards and profit making focus, BIA filed a case against the Kenya National Union of Teachers (KNUT) and its Secretary General Wilson Sossion accusing them of defamation.

Through an application dated 16th March 2017 BIA sought orders to temporarily restrain the KNUT and its members, officials and representatives including Wilson Sossion from any public discussion of BIA pending the hearing and determination of the application and the case.

On 20th February 2018, the court [dismissed](#) this application with costs awarded to KNUT and Mr Sossion while also lifting the temporary gag order. In making this determination the court observed that quality education was a matter of great public interest and the general public, including KNUT and Mr. Sossion, should be at liberty to contribute to this discussion, more so in light of the heated debate generated by the concluded law suits in Busia and Uganda requiring the closure of Bridge schools for failing to comply with national standards.

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.³

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

² *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/>

³ *Bridge International Academies Ltd v District Education Officer – Loitoktok*, Miscellaneous Application No 11 of 2014, available at <http://kenyalaw.org/caselaw/cases/view/96715/>.

registration license which amounts to a criminal offence under the law,⁴ and where the County Health Board seeks to have the schools closed for failing to meet health and safety standards as required by law.⁵

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.⁶

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

globalinitiative@globalinitiative-escr.org

info@eachrights.or.ke

info@iser-uganda.org

⁴ 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/>.

⁵ The Nyeri County Health Board has instituted criminal proceedings against academy managers of various BIA schools in Nyeri County for failing to meet the required health and safety standards for schools. Further details for this matter shall be updated as and when they become available.

⁶ *Bridge International Academies Ltd v Robert Kiarie*, Civil Case No 56 of 2014 (Nakuru), available at <http://kenyalaw.org/caselaw/cases/view/112454/>.