
PRESS RELEASE:

LANDMARK RULING: KDF DIRECTED TO DEVELOP HIV-INCLUSIVE POLICY

In a landmark ruling delivered on 10 July 2025, the Employment and Labour Relations Court in Eldoret directed the Cabinet Secretary for Defence and the Chief of the Kenya Defence Forces (KDF) to develop and publish, within 90 days, a policy on the recruitment and retention of people living with HIV (PLHIV). The Court emphasized that the policy must align with the Constitution of Kenya and existing legal precedents.

This landmark decision against the Cabinet Secretary Ministry of Defence and the Chief of the Kenya Defence Forces was made in Petition E028 of 2022 ([PKJ V The Hon. Attorney General and Cabinet Secretary Ministry of Defence and 2 Others](#)), a petition that challenged the dismissal of a person living with HIV from the recruitment exercise conducted by the Kenya Defence Forces on account that he was HIV positive. The [Kenya Legal and Ethical Issues Network on HIV & AIDS \(KELIN\)](#) represented the petitioner in this case.

In its determination, the court found that the dismissal of the Petitioner was a violation of his right to equality and freedom from discrimination guaranteed under Article 27 of the Constitution which prohibits any form of discrimination whether direct or indirect on any ground including health status. The court further held that the dismissal violated the Petitioner's right to fair labour practices, finding that the Petitioner was actively engaged in the initial stages of a structured recruitment training process conducted by the Kenya Defence Forces.

This judgment marks a critical milestone in the ongoing fight against discrimination of people living with HIV in Kenya. In addition to finding the dismissal unlawful, the Court issued structural orders requiring the Ministry of Defence and KDF to take affirmative steps to ensure future compliance with constitutional rights and the decision of the HIV and AIDS Tribunal in [PRJ v KDF \(Tribunal Case 048 of 2022\) \[2024\] KEHAT 990 \(KLR\)](#).

The orders issued by the Court is a significant step forward in dismantling barriers and safeguarding the constitutional rights to fair labour practices and freedom from discrimination for PLHIV in Kenya.

KELIN welcomes the High Court's landmark decision and reiterates its commitment to monitoring the implementation of the Court's orders. This judgment marks a significant step forward in affirming the rights of people living with HIV in Kenya. We acknowledge with appreciation the dedication of the legal team Nyokabi Njogu, Samuel Kyalo and Catherine Namulanda whose efforts were instrumental in securing justice for PKJ and advancing legal protection for vulnerable communities.

PLEASE NOTE: To protect the confidentiality of his health status and personal circumstances, the Petitioner has requested anonymity and will not be granting any media interviews.

For More Information, Contact:

Catherine Namulanda
Advocate for Petitioner
Kuwinda Lane, off Lang'ata Road, Karen C
P.O. Box 112 - 00202 KNH Nairobi
Tel: +254 710785033
Email: litigation@kelinkenya.org
