

(English version)

**Priority question for written answer P-000060/26
to the Commission
Saskia Bricmont (Verts/ALE)
(12 January 2026)**

Subject: Legal cases against free trade agreements on the ground of sustainability

On the 24 November 2025, the East African Court of Justice suspended the EU-Kenya interim Economic Partnership Agreement ⁽¹⁾ on the grounds that its ‘implementation would cause “irreparable injury” that could not be adequately compensated by monetary damages. The Court specifically highlighted concerns regarding the European Partnership Agreement’s potential impact on environmental and biodiversity aspects, citing the principle that “the environment, once damaged is rarely ever repaired.”’ ⁽²⁾

1. How does the Commission assess the situation and has it considered together with Kenya adaptations to the agreement to address the issue?
2. Considering that, except in the trade agreement with New Zealand, the EU’s current and upcoming trade agreements and so-called mini deals (such as the sustainable investment facilitation agreement ⁽³⁾, strategic partnerships, etc.) contain binding trade and sustainable development provisions that are not enforceable or sanctionable, does the Commission anticipate that these could be challenged in court based on the precedent set by the East African Court of Justice and of the July 2025 ruling of the International Court of Justice on the obligations of states in respect of climate change?
3. Has the Commission obtained a legal opinion on this matter?

Submitted: 12.1.2026

**Answer given by Mr Šeščović on behalf of the European Commission
(2 February 2026)**

The Commission took note of the interim order granted by the East African Court of Justice (EACJ) on 24 November 2025 ⁽¹⁾ with regard to the implementation of the EU-Kenya Economic Partnership Agreement ⁽²⁾ (EPA).

The Commission also took note of the statement of the Government of Kenya, adopted on 26 November 2025, in which it announced that it will appeal the Court’s ruling and in which it considers the EPA as not suspended.

The interim measures request and the related application in the main case were directed against Kenya and the East African Community and concern the application and interpretation of the Treaty for the Establishment of the Eastern African Community.

The Commission has been in contact with the Kenyan authorities, who assured that Kenya’s compliance with the EU-Kenya EPA is not put in question by the interim order of the EACJ.

The EU-Kenya EPA is still being implemented. The Commission is confident that Kenya will be able to resolve any issues relating to the interim order of the EACJ, in collaboration with its partners.

The Commission does not consider that the Advisory Opinion of the International Court of Justice on Obligations of States in respect of Climate Change is immediately relevant for the ongoing proceedings before the EACJ, in particular, and trade agreements concluded between the EU and third countries, in general.

To date, the Commission has not obtained a legal opinion on this matter as it does not consider that it raises legal questions for the EU that require clarification at this stage.

¹ <https://eur-lex.europa.eu/EN/legal-content/summary/economic-partnership-agreement-between-the-eu-and-kenya.html>.

² <https://www.eacj.org/?news=east-african-court-of-justice-halts-implementation-of-kenya-eu-economic-partnership-agreement>.

³ <https://eur-lex.europa.eu/EN/legal-content/summary/eu-angola-sustainable-investment-facilitation-agreement.html>.

⁽¹⁾ <https://www.eacj.org/wp-content/uploads/2025/11/APPLICATION-NO.-7-OF-2024-CLEP-EAST-AFRICA-V.-THE-AG-OF-KENYA-THE-SG-EAC.pdf>.

⁽²⁾ https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/east-african-community-eac/eu-kenya-agreement_en.