

## Case Note

CASE NOTES & COMMENTARY  
ODPC & HIGH COURT, KENYA

ONE RULING, DIGESTED ON ITS OWN – THE FACTS, THE HOLDING, AND THE PRACTICE POINT

[2026] KEHC 5690

# Kenya's courts decline a blanket AI moratorium, but order the government to report back

Wangai & 2 Others v Cabinet Secretary, Ministry of Information, Communications and the Digital Economy & 2 Others

ALLOWED IN PART – STRUCTURAL INTERDICTCASE NOTEDATA PROTECTION · ADMINISTRATIVE LAW

BY THE EDITORIAL BOARD, MUCHANGI PATRICK &amp; CO. ADVOCATES

Petitioners challenged the absence of any comprehensive AI policy, legislation or regulatory framework in Kenya, seeking conservatory orders restraining the deployment of "high-risk artificial intelligence systems" generally and drawing on the reasoning of the Huduma Namba litigation. The Court held the petition raised a genuine case for AI regulation, but that a vague, unparticularised moratorium on unnamed systems was unworkable and could not be granted as framed. Rather than dismiss the petition, the Court granted leave to amend it to identify specific AI systems, joined the Kenya National Commission on Human Rights as a necessary party, and adopted a structural interdict — ordering the respondents to file periodic situation reports on progress toward AI regulation, with a priority hearing date fixed.

**PRACTICE POINT**

Kenya's courts will not issue broad, undefined restraining orders against "AI" as a category — petitions need to name the specific systems and harms in issue. But the structural interdict approach here signals active judicial oversight of AI regulation is coming, well ahead of any dedicated AI statute.

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<<https://dataprivacyadvocates.co.ke/case-wangai-and-2-others-v-cabinet-secretary-ministry.html>>.

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