

THE REPUBLIC OF UGANDA

**IN THE HIGH COURT OF UGANDA AT KAMPALA
(CIVIL DIVISION)**

MISCELLANEOUS APPLICATION NO. HCT-00-CV-MA-0824-2025
(Arising from Misc. Application No. 823 of 2025 & Misc. Cause No. 262 of 2025)

- 1. UGANDA PEOPLE’S CONGRESS (UPC)**
- 2. HON. JIMMY JAMES MICHAEL AKENA:..... APPLICANTS**

VERSUS

THE ELECTORAL COMMISSION:..... RESPONDENT

BEFORE: HON. JUSTICE BERNARD NAMANYA

RULING

Introduction

1. Hon. Jimmy James Michael Akena of the Uganda People’s Congress (UPC) expressed interest in nomination as a UPC presidential candidate in the General Elections 2025/2026. After reviewing his nomination papers, the Electoral Commission decided that Hon. Jimmy James Michael Akena could not be nominated as a UPC presidential candidate on account of his candidature being non-compliant with the UPC party constitution. The Electoral Commission also found that the UPC Executive Committee had expired on 1st August 2025. The Electoral Commission communicated its decision to UPC and Hon. Jimmy James Michael Akena in a letter dated 22nd September 2025 ref: LEG/297/01.
2. UPC and Hon. Jimmy James Michael Akena brought this application under Section 98 of the *Civil Procedure Act (Cap. 282)* and Order 52 rules 1 and 3 of the *Civil Procedure Rules* seeking for an interim order of injunction restraining

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the Electoral Commission from implementing its decision not to nominate him as a UPC presidential candidate pending hearing of the substantive application (Misc. Cause No. 823 of 2025). In effect, Hon. Jimmy James Michael Akena seeks an order from this court directing the Electoral Commission to nominate him as a UPC presidential candidate for the General Elections 2025/2026.

The applicants' case

3. This application is supported by an affidavit of Hon. Fred Ebil, Secretary General of UPC sworn on 24th September 2025 whose contents are summarised below:
 - i). Hon. Jimmy James Michael Akena is still part of the UPC Executive Committee with a mandate to manage its party affairs.
 - ii). On 22nd September 2025, the Electoral Commission issued a decision concluding that Hon. Jimmy James Michael Akena is not eligible for nomination as a UPC presidential candidate. The Electoral Commission also ruled that the UPC Executive Committee expired on 1st August 2025.
 - iii). UPC is currently facing a leadership crisis because it does not have an Executive Committee to sponsor candidates for nomination in the 2025/2026 General Elections.
 - iv). The Electoral Commission has ruled that the UPC Executive Committee has no legal standing which action should be stopped pending the hearing of the substantive application for a temporary injunction which discloses a prima facie case with a high probability of success.

The respondent's case

4. Mr. Hamidu Lugoloobi, a Senior Legal Officer of the Electoral Commission affirmed an affidavit on 25th September 2025 whose contents are summarised below:

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- i). That before the impugned decision, the Electoral Commission received several complaints contesting the leadership of Hon. Jimmy James Michael Akena as a UPC party president, including from Mr. Joseph Pinytek Ochieno, Mr Peter Walubiri and Mr Denis Adim Enap.
- ii). The complaints challenged the legitimacy of Hon. Jimmy James Michael Akena as a UPC party president considering court rulings in *Court of Appeal Civil Appeal No. 20 of 2016: UPC v. Prof. Edward Kakonge*; *Misc Cause No. 148 of 2025: Denis Adim Enap v. Hon. Akena*; and *Misc Application No. 573 of 2025: Joseph Pinytek Ochieno v. UPC & Anor*.
- iii). That Hon. Jimmy James Michael Akena, Mr. Peter Walubiri and Mr. Denis Adim Enap all claimed to be the legitimate UPC party president prompting the Electoral Commission to intervene in the matter.
- iv). Consequently, the Electoral Commission pursuant to its statutory mandate under the *Political Parties and Organisations Act (Cap. 178)* convened a meeting on 21st September 2025 involving the different parties.
- v). That during the meeting, Mr. Peter Walubiri asserted that his presidency was derived from elections held pursuant to the decision in *UPC v. Prof Edward Kakonge (supra)*, while Mr. Denis Adim Enap claimed to be the president of UPC based on *Denis Enap v. UPC (supra)*.
- vi). That Hon. Jimmy James Michael Akena on his part, claimed to be the legitimate president of UPC based on resolutions passed during a virtual Extra-Ordinary Delegates Conference held on 26th July 2025, wherein term limits of the UPC president in the party constitution were purportedly suspended, and his presidential tenure extended from 1st August 2025 to 1st August 2026.

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- vii). On 25th July 2025, the court in Misc Application No. 573 of 2025 issued an Interim Order stopping the holding of the Extra-Ordinary Delegates Conference on 26th July 2025.
- viii). That considering the Interim Order issued by the court, the Extra-Ordinary Delegates Conference convened by UPC could not legally extend the presidency of Hon. Jimmy James Michael Akena.
- ix). The purported resolutions to suspend term limits and extend the term of Hon. Jimmy James Michael Akena were subject to a twenty-one days Gazette Notice under Section 10 of the *Political Parties and Organisations Act (Cap 178)* which was not complied with.
- x). That Hon. Jimmy James Michael Akena ceased to be UPC party president upon the expiration of his term on 1st August 2025 before the decision of the Electoral Commission on 22nd September 2025.
- xi). That the virtual UPC delegates conference contravened an Interim Order in Misc Application No. 573 of 2025: Joseph Ochieno v. UPC.
- xii). That no vacuum in the leadership of UPC exists because the party constitution provides for the Vice President to assume interim leadership of UPC pending fresh elections.
- xiii). That there is no status quo to preserve as the presidential term of Hon. Jimmy James Michael Akena ended on 1st August 2025.
- xiv). That there is no imminent threat necessitating the grant of an interim order of injunction.
- xv). That the applicants are not entitled to an equitable relief considering that they are facing contempt proceedings in Misc Application No. 613 of 2025.

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Representation

5. At the hearing of the application, the applicants were represented by Mr. Guma Davis and Mr. Odur Jonathan while the respondent was represented by Mr. Eric Sabiiti.

Issues for determination by the court

6. The main issue for determination by the court is whether the applicants have satisfied the conditions for granting an interim order of injunction stopping the Electoral Commission from implementing its decision not to nominate Hon. Jimmy James Michael Akena as a UPC presidential candidate for the 2025/2026 General Elections.

Analysis and decision by the court

7. The rationale for an interim order of injunction is to preserve the status quo pending the hearing and determination of issues in the substantive application for a temporary injunction. To be granted an interim order of injunction, an applicant must prove the following three main conditions: a) that there is a pending substantive application for a temporary injunction; b) that there is an imminent threat to the applicant if an interim order of injunction is not granted; c) if court is in doubt, the decision will depend on the balance of convenience. The granting of an interim order of injunction by the court is made pursuant to its inherent powers exercising judicial discretion. See *Meera Investments Ltd v. National Water & Sewerage Corporation (NWSC) & Sogea Satom Ltd (per Hon. Justice Remmy Kasule, JA), Court of Appeal Civil Application No. 285 of 2016*. At this stage, the court will not delve into the merits of the substantive application for a temporary injunction. See *Hwan Sung Industries Limited v. Tajdin Hussein & Others, Supreme Court Civil Application No. 19 of 2008*.

8. It is a fact that the applicant filed a substantive application for a temporary injunction to stop the Electoral Commission from implementing its decision not to nominate him as a UPC presidential candidate for the General Elections 2025/2026 (MA No. 823 of 2025 also arising from Misc Cause No. 262 of 2025).
9. In the instant application, the main relief sought by Hon. Jimmy James Michael Akena is an order directing the Electoral Commission to nominate him as a UPC presidential candidate in the General Elections 2025/2026. The application was filed on Wednesday 24th September 2025 at 12:19pm. The court directed the applicant to serve the notice of motion on the Electoral Commission and fixed the matter for hearing on Thursday 25th September 2025 at 9:00am.
10. In line with the decision in *Hwan Sung v. Tajdin (supra)*, I will not delve into the merits of the substantive application for a temporary injunction. However, upon reviewing the letter by the Electoral Commission dated 22nd September 2025, I note that the decision not to nominate Hon. Jimmy James Michael Akena as a UPC presidential candidate for the General Elections 2025/2026 is partly based on two prior rulings by this court:
- a) In *Denis Adim Enap v. UPC & Hon. Jimmy James Michael Akena*, High Court of Uganda (Civil Division), Misc. Cause No. 148 of 2025 (per Justice Bernard Namanya), it was held *inter alia* that:
- “...in accordance with Article 14.1(3) of the UPC party constitution, Hon. Jimmy James Michael Akena is not eligible to be nominated as a candidate for the position of party president of UPC for a third term (2025 to 2030). Accordingly, the nomination of Hon. Jimmy James Michael Akena as a candidate for the office of the UPC party president is illegal, void and [of] no legal*

consequence because it contravenes Article 14.1(3) of the UPC party constitution.”

b) In *Joseph Pinytek Ochieno v. Hon. Jimmy James Michael Akena & Anor*, High Court Misc. Application No. 573 of 2025, it was held *inter alia* that:

“An interim ex parte order is hereby issued for three days restraining the 1st and 2nd respondents [UPC & Hon. Jimmy James Michael Akena] ...from convening either by physical or virtual, the extraordinary delegates' conference scheduled for 26/07/2025...”

11. Hon. Jimmy James Michael Akena argued that prior to the expiry of his second term as UPC party president on 1st August 2025, he convened an Extra-Ordinary Delegates virtual conference on 26th July 2025 which resolved to extend his term as UPC party president by 12 months. But could UPC legally convene a delegates' conference in contravention of the Interim Order issued by the court in Misc. Application No. 573 of 2025 on 25th July 2025? I will not attempt to answer this question at this stage of the proceedings except to observe that it is highly doubtful as to whether UPC could legally convene a delegates' conference in contravention of the order prohibiting the convening of the virtual Extra-Ordinary UPC delegates conference on 26th July 2025.

12. This court takes judicial notice of the fact that by the time this application was heard on Thursday 25th September 2025, the Electoral Commission had already concluded presidential nominations the previous day on 24th September 2025. *Black's Law Dictionary, 12th Edition, Thomson Reuters (2024)* defines status quo as “the situation that currently exists.” Accordingly, the status quo is that the

Electoral Commission concluded the exercise for presidential nominations for the General Elections 2025/2026 on 24th September 2025. Therefore, it is practically impossible for this court to order the Electoral Commission to nominate Hon. Jimmy James Michael Akena as a UPC presidential candidate for the General Elections 2025/2026 because the nomination exercise is already closed.

13. It ought to be remembered that under Article 61(2) of the *Constitution of the Republic of Uganda*, the Electoral Commission is under a legal obligation to comply with strict timelines for the conduct of presidential elections. The said Article provides that:

“The Electoral Commission shall hold presidential, general parliamentary and local government council elections within the first thirty days of the last one hundred and twenty two days before the expiration of the term of the President, Parliament or local government councils as the case may be.”

14. In *Meera Investments Ltd v. NWSC (supra)*, the Court of Appeal dismissing an application for an interim order of injunction held that:

“In terms of balancing conveniences, this court finds that issuing the interim injunction order...will cause more inconvenience...to the general public...”

15. Considering the constitutional duty of the Electoral Commission under Article 61(2) of the *Constitution of the Republic of Uganda* which must be discharged under strict timelines, the view of this court is that it is not in public interest to derail the presidential election exercise only for the purpose of accommodating

the nomination of Hon. Jimmy James Michael Akena as a UPC presidential candidate. Moreover, there are serious legal questions as to whether Hon. Jimmy James Michael Akena qualifies for nomination as a UPC presidential candidate considering the ruling of the Electoral Commission in its letter dated 22nd September 2025 ref: LEG/297/01 which is itself grounded in court rulings.

16. The decision of the court is that the balance of convenience is in favour of the Electoral Commission maintaining its decision not to nominate Hon. Jimmy James Michael Akena as a UPC presidential candidate for 2025/2026 General Elections.

17. Regarding the legal standing of the UPC Executive Committee, it was submitted for the applicants that the Electoral Commission has already ruled that the UPC Executive Committee expired on 1st August 2025 which will create a leadership vacuum making it impossible for UPC to sponsor candidates to be nominated for the various elective positions (e.g. Member of Parliament). On its part, the Electoral Commission contends in paragraph 27 of the affidavit of Hamidu Lugolobi that “no vacuum in party leadership will arise since the party constitution provides for the vice president to assume interim leadership pending fresh elections.”

18. Regarding the UPC Executive Committee, the Electoral Commission in its letter dated 22nd September 2025 stated as follows:

“The term of the Executive Committee of the Uganda People's Congress expired on 1st August 2025.”

19. Section 9 of the *Political Parties and Organisations Act (Cap. 178)* provides that:

“9. Internal organisation of political parties or organisations

(1) A political party or organisation shall, in its internal organisation, comply with the provisions of the Constitution, in particular Articles 71 and 72 of the Constitution.

(2) Every political party or organisation shall elect such persons as may be determined by the members of the political party or organisation as members of the Executive Committee of the political party or organisation with due consideration for gender equity.

(3) The election of members of the Executive Committee of every political party or organisation shall be conducted at regular intervals not exceeding five years.”

20. Section 27 of the *Parliamentary Elections Act (Cap. 177)* provides that:

“Under the multiparty political system, nomination of candidates may be made by a political organisation or political party sponsoring a candidate...”

21. Section 28(2) of the *Parliamentary Elections Act (Cap. 177)* provides that:

“Where under the multiparty political system, a candidate is sponsored by a political organisation or a party, the nomination paper shall be endorsed and sealed by the political party or organisation sponsoring the candidate.”

22. According to Section 9 of the *Political Parties and Organisations Act (supra)*, the term of the Executive Committee of a political party shall not exceed five years. In the case of UPC, the Electoral Commission has already ruled that its

Executive Committee expired on 1st August 2025. The implication of this, is that without a legally constituted Executive Committee, UPC is unable to sponsor candidates to be nominated for the various elective positions. For example, under Section 28(2) of the *Parliamentary Elections Act (supra)*, the nomination paper of a candidate sponsored by a political party must be endorsed and sealed by the political party sponsoring a candidate. With respect to UPC, its Executive Committee expired on 1st August 2025 as already noted by the Electoral Commission. If the current status quo is maintained, there would be no Executive Committee to endorse nomination papers of UPC candidates. Accordingly, the finding of the court is that there is merit in the applicants' argument that the sponsoring of UPC candidates to be nominated for the various elective positions for the General Elections 2025/2026 is likely to be jeopardized due to lack of a valid UPC Executive Committee.

23. Section 37 of the *Judicature Act (Cap. 16)* and Section 98 of the *Civil Procedure Act (Cap. 282)* vest power in this court to intervene and provide a relief to UPC considering the difficult circumstances that it finds itself in.

24. Section 37 of the *Judicature Act (Cap. 16)* provides that:

“General provisions as to remedies

The High Court shall, in the exercise of the jurisdiction vested in it by the Constitution, this Act or any written law, grant absolutely or on such terms and conditions as it thinks just, all such remedies as any of the parties to a cause or matter is entitled to in respect of any legal or equitable claim properly brought before it, so that as far as possible all matters in controversy between the parties may be

completely and finally determined and all multiplicities of legal proceedings concerning any of those matters avoided.”

25. Section 98 of the *Civil Procedure Act (Cap. 282)* provides that:

“Saving of inherent powers of court

Nothing...shall be deemed to limit or otherwise affect the inherent power of the court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court.”

Conclusion

26. In the interest of justice and fairness, and pursuant to Section 37 of the *Judicature Act (Cap. 16)* and Section 98 of the *Civil Procedure Act (Cap. 282)*, and in furtherance of the right to form political parties and organizations under Article 72 of the *Constitution of the Republic of Uganda*, this court hereby grants an interim order of injunction restraining the Electoral Commission from implementing its decision contained in a letter dated 22nd September 2025 in which the Electoral Commission ruled that the UPC Executive Committee expired on 1st August 2025. This will enable UPC to participate in the General Elections 2025/2026 by sponsoring candidates for the various elective positions (e.g. Member of Parliament). This is a public interest matter concerning general elections and for this reason no costs shall be awarded.

27. The conclusion of the court is that the application has partially succeeded, and I order as follows:

- i). That an Interim Order of Injunction is hereby issued restraining the Electoral Commission from implementing ***part*** of its decision in a letter dated 22nd

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September 2025 ref: LEG/297/01 that reads “The term of the Executive Committee of the Uganda People's Congress expired on 1st August 2025.”

ii). That other than as specified in paragraph (i) above, the rest of the decision of the Electoral Commission set out in its letter dated 22nd September 2025 ref: LEG/297/01 is not affected by this Interim Order of Injunction.

iii). That this Interim Order of Injunction shall expire upon the determination of High Court Misc. Application No. 823 of 2025: UPC & Hon. Jimmy James Michael Akena v. Electoral Commission.

iv). That no costs are awarded.

I SO ORDER



BERNARD NAMANYA
JUDGE
1 October 2025

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Under the Judicature (Electronic Filing, Service and Virtual Proceedings) Rules, 2025