

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
ON TUESDAY THE 26TH DAY OF MAY, 2026
BEFORE HIS LORDSHIP HON. JUSTICE J.K OMOTOSHO
(JUDGE)

SUIT NO: FHC/ABJ/CS/720/2026

BETWEEN

SOCIAL DEMOCRATIC PARTY

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PLAINTIFF

AND

INDEPENDENT NATIONAL ELECTORAL

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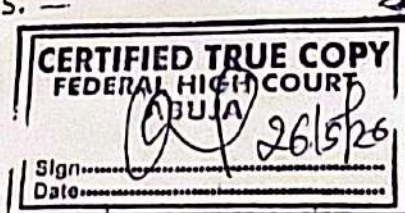
DEFENDANT

COMMISSION

JUDGMENT

The Plaintiff filed an Originating Summons filed 9th April, 2026 seeking the determination of the following questions:

1. Whether having regard to Sections 82 and 84(1) of the Electoral Act, 2026, the Defendant's powers to receive notices, attend, observe and monitor party primaries extend to fixing or prescribing the timetable within which political parties must conduct their primaries. —

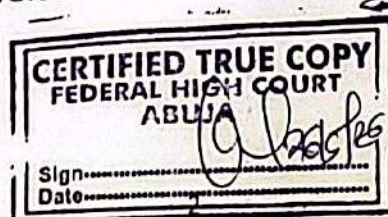


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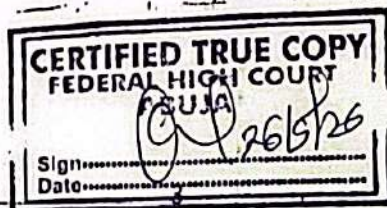
2. Whether having regard to Section 29(1) of the Electoral Act, 2026, the Defendant can lawfully abridge the statutory period of 120 days before election for submission of candidates' particulars by imposing timelines in its Revised Timetable for 2027 general elections and Press Release dated 27th March, 2026.
3. Whether having regard to Section 31 of the Electoral Act, 2026, the Defendant can lawfully restrict the statutory 90 days period for withdrawal and substitution of candidates through its timetable and the said press release.
4. Whether having regard to Section 32 of the Electoral Act, 2026, the Defendant can lawfully publish the final list of candidates outside or contrary to the statutory minimum of 60 days.
5. Whether the timelines introduced or adjusted by the Defendant in its Revised Timetable and Press Release dated 27th March, 2026 (particularly the requirement that registers of members be submitted not later than 21 days before primaries and the extension of deadlines) are consistent with the Electoral Act, 2026.

Upon a favourable determination of the above questions, the Plaintiff seeks the following reliefs:



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1. A DECLARATION that the Defendant's powers under Sections 82 and 84(1) of the Electoral Act, 2026 do not include the power to fix or prescribe the timetable for the conduct of party primaries.
2. A DECLARATION that the Defendant cannot lawfully abridge or vary the 120 days statutory period in section 29(1) of the Electoral Act, 2026 by its timetable or press release dated 27th March, 2026.
3. A DECLARATION that the Defendant cannot lawfully abridge or vary the 90 days period for substitution of candidates under Section 31 of the Electoral Act, 2026.
4. A DECLARATION that the Defendant lacks the power to alter or act inconsistently with the 60 days minimum requirement under Section 32 of the Electoral Act, 2026.
5. A DECLARATION that the provisions of the Defendant's Revised Timetable and Schedule of Activities for the 2027 General Election and Press Release dated 27th March, 2026 (attached as Exhibit A) which impose or adjust timelines inconsistent with the Electoral Act, 2026 are ultra vires, null and void.
6. AN ORDER Setting aside the offending portions of the said Revised Timetable and Press Release dated 27th March, 2020.



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7. AN ORDER OF PERPETUAL INJUNCTION restraining the Defendant from enforcing any timelines inconsistent with the Electoral Act, 2026.

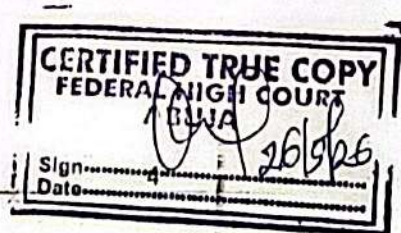
Accompanying the Originating Summons is a 5 paragraph affidavit deposed to by Adenike Adelokun Ahmed (Mrs), the Litigation Manager in the law firm of S.E Aruwa SAN & Co. Counsel to the Plaintiff. The affidavit has 2 exhibits and a written address.

The Defendant on its part filed a 5 paragraph Counter Affidavit deposed to by Mendie Akpan, a litigation secretary in the law firm of Alex Izinyon & Co. The Counter Affidavit has a written address dated 24th April, 2026 but filed 27th April, 2026.

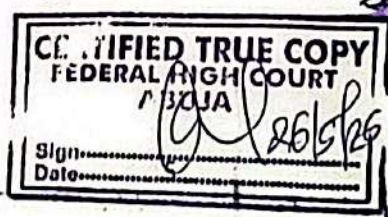
The Defendant also filed a Notice of Preliminary Objection dated 24th April, 2026 but filed 27th April, 2026 challenging the jurisdiction of the Court on the grounds that the suit is statute barred and that it is an academic suit. The Notice of Preliminary Objection has a written address.

In response, the Plaintiff filed a written address dated and filed 28th April, 2026.

The facts as drawn from the affidavits are given below. .



The Plaintiff is a political party duly registered with the Defendant. The Plaintiff stated that the Electoral Act, 2026 prescribes specific timelines for electoral activities including submission of personal particulars of candidates, withdrawal and substitution of candidates and publication of final list of candidates. That these timelines are expressly provided for under sections 29, 31, 32 and 98 of the Electoral Act, 2026. The Plaintiff stated that the Defendant published a document titled "Revised Timetable and Schedule of Activities for the 2027 General Election". Subsequently, the Defendant also issued a press release on 27th March, 2026 revising aspects of the said timetable. That through the two documents, the Defendant imposed a requirement that register of members must be submitted not later than 21 days before primaries. The Defendant also further extended and adjusted deadlines for submission of party registers. The Plaintiff stated that the Electoral Act, 2026 does not confer on the Defendant the power to fix or prescribe the period within which political parties must conduct their primary elections. That the timelines in sections 29, 31 and 32 are mandatory and cannot be altered or abridged by the Defendant. The Plaintiff therefore urged the Court to restrain the Defendant from enforcing the said timelines as same is contrary to the Electoral Act, 2026.

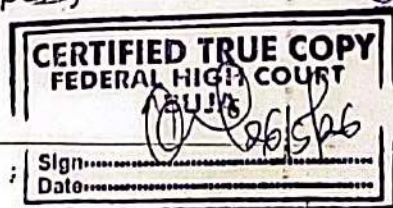


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The Defendant stated that the powers of the Defendant is not limited to receiving notices and attending primary elections but to organize and supervise elections and issue time table to ensure compliance with the Electoral Act. The Defendant stated that the timetable so issued will not interfere with the internal affairs of the Plaintiff and that the primaries of the Plaintiff had even yet to start. The Defendant further stated that the time table released by the Defendant does not conflict with the provisions of the Constitution and the Electoral Act and same did not bridge the timeline of the Plaintiff. The Defendant stated that the suit is premature and academic. It therefore urged the Court to dismiss the suit.

Counsel to the Plaintiff in his written address adopted the questions for determination as issues for determination.

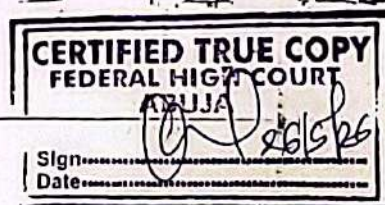
Learned Counsel submitted that the statutory powers of the Defendant include receiving notices for primaries, attending, observing and monitoring such primaries and does not extend to it prescribing the period for political parties to conduct primary elections. That the choice of when to conduct primary elections resides exclusively with the political parties themselves and the Defendant has no powers to interfere with that choice. That it is an internal affair of the party that does not concern the Defendant.



Counsel further submitted that the timelines imposed by the Defendant for the submission of personal particulars of candidates of political parties, withdrawal and replacement of candidates as well as publication of final list of candidates are in direct conflict with the express provisions of the Electoral Act, 2026. Counsel relied on **INEC VS PDP (2023) LPELR-60420 (CA)** to urge the Court to void the timelines set by the Defendant.

Counsel to the Defendant also adopted the issues formulated by the Plaintiff and submitted inter-alia that the Defendant have the power to fix a time frame for political parties to conduct their primary elections and same cannot be left at large having regards to compliance with the provisions of section 28 of the Electoral Act, 2026. Counsel relied on **NDP VS INEC (2013) 6 NWLR (PT. 1350) 392** to submit that the Defendant has legal authority to prescribe the timeline for parties to conduct their primary elections. He therefore urged the Court to dismiss the suit of the Plaintiff.

In his written address in support of Notice of Preliminary Objection, Counsel to the Defendant submitted that the suit is caught by the 14 days limitation period for pre-election matters prescribed by the Constitution of the Federal Republic of Nigeria, 1999 (as amended). Counsel submitted that the cause of action arose on 26th February,

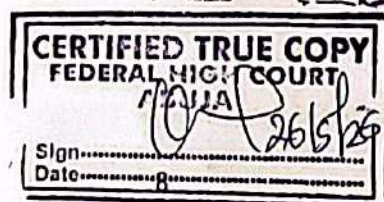


2026 when the time table was released. Counsel relied on **ABDULLAHI VS LOKO (2023) 6 NWLR (PT. 1881) 445 AT 483 PARAS A-C** to submit that it is the date the action complained of occurred that the cause of action begins to accrue and not the date of any subsequent act. Counsel also submitted that there are no live issues to determine in this matter, hence it is an academic suit which ought to be dismissed.

In his response, Plaintiff's Counsel submitted that the cause of action continued till 27th March, 2026 when the Defendant issued its press release which failed to resolve the issues raised by the Plaintiff. Counsel also reiterated that the suit is not academic as it challenges the legality of the timelines imposed by the Defendant which may affect it. Counsel therefore urged the Court to dismiss the preliminary objection.

The Court in determining the issues arising in this suit formulates the following issues thus:

1. **WHETHER FROM THE FACTS AND CIRCUMSTANCES OF THIS CASE, THE SUIT IS STATUTE BARRED.**
2. **WHETHER THE PLAINTIFF IS ENTITLED TO THE RELIEFS SOUGHT.**



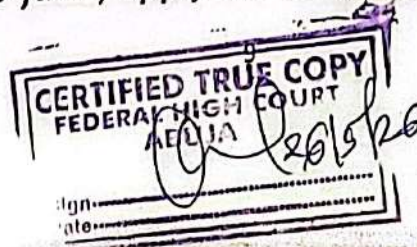
Arguments in respect of this suit was taken on 30th April 2026 and after conclusion this matter on same date was reserved for judgement for 27th May 2026. In view of the public holiday on 27th May 2026 parties were informed of today's date for judgment.

Counsel to the Defendant raised the issue of jurisdiction with regards to the suit being caught by the statute of limitation.

The issue of jurisdiction whenever it is raised must as a matter of necessity be determined as soon as possible. Jurisdiction in general terms refers to the extent of powers or authority exercised by a Court over a particular matter. It is seen as a threshold issue which determines how a Court should handle a matter. Where jurisdiction is lacking, any further action taken by a Court amounts to a nullity.

In **NIMR v. AKIN-OLUGBADE & ORS (2025) LPELR-80313(SC)**, the Supreme Court per Abiru JSC held:

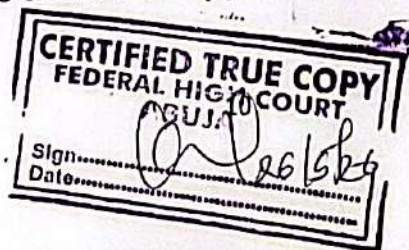
"Now, jurisdiction is the authority which a Court has to decide matters that are litigated before it or take cognizance of matters presented in a formal way for its decision. It is the power of the Court to decide a matter in controversy and presupposes the existence of a duly constituted Court with control over the subject matter and the parties. Jurisdiction defines the power of Courts to inquire into facts, apply the law, make decisions and declare



judgment. It is the legal right by which Judges exercise their authority. It is trite that jurisdiction is a hard matter of law that can only be determined in the light of the enabling statute. A Court of law cannot add to or subtract from the provisions of a statute. As a matter of law, a Court must blindly follow and apply the jurisdictional limits and limitations as contained or provided in a statute."

My noble Lord, Adah JSC in *HABU v. SULE & ORS* (2024) LPELR-63002(SC) on the issue of jurisdiction held thus:

"It is obvious in our law that jurisdiction is the cord of adjudication. It is the threshold and livewire that determines the authority of a Court to entertain a case before it. When a Court lacks jurisdiction, its judgment no matter how well written is a nullity. Consequentially, the appeal and the decision of the Court of Appeal on such a judgment would be a nullity. See *Martins v. Nicannar Food Co. Ltd & Anor.* (1988) LPELR-1844(SC), *Petrojessica Enterprises Ltd & Anor v. Leventis Technical Co Ltd* (1992) LPELR-2915 (SC), *Katto v. CBN* (1991) 9 NWLR (Pt. 214) 126, *Utih v. Onoyivwe* (1991) 1 NWLR (Pt. 166) 166. Due to the importance of jurisdiction, issues of jurisdiction can be raised at any stage of a case, be it at the trial or on appeal to the Court of Appeal or to this



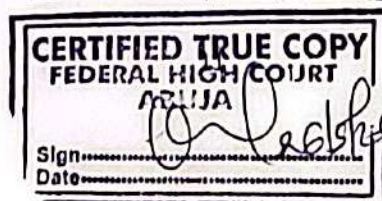
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Court; a fortiori, the Court can suo motu raise it. Once it is raised, it is of utmost necessity to have it determined early."

Kindly see also APC & ORS v. ENUGU STATE INDEPENDENT ELECTORAL COMMISSION & ORS (2021) LPELR-55337(SC); PETROLEUM (SPECIAL) TRUST FUND v. FIDELITY BANK & ORS (2021) LPELR-56625(SC); MUYIDEEN v. NBA & ANOR (2021) LPELR-55885(SC).

With respect to issue one, the law is settled that any action carried out on a matter which has been statute barred cannot be heard by the Court on the grounds that the cause of action has expired. The Supreme Court in USENI v. ATTA & ORS (2023) LPELR-59880(SC) held thus

"An action is said to be statute barred when it is time barred by the provision of a statute. It means that the suit has been commenced beyond the time stipulated for filing same by the provisions of a statute or the Constitution. Any action brought outside the time limited by statute is incompetent, even if it is late by only one day. Once an action is found to be statute barred, it is immaterial whether or not the suit has merit, no Court has jurisdiction to entertain such a suit. Even if same will be entertained by a trial or intermediate Court, that would only be done to enable the final Court have the benefit of their opinion in

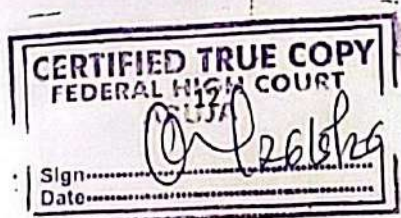


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case they are wrong about the action being statute barred. The general rule is that where there is a right there is a remedy; that is to say, where there is a cause of action, there is a remedy. Nevertheless, the legislature has prescribed certain periods of limitation for instituting certain actions. The rationale for this is the public policy consideration that there must be an end to litigation and the need to stop parties from litigating over stale disputes."

Kindly see also AGHAWARIANOVWE V. PDP & ORS (2023) LPELR-60783 (SC); MAKU VS SULE & ORS (2019) LPELR-58513 (SC); ENUGU STATE CIVIL SERVICE COMMISSION & ORS VS GEOFFREY (2006) LPELR-7638.

The law is trite that pre-election suits must be instituted within 14 days of the cause of action accruing. Kindly see section 285 (9) of the Electoral Act as amended 2022. The consequence of not instituting an action within the Constitutional time frame of 14 days is that the suit will be caught by the statute of limitation and liable to be dismissed for being statute barred. The duty of the Court here is to enquire when the cause of action arose and calculate if it was within the preceding 14 days before this suit was filed.



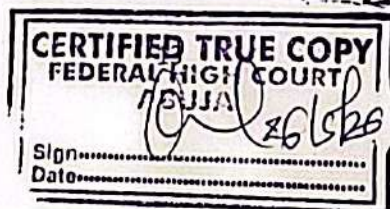
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Now it must be said here that pre-election suits are sui generis and do not conform with the general principles of civil suits which follow the time frame under the Interpretation Act. Section 15 (2) (a) of the Interpretation Act provides thus:

A reference in an enactment to a period of days shall be construed as where the period is reckoned from a particular event, as excluding the day on which the event occurs

The law is trite that when a time frame is provided under the Constitution, such time cannot be extended or abridged by any Court. Kindly see also the cases of **MARWA VS NYAKO** (2012) 6 NWLR (PT. 1296) 199 AT 387; **OKE VS MIMIKO (NO.1)** (2014) 13880 225 AT 254-255; **ANPP VS ALHAJI MOHAMMED GONI & ORS** (2012) 7 NWLR (PT. 1298) 147 AT 182 where My Noble Lord, Onnoghen JSC (as he then was) stated thus:

"It has been held by this Court in a number of cases including consolidated appeal Nos SC.141/2011; SC.266/2011; SC.267/2011; SC.282/2011; SC.356/2011; SC.357/2011 Brig. Gen. Mohammed Buba Marwa & Ors vs Admiral Murtala Nyako & Ors. Delivered on the 27th January 2012 reported in (2012) 6 NWLR (PT. 1296) 199 that the time fixed by the Constitution is like the rock of Gibraltar of Mount Zion which cannot be moved; that the time cannot be



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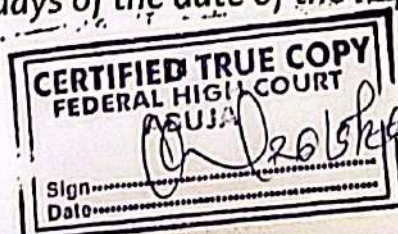
extended or expanded or elongated or in any way enlarged; that if what is to be done is not done within the time so fixed, it lapses as the Court is thereby robbed of the jurisdiction to continue to entertain the matter”

To explain the uniqueness of pre-election suits with regards to the computation of time, Ariwoola JSC (Former CJN) in **OKECHUKWU VS INEC (2014) 17 NWLR (PT. 1436) 255 AT 284 G-H** stated thus:

“... being aware of the sui generic nature of election and election related matters in which time is of the essence, and the stand of this Court on the Interpretation Act, I hold no hesitation in concluding that the provisions of the Interpretation Act on computation of time shall not apply to the requirement of time by the Practice Directions. Time shall run in the peculiarity of our Electoral Act, Practice Directions and the 1999 Constitution of Nigeria (as amended) from the day of the act and the day shall not be excluded”

Akeju JCA in **PDP v. ACCORD & ORS (2019) LPELR-49032(CA)** held thus:

“It is clear therefore that Section 15(2) of the Interpretation Act will not apply to the interpretation of Section 285(a) of the Constitution, as amended, by which the appellant is required to file case within 14 days of the date of the happening of the event.

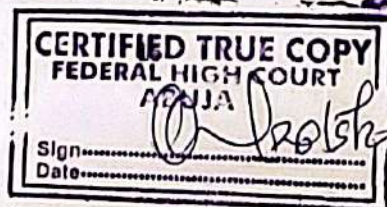


Now, since the Interpretation Act does not apply, the date of reckoning includes the date of the occurrence of the event i.e. 17th January, 2019 as alleged by the Appellant or 4th October, 2018 according to the Respondents as decided by the trial Court. Whichever way we look at it, the action is statute barred because it ought to have been filed not later than 30th January, 2019, if the cause of action arose on the 17th January 2019. Filing the matter outside the statutory period allowed by the Constitution robbed the trial Court of Jurisdiction to entertain same."

Kindly see also *IDIAGBON v. APC & ORS* (2019) LPELR-47717(CA); *PDP vs. MOHAMMED* (2015) LPELR (40859) 1 at 28-29 and *BELLO vs. YUSUF* (2019) LPELR (47918) 1 at 32-38.

The clear implication of the above decision of the superior courts and the provision of Section 285 (9) of the Constitution of the Federal Republic of Nigeria (4th Alteration) Act is that unlike under the Interpretation Act which prescribes that time would start to run from the day after the event, pre-election matters as part of electoral matters start running from the day of the event.

Counsel to the Defendant submitted that the suit is caught by the statute of limitation as it was not commenced within 14 days of the issuance of the revised timetable. Indeed, calculating the timeline



from the date of the revised timetable which is the 26th February, 2026 means that the filing of this suit on 9th April, 2026 would make it to be a time beyond 14 days and thus statute barred. However, the Plaintiff in its processes traced its cause of action to the press statement released by the Defendant dated 27th March, 2026 wherein the Defendant extended the time for the submission of register of members till 10th of May, 2026. The issuance of this press statement is where the cause of action arose as the press statement purportedly altered some portions of the election timetable earlier issued by the Defendant. A calculation of 14 days from 27th March, 2026 means that the Plaintiff must institute its action not later than 9th April, 2026 which is inclusive of the 27th of March, 2026. The Plaintiff here instituted this action on the said 9th April, 2026 which is the last possible day for the filing of this suit. This Court therefore holds that this suit was filed within time and same is not caught by the statute of limitation. This Court is satisfied that the Press statement of 27th March, 2026 originated this action and thus it is within time to file this action on 9th April, 2026. Consequently, issue one is resolved in favour of the Plaintiff.

With respect to the substantive issue, the central issue in this suit is regarding the powers of the Independent National Electoral Commission to set a timetable for activities leading up to elections.

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These activities include primary elections and submission of names of nominated candidates to the Defendant.

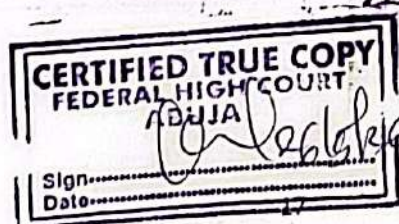
The Defendant is the electoral umpire in Nigeria saddled with the responsibility of organising elections in Nigeria as well as managing the activities of political parties to ensure that they conform to the provisions of the Electoral Act and Guidelines issued by the Independent National Electoral Commission.

The powers of the Defendant is well provided under Paragraph 15, item F of the Third Schedule to the Constitution of the Federal Republic of Nigeria, 1999 (as amended) which provides:

"The Commission shall have power to -

(a) organise, undertake and supervise all elections to the offices of the President and Vice-President, the Governor and Deputy Governor of a State, and to the membership of the Senate, the House of Representatives and the House of Assembly of each State of the Federation;

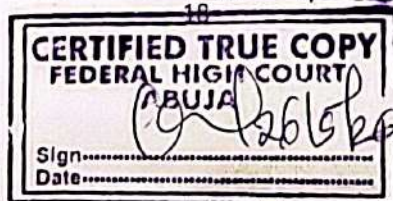
(b) register political parties in accordance with the provisions of this Constitution and an Act of the National Assembly;



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- (c) monitor the organisation and operation of the political parties, including their finances, conventions, congresses and party primaries;
- (d) arrange for the annual examination and auditing of the funds and accounts of political parties, and publish a report on such examination and audit for public information;
- (e) arrange and conduct the registration of persons qualified to vote and prepare, maintain and revise the register of voters for the purpose of any election under this Constitution;
- (f) monitor political campaigns and provide rules and regulations which shall govern the political parties;
- (g) ensure that all Electoral Commissioners, Electoral and Returning Officers take and subscribe the oath of office prescribed by law;
- (h) delegate any of its powers to any Resident Electoral Commissioner; and
- (i) carry out such other functions as may be conferred upon it by an Act of the National Assembly”

The above provision clearly shows that the wide powers of the Defendant covers the organisation of elections, monitoring of political



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parties including their primary elections as well as the provision of rules and regulations to govern political parties. This definitely means that beyond the receiving of notices from political parties notifying the Defendant of the conduct of their primary elections, the Defendant can set down rules and regulations as for timeframe, for how and when such primary elections including submission of names of nominated candidates and membership register of political parties would be made or submitted.

A careful look at the provisions of the Electoral Act 2026 shows a lot of time lines within which certain actions must be done. For instance in section 29 (1) of the Act submission of the names of nominated candidates by political parties must be done not later than 120 days before an election. Section 19 (1) makes it mandatory for the Defendant to publish voters register not later than 90 days before an election. Section 28 of the Electoral Act also mandates the Defendant to publish the notice for elections at least 300 days before an election. Even under section 285 (10) - (12) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) there are timelines for the hearing and determination of pre-election matters. The above provisions provide as follows

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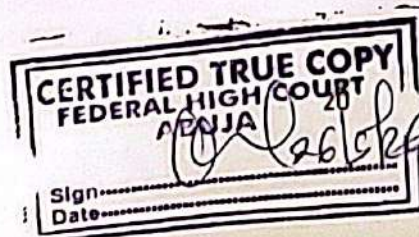
“10) A Court in every pre-election matter shall deliver its judgment in writing within 180 days from the date of filing of the suit.

(11) An appeal from a decision in a pre-election matter shall be filed within 14 days from the date of delivery of the judgment appealed against.

(12) An appeal from a decision of a Court in a pre-election matter shall be heard and disposed of within 60 days from the date of filing of the appeal.”

From the above, the Federal High Court has 180 days, the Court of Appeal has 60 days to determine while Supreme Court has 60 days from the date of filing to deliver its judgment. This makes it a cumulative period of 300 days for the determination of pre-election matters.

Now looking at all these time frames and timelines in the Electoral Act 2026 and the Constitution, it shows clearly that there must be some form of a timetable to itemize all the activities leading up to an election within a stipulated timeframe in order to give effect to the provisions of the Electoral Act 2026 and the Constitution of the Federal Republic of Nigeria, 1999 (as amended). The status and nature of this timetable is the same as a subsidiary legislation.

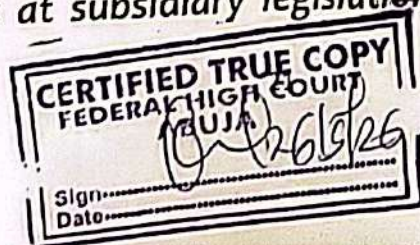


In the hierarchy of laws, subsidiary legislations are inferior to substantive statutes however they enjoy the force of law. Subsidiary legislations are made pursuant to a substantive Act to address issues left unaddressed in the substantive law. Sometimes, Acts of the National Assembly are not exhaustive and in order to bridge this gap, there is usually a provision for subsidiary legislations such as rules or regulations. For example, the Federal High Court Act has no provision for pre-election matters or even AMCON matters. However, by virtue of the powers to make rules vested on the Chief Judge by the Constitution and the Federal High Court Act, subsidiary legislations such as the Federal High Court (Civil Procedure) Rules, Federal High Court (Pre-election) Rules have been made by the Chief Judge.

The National Assembly cannot be expected to make laws to regulate every action or to anticipate every eventuality. Subsidiary legislation can then be made by the person vested with such power to make such rules in accordance with the substantive law.

In *MUSA & ANOR v. BASIRU & ORS* (2023) LPELR-61577(CA) it was held:

"For the legality of any election conducted under the law to be ascertained, sometimes a Court would look beyond the Electoral Act and look at subsidiary legislation which relate to election



matters. Maybe subsidiary legislation may be a big dress to wear some guidelines, rules, and regulations passed by the 3rd Respondent to regulate the election but those regulations and guidelines cannot be ignored especially when the provisions of the Electoral Act is not exhaustive or clear on the matter. The point must be made that by the provision of Section 148 of the Electoral Act, the Commission has powers to make rules, guidelines, and regulations to ensure that elections are conducted well. Such regulations passed has the force of law and must be obeyed provided they are not in conflict with the parent legislation, that is the Electoral Act. In INEC vs NNPC (2023) 12 NWLR (pt 1899) 43, this is what the apex Court said on this point: "By virtue of Section 148 of the Electoral Act, 2022, the Commission has the powers under the Electoral Act, subject to the provisions of the Act, to issue regulations or guidelines or manuals for the purpose of giving effect to the provisions of the Electoral Act. The provision is unambiguous and clearly states that the guidelines, regulations and manuals to be issued are subject to the Electoral Act and the purpose of the regulations, guidelines, and/or manual is to give effect to the Electoral Act. A Timetable and Schedule of activities of the Commission which is made pursuant to the Electoral Act must comply with the timelines

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contained in the Electoral Act, 2022. Being of subordinate legislation, any inconsistency created by it must be resolved in favour of the substantive law. [Osadebay v. A.G., Bendel State (1991) 1 NWLR (Pt. 169) 525; Odeneye v. Efunuga (1990) 7 NWLR (Pt. 164) 618; "The Guidelines and regulation of INEC has the force of law.? Consequent upon that, the 3rd Respondent has passed two major documents to regulate the conduct of election and the electoral officers. These are the Guidelines and Regulation for the Conduct of Election, 2022 and the Manual for Electoral Officers. A Court is at liberty to refer to those in deciding the outcome of an election provided they are not in conflict with the Electoral Act and the Constitution.

Subsidiary legislations once made has the force of law as it derives its validity from the principal Act. In **OMATSEYE v. FRN** (2017) LPELR-42719(CA), it was held:

"The question of subsidiary legislation received judicial attention, in the case of **BEST NJOKU V CHIEF MIKE IHEANATU** (2008) LPELR -3871 (CA) thus: "A subsidiary legislation or enactment is one that was subsequently made or enacted under and pursuant to the power conferred by the principal legislation or enactment. It derives its force or efficacy from the principal legislation to which

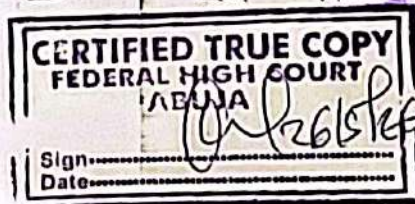


it 'is therefore secondary and complimentary." It is trite that subsidiary legislation generally has the force of law, see Section 18 (1) of the Interpretation Act, ADEBOYE AMUSA V THE STATE (2003) LPELR-474(SC) and it derives its authority from the substantive legislation."

The law is also trite that a subsidiary legislation must not be at variance with the principal act. In SHELL (NIG) EXPLORATION AND PRODUCTION CO. LTD v. NOSDRA (2021) LPELR-53068(CA), it was held thus:

"A subsidiary legislation must be consistent with the principal legislation from which it derives its life otherwise such subsidiary legislation is a nullity to the extent of the inconsistency. Furthermore, the power to make regulations under any Act does not include the power to make regulations to extend the frontiers of the principal Act."

The Defendant is empowered to issue subsidiary legislation such as election timetable pursuant to Section 151 of the Electoral Act 2026 which provides:

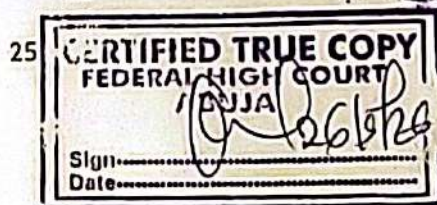


"The Commission may, subject to the provisions of this Act, issue regulations, guidelines, or manuals for the purpose of giving effect to the provisions of this Act and for its administration."
(underlined emphasis mine).

The issuance of a timetable is to give effect to the Electoral Act especially with all its various timelines. The nature of the timetable ensures order and proper arrangement in the activities of political parties in the lead up to elections.

Election timetable is a chain of events or actions stating from timeframe for the submission of membership register of political parties to be used for the purpose of the primaries and the election, timeframe for primaries and eventually gets to the real voting. Election timetable is not only date for voting but preparatory steps which are conditional to valid election and nominations must be included in election timetable. Election Timetable without date for submission of parties' membership register, timeframe for primaries etc is inchoate.

Without this timetable, there would be chaos in our Electoral system. This Court is therefore convinced that the Defendant is empowered by the Electoral Act to issue timetables for elections. To further buttress this, the Constitution of the Federal Republic of Nigeria which is the



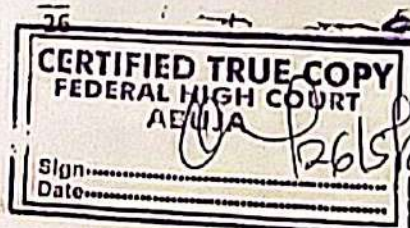
grundnorm of all laws in Nigeria alluded to this under section 285 (14) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) which provides:

“(14) For the purpose of this section, “pre-election matter” means any suit by –

(a) an aspirant who complains that any of the provisions of the Electoral Act or any Act of the National Assembly regulating the conduct of primaries of political parties and the provisions of the guidelines of a political party for conduct of party primaries has not been complied with by a political party in respect of the selection or nomination of candidates for an election;

(b) an aspirant challenging the actions, decisions or activities of the Independent National Electoral Commission in respect of his participation in an election or who complains that the provisions of the Electoral Act or any Act of the National Assembly regulating elections in Nigeria has not been complied with by the Independent National Electoral Commission in respect of the selection or nomination of candidates and participation in an election; and

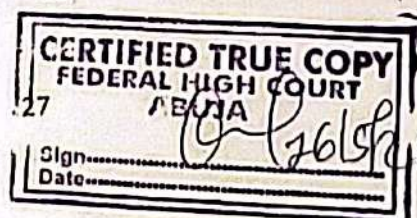
(c) a political party challenging the actions, decisions or activities of the Independent National Electoral Commission disqualifying



its candidate from participating in an election or a complaint that the provisions of the Electoral Act or any other applicable law has not been complied with by the Independent National Electoral Commission in respect of the nomination of candidates of political parties for an election, timetable for an election, registration of voters and other activities of the Commission in respect of preparation for an election." (underlined emphasis mine)

The above provision outlines the grounds upon which a person may institute a pre-election matter and in particular subsection (c) allows political parties to challenge the actions and decisions of the Independent National Electoral Commission with regards to timetable for an election and other activities of the commission in respect of preparation for an Election. To this Court, this inclusion no doubt means that the Constitution itself recognizes the powers of the Independent National Electoral Commission to make a comprehensive timetables for an election. If it were not so, the Constitution would never mention it. This power to issue timetable for elections and activities of the commission in respect of preparation for an Election by the Defendant is judicially recognized.

The Court of Appeal in *INEC v. LP & ORS (2023) LPELR-60019(CA)* held thus:



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"The Appellant has been empowered to designate the processes towards elections and setting the timetable took a lot into consideration and it is meant to be applied to all parties across the board, the Respondents cannot be an exception. Going by the timetable for the next General Elections, the last date for the upholding and submission of substitutes for political parties was the 15th day of July, 2022. In the argument of the Respondents that they invited the Appellant to attend the process of nomination for substitute but did not say whether the Appellant attended the substitute elections in order to give legitimacy to the said substitute election. The power and prerogative of the Appellant to issue timetables for the general elections was affirmed by the apex Court in the cases of *AGBALLAH VS. CHIME* (2009) 1 NWLR (Pt. 11220) 373; *PPA Vs. INEC* (2010) 12 NWLR (Pt. 1207) 70; *CPC Vs. INEC* (2011) 18 NWLR (Pt. 1279) 493; *KUBOR Vs. DICKSON* (2013) 4 NWLR.(Pt. 1345) 574; *SHINKAFI Vs. YARI* (2016) 7 NWLR (Pt. 1511) 340 and *FALAKE Vs. INEC* (2016) 18 NWLR (Pt. 1543) 61. The Supreme Court while considering Section 28 which is *in pari materia* with Section 30 of the Electoral act 2010 held in the case of *NATIONAL DEMOCRATIC PARTY Vs. INDEPENDENT NATIONAL ELECTORAL COMMISSION* (2013) 6 NWLR (Pt. 1350) 392 at 421 held as follows: "It is not in doubt that the Independent



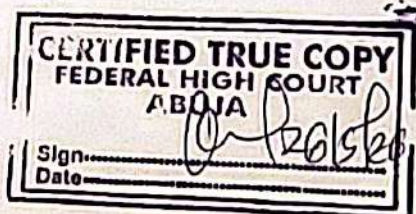
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National Electoral Commission (INEC) that is, the Respondent herein, has the sole responsibility to decide when elections are to hold, see Peoples Democratic Party v Timire Sylva & Ors (2012) 13 NWLR (Pt. 1316) 85 at 122. The Respondent also reserves the prerogative to decide what time table of activities to publish for a general Election"

In NDP v. INEC (2011) LPELR-46298(CA), the Court of Appeal held as follows:

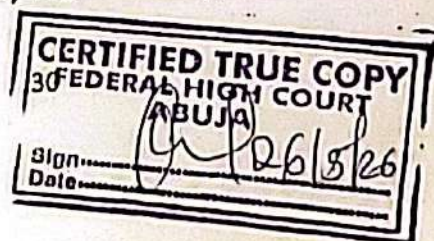
"The appellant and respondent both agree in unison that the respondent under Section 15 (a) and (f) of the Constitution and Section 30 of the Electoral Act 2010, (as amended) is vested with the power to issue the first time table of 7th September, 2010 for the conduct of primaries and elections into various offices. Therefore, the parties are ad idem that the respondent is vested with the powers to issue time table for general elections. This position is in consonance with the provision under Section 30 (1) of the Electoral Act 2010 (as amended) which stipulates as follows: "The Commission shall, not later than 90 days before the day appointed for holding of an election under this Act, publish a notice in each State of the Federation and Federal Capital Territory- (a) Stating the date of the election; and (b) Appointing

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the place at which nomination papers are to be delivered." From the aforesaid provision the respondent, INEC is conferred with the power to issue and publish the time table for the general election. The main contest in this appeal is whether INEC having published the first time table in respect of 2011 general election is bound by same and cannot issue the second time table to supersede the first time table in respect of the same 2010 general elections. The position of the appellant is that the respondent is bound by the first time table and their party is entitled to be issued with forms CF001 and CF002 having taken steps to conduct a convention and candidates were nominated to contest the elective offices in 2011. The respondent on the other hand contends that by the caveat in the second time table, any forms CF001 and CF002 issued to the appellant will not have the force of law because the appellant did not participate in the activities under the second time table. Learned counsel maintained that Exhibit P8 the second time table invalidated all action taken under Exhibit P1 the first time table. Exhibit P1 is the table of activities for the 2011 general elections issued by INEC, the respondent in Exhibit P1 under column 4 set out the period for collection of form CF001 and CF002 for all elections to run between the 19th of October, 2010 to 22nd October, 2010 (see page 27 of the record). ?Exhibit P8 is the second



time table issued by same INEC in respect of 2011 General Elections. Endorsed at the footnote of Exhibit P8 is the following: "This time table and schedule of activities supersedes that earlier time table and schedule of activities for the 2011 general elections issued by the commission." The key word therein is "supersedes" what then is the effect of the use of that word in the second time table in relation to the first time table. The word supersede in the Blacks' Law Dictionary (Eight Edition) is defined to mean 'To annul, make void or repeal by taking the place of...' relying on the description of the word "supersede", it is crystal clear that the second time table came into effect to take the place of the first time table. When an act or conduct or document is annulled it means officially that the thing is no longer legally valid. Furthermore, in the Black's Law Dictionary (Eight Edition), the word "void" is defined as "of no legal effect, null." Clearly, the respondent by the use of the word supersede in the second time table expressly stated that the first time table is annulled and has no legal effect. Lord Denning in *Macfoy v. United African Co. Ltd.* (1961) 3 WLR 1405 on the effect of an act which is a nullity said: "Any purported exercise of any function being without any legal or constitutional authority was null and void and of no effect."



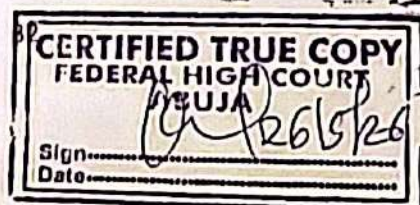
This Court is therefore further convinced that beyond merely receiving notices for the conduct of primary elections, the Defendant is empowered to issue election timetables (timeframe for primary Election inclusive). As a corollary to the power to issue timetables, the Defendant is also empowered to alter the timetable for the ultimate aim of giving effect to the provisions of the Electoral Act and the Constitution of the Federal Republic of Nigeria 1999 (as amended). Consequently, I hold without hesitation that the timetable and schedule of activities for the conduct of the 2027 General Election issued by the Defendant is valid and legally issued.

As held earlier, the Electoral Act 2026 makes provisions for clear timelines within which elections and other preparatory events to an election must be held and completed.

Section 29(1) of the Electoral Act 2026 provides that:

“Every political party shall submit to INEC, not later than 120 days before the election, the list of candidates it proposes to sponsor, and those candidates must have emerged from valid primaries conducted by the political party.”

A look at the above provision shows that political parties are mandated to submit the list of their candidates to the Independent National Electoral Commission within a period not later than 120 days.

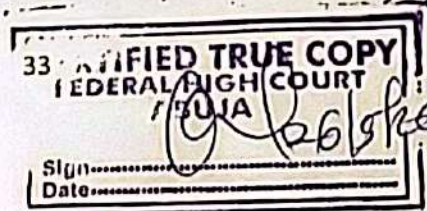


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This means that parties are at liberty to conduct their primary elections but they must submit the names of their candidates no later than 120 days. Not only that, the said candidates must have emerged from valid primaries.

This is a very important distinction as the primary that produced those candidates must be validly conducted. The question then becomes what is a valid primary election. A valid primary election is the election which is conducted in strict compliance with the Electoral Act, Guidelines for elections issued by the Independent National Electoral Commission as well as the Guidelines of the Political party concerned. Kindly see sections 82, 84, 85, 86 and 87 of the Electoral Act 2026. It therefore follows that political parties must ensure that their primary elections are conducted within the period outlined by the Independent National Electoral Commission in its timetable for elections.

From the timetable attached as Exhibit by the Plaintiff, the Defendant fixed the period between 23rd April, 2026 and 30th May, 2026 as the period for primary elections. Column 4 of the timetable states that the access code would be available from 26th June 2026 to 11th July, 2026 and 18th July, 2026 to 8th August, 2026 for the Presidential and National Assembly elections as well as the Governorship and State



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Houses of Assembly elections respectively. The implication is that the submission portal and access code are only meant for candidates who have already validly emerged from party primaries before the statutory deadline expires.

The law does not contemplate the submission of the name of a person who has not emerged from a valid primary election. The phrase "who shall have emerged from valid primaries conducted by the political party" is mandatory and not discretionary.

Accordingly, for any submission to be lawful, the party must first conduct a valid primary election.

The primary election must comply with the Electoral Act. The primary election must also comply with the party guidelines and the Independent National Electoral Commission timetable.

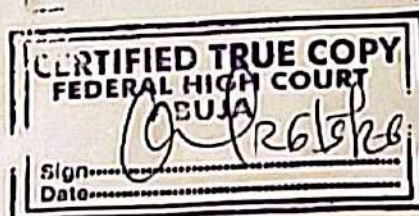
Only after such lawful emergence can the candidate's particulars be uploaded through the access code provided by the Defendant. This access code is available to political parties from 26th June, 2026 from when they can upload the names of nominated candidates to the Independent National Electoral Commission's portal. According to the election timetable, the online submission is the first stage of submission. In the timetable, other stages include withdrawal and replacement of candidates and this terminates with the submission of

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nomination forms EC13A, EC13B, EC13C, EC13D and EC13E by political parties to the Independent National Electoral Commission. The last date for this submission is fixed for 29th August, 2026 for candidates for Presidential and National Assembly elections and 26th September, 2026 for candidates for Governorship and House of Assembly elections.

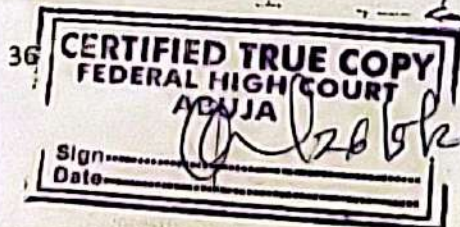
Now the Presidential and National Assembly elections are fixed for 16th January, 2027 while the Governorship and State Houses of Assembly elections are fixed for 6th February, 2027. Calculating the period of deadline for submission of nominated candidates and the elections, it is clear that the deadlines set are greater than the 120 days allowed by the Electoral Act, 2026. For the period between the last date of submission of nomination forms for candidates for Presidential and National Assembly elections by political parties and the election itself is 140 days as stated in the timetable. While for the Governorship and House of Assembly elections it is 133 days. This implies that the timetable has reduced the time allowed by political parties by periods of 20 days and 13 days respectively. This is definitely not in line with the provisions of section 29 (1) of the Electoral Act 2026. The Defendant cannot enlarge or abridge time frames contained in the Electoral Act. It can only issue the timetable to fall within the statutorily provided timelines.



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What this means is that political parties are at liberty to submit the names of candidates on or before 120 days to the elections which from my calculations are 18th September, 2026 and 9th October, 2026. In fact, they can decide to conduct their primary elections which must be within stipulated timeframe by the Defendant and wait till the exact 120 days to the election before submitting the list of nominated candidates. They cannot be compelled to submit the nomination forms of their candidates before the 120 days to the elections.

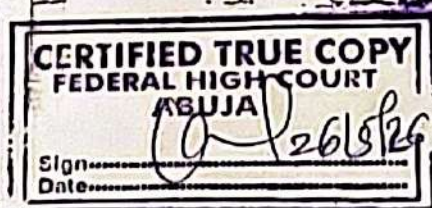
From the election timetable attached as exhibit the Independent National Electoral Commission requested for party register showing the membership of the political parties for the purpose of 2027 elections, also it has given time frame within which political parties are to conduct primaries. It is now left for the political parties to inform the Independent National Electoral Commission of the dates or time frame for their primaries and venues to enable the Independent National Electoral Commission to monitor same within the stipulated timeframe by the Defendant. The Defendant requesting for membership register of political parties which is to be used for the purpose of the Election in knowing if a candidate of a party is a member of the party during primary or substitution period and giving time frame within to conduct primaries is not ultra vires the powers of the Independent National Electoral Commission. Moreso, the



Independent National Electoral Commission is statutorily expected to be present at the party primaries. However, the political parties have the right to submit the names of their candidates after conclusion of the primaries till at least 120 days to the election. This statutory right to submit under section 29(1) cannot be taken away from political parties. I therefore hold that the deadline of 29th August, 2026 and 16th September 2026 fixed for political parties to submit nomination forms for candidates for Presidential and National Assembly elections as well as Governorship and House of Assembly elections is void to the extent of its inconsistencies with the clear provisions of 29(1) of the Electoral Act 2026.

Another key issue raised by the Plaintiff which also ties in with the criteria of a valid primary election is the time within which political parties must submit their membership register prior to the conduct of their primary elections. Section 77 (4) - (6) of the Electoral Act 2026 provides:

“(4) Each political party shall make such register available to the Commission not later than 21 days before the date fixed for the party primaries, congresses or conventions.



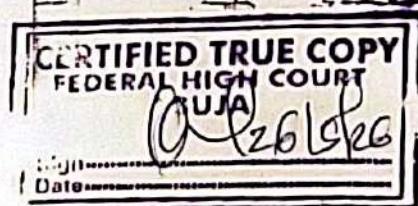
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(5) Only members whose names are contained in the register shall be eligible to vote and be voted for in party primaries, congresses and conventions.

(6) A political party shall not use any other register for party primaries, congresses and conventions except the register submitted to the Commission."

(7) A party that fails to submit the membership register within the stipulated time shall not be eligible to field a candidate for that election."

From the above, political parties have a period not larger or longer than 21 days to a primary election to submit its register of members to the Defendant. It is only members whose names are contained in this register that can participate in the primary election. From the facts of this case, in the timetable issued by the Defendant, the time-frame for the submission of membership register was fixed for a period between 1st April 2026 and 21st April, 2026 and the period for primary elections was fixed for a period between 23rd April, 2026 and 30th May, 2026. A simple calculation of these dates shows that parties have more than 21 days to submit their membership register prior to their primary elections.

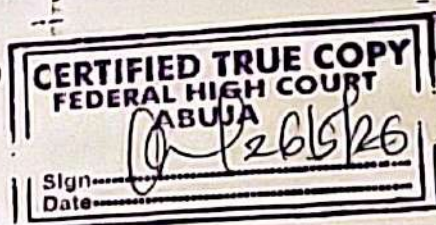


However, the Defendant in a press release dated 27th March, 2026 released a statement wherein it communicated an agreement with political parties to alter and extend the date of submission of register of members to 10th May, 2026. The Plaintiff complained that this alteration abridged time and same is unlawful.

I have examined this press release vis-à-vis the revised timetable and I must say that calculation of the deadline date of 10th May, 2026 to the deadline date for primary elections fixed for 30th May, 2026 is a period of exactly 21 days. No doubt this is within the 21 days period in accordance with section 77 (4) of the Electoral Act 2026. The extension of the deadline submission of membership register of political parties to 10th May, 2026 seems to this Court to be in favour of the political parties themselves. This means they have more time to compile their register especially as it is common for political parties to experience the entrance of new members in the lead up to primary elections. The Defendant in agreement with the parties extended the deadline for submission. This Court struggles to see any wrongdoing on the part of the Defendant.

Submission of membership register of political parties and primaries of political parties must be submitted and done within the time stipulated in the election timetable and this shall be for the purpose of

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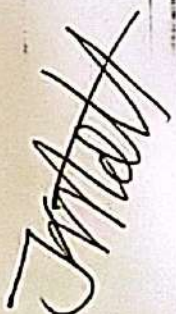


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the election as there is no law prohibiting the Defendant from stipulating time within which same shall be submitted and conducted as a preparatory steps or actions towards the fixed election and all political parties are bound to comply with the time frame stipulated.

I must say here that the register of members of political parties is required to be submitted within the stipulated time to enable the Independent National Electoral Commission to ensure that the aspirants to participate in party primaries are members of the parties or that the candidates are members of the political parties and to determine whether the candidate to be subsequently substituted if any is a member of that political party. This is still within the functions of the Defendant in supervising and managing of electoral activities.

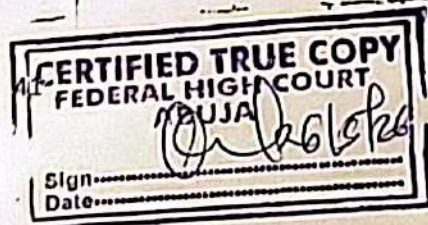
The register of members must be submitted as stipulated by the Independent National Electoral Commission except it varies the stipulated time which it did by virtue of the Press release of 27th March, 2026. The extension of the deadline by the Defendant for political parties to submit their register of members still falls within 21 days before the deadline for primary elections. Consequently, I hold that the said extension of the deadline for submission of the register of members of political parties offends no law and same is within the powers of the Independent National Electoral Commission.



With respect to the timeframe for the publication of names of nominated candidates under section 32 (1) of the Electoral Act, 2026 which provides:

32. (1) The Commission shall, at least 60 days before the day of the election, publish by Publication of displaying or causing to be displayed at the relevant office or offices of the Commission and on the Commission's website, a statement of the full names and addresses of all candidates standing nominated."

The above section implies that the Defendant is mandated to publish the statement of the full names and addresses of all nominated candidates. Item 9 of the Revised Timetable stipulates the period for publishing the names of nominated candidates to 12th of September 2026 for Presidential and National Assembly elections and 10th October, 2026 for Governorship and House of Assembly elections. These dates are clearly more than 60 days to the elections. However, the important distinction is that for section 32 (1) of the Electoral Act 2026 the phrase used is "at least" which means that it can be done anytime before 60 days to the elections. It is therefore clear the period fixed for the publication of names of nominated candidates by the Defendant is within the time frame in section 32 (1) of the Electoral Act 2026. This does not offend the Electoral Act.

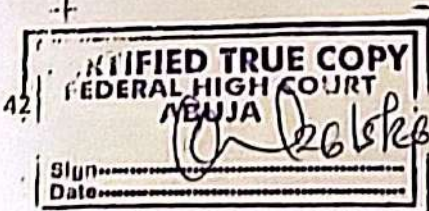


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On issue of the timeframe for the substitution and withdrawal of nominated candidates, this is provided for under section 31 of the Electoral Act, 2026 which provides:

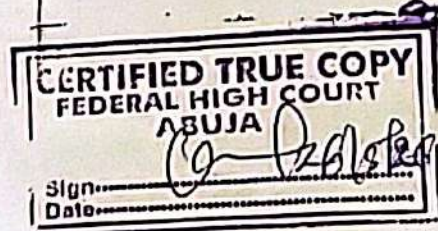
“A candidate may withdraw his candidature by notice in writing signed by him together with a sworn affidavit delivered personally by the candidate to the political party that nominated him for the election and the political party shall convey such withdrawal and the sworn affidavit to the Commission not later than 90 days to the election.”

From the above, political parties are by law allowed the liberty to submit the withdrawal and sworn affidavit to the Defendant not later than 90 days to the election. The Defendant in the revised timetable however stipulated the 22nd of August, 2026 and 19th September, 2026 as the date for candidates for Presidential and National Assembly elections and Governorship and House of Assembly. These dates are far larger than the 90 days allowed by the Electoral Act, 2026. This means that the Timetable has reduced the timeframe for parties to submit withdrawal to the Defendant. The Defendant therefore acted ultra vires its powers by reducing the time allowed by political parties to convey withdrawals and sworn affidavit to the Defendant contrary to the 90 days stipulated by the Electoral Act, 2026.

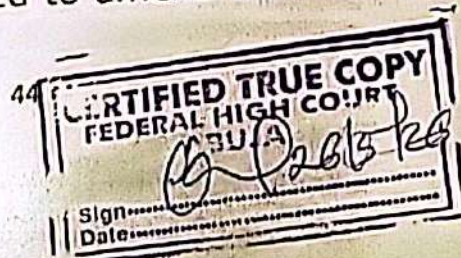


In final analysis, the Defendant is empowered by law to issue timetable for elections but it must do so in compliance with the time frames in the Electoral Act 2026. Therefore, the claims of the Plaintiff succeed in part. Consequently, it is hereby ordered as follows:

1. THIS HONOURABLE COURT DECLARES THAT the press statement of 27th March, 2026 originated this action, consequently this suit is not statute barred having been filed on the 9th April, 2026.
2. THIS HONOURABLE COURT HEREBY DECLARES THAT Election Timetable is a chain of events or actions which include submission of membership register of political parties to be used for the purpose of primaries and fix Timeframes within which political parties are to organize their primary Elections for the purpose of the stated 2027 Election.
3. THIS HONOURABLE COURT HEREBY DECLARES that the Independent National Electoral Commission is empowered by the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and the Electoral Act, 2026 to issue timetable for elections and to even alter same as it deems fit. However, the timetable must comply strictly with the timeframes in the Electoral Act, 2026.



4. THIS HONOURABLE COURT HEREBY DECLARES THAT the Defendant is also empowered to alter the timetable for the ultimate aim of giving effect to the provisions of the constitution of the Federal Republic of Nigeria 1999 (as amended) and Electoral Act.
5. THIS HONOURABLE COURT HEREBY DECLARES THAT the timetable for the conduct of the 2027 General Election issued by the Defendant is valid and legally issued, stating timeframe within which political parties are to hold their primaries and stating timeframe for the submission of membership registers of political parties.
6. THIS HONOURABLE COURT HEREBY DECLARES that the Defendant cannot lawfully abridge or vary the 90 days period for substitution of candidates under Section 31 of the Electoral Act, 2026.
7. THIS HONOURABLE COURT HEREBY DECLARES THAT the Defendant cannot abridge the time stipulated in section 29(1) of the Electoral Act 2026 given to political parties to submit the names of their candidates at least 120 days to the date of Election.
8. THIS HONOURABLE COURT HEREBY DECLARES THAT the Defendant is hereby ordered to amend the Election Timetable



2027 and schedule of activities in compliance with sections 29 (1) & 31 of the Electoral Act 2026.

9. THIS HONOURABLE COURT HEREBY DECLARES THAT the Defendant requesting for membership register of Political parties and giving timeframe within which to conduct primaries is not ultra vires the powers of the Defendant.

10. THIS HONOURABLE COURT HEREBY DECLARES THAT the deadline of 29th August 2026 and 16th September 2026 fixed for political parties to submit nomination forms for candidates for Presidential and National Assembly Elections as well as Governorship and House of Assembly Elections is void to the extent of its inconsistencies with the clear provisions of section 29(1) of the Electoral Act 2026.

J.K. Omotosho
J.K. OMOTOSHO
Judge
26/5/2026

Appearances

1. Realwan Okpanachi Esq with D.O Anyebe Esq., for the Plaintiff
2. Alex Izinyon SAN with F.O Izinyon Esq, Alex Izinyon Esq, O.O Okey-Ndeche Esq, Sylvia O.Izinyon Esq., For the Defendant

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Sign: *[Signature]*
Date: 26/5/26

Realwan Okpanachi
H/O