



IN THE CONSTITUTIONAL COURT
HOLDEN AT LUSAKA
(Constitutional Jurisdiction)

2026/CCZ/009

IN THE MATTER OF: ARTICLES 1, 2, 5(1), 8, 52(4), 60, 128 and 267 OF THE CONSTITUTION OF ZAMBIA 1991 (AS AMENDED)

IN THE MATTER OF: SECTION 18 OF THE CONSTITUTION OF ZAMBIA ACT NO. 1 OF 2016

IN THE MATTER OF: SECTION 30 (1)(b) OF THE ELECTORAL PROCESS ACT NO.35 OF 2016 (AS AMENDED)

IN THE MATTER OF: THE ALLEGED CONTRAVENTION OF ARTICLES 1, 8(c), 8(e), 52(1), 60(2)(d) AND 60(2)(e) OF THE CONSTITUTION OF ZAMBIA (AS AMENDED)

IN THE MATTER OF: FAILURE BY THE UNITED PARTY FOR NATIONAL DEVELOPMENT TO CONDUCT REGULAR, FREE AND FAIR INTERNAL PARTY ELECTIONS AND ELECTIVE GENERAL ASSEMBLIES IN ACCORDANCE WITH THE CONSTITUTION OF ZAMBIA AND THE UNITED PARTY FOR NATIONAL DEVELOPMENT

IN THE MATTER OF: THE CONSTITUTIONALITY AND VALIDITY OF THE NOMINATION OF HAKAINDE HICHILEMA AS PRESIDENTIAL CANDIDATE OF THE UNITED PARTY FOR NATIONAL DEVELOPMENT FOR THE GENERAL ELECTIONS SCHEDULED FOR 13th AUGUST 2026.

IN THE MATTER OF: THE CONSTITUTIONAL VALIDITY OF DECISIONS AND NOMINATIONS ARISING FROM EXPIRED OR IRREGULARLY CONSTITUTED POLITICAL PARTY ORGANS AND GOVERNANCE STRUCTURES

IN THE MATTER OF: ARTICLE 25 OF THE INTERNATIONAL CONVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)

BETWEEN:

CHARLES LONGWE

PETITIONER

AND

BATUKE IMENDA

1st RESPONDENT

*(Sued in his official capacity as Secretary
General of the United Party for National Development)*

HAKAINDE HICHILEMA

2nd RESPONDENT

THE ELECTORAL COMMISSION OF ZAMBIA

3rd RESPONDENT

THE REGISTRAR OF SOCIETIES

4th RESPONDENT

ATTORNEY GENERAL

5th RESPONDENT

Coram: Shilimi DPC, Musaluke, Chisunka, Mulongoti, Mwandenga, Kawimbe
and Imbwae JJC on 19th June, 2026.

For the Petitioner:

Mr. B. Mwelwa of Mwelwa, Phiri & Partners

For the 1st and 2nd Respondents:

Mr. M.H. Haimbe SC, Mr. K. Phiri and Mr C. Malambo of Malambo & Company, Mr. K. Mweemba and Mr. B. Mweemba of Keith Mweemba Advocates, Mr. M Moono of L. J. Michaels Legal Practitioners, Ms. M. Mwiinga of PNP Legal Practitioners and Mr. K Mwila and Mr. Hantumba of Muleza Mwimbu & Company

For the 3rd Respondent:

Mr. M. Bwalya and Mr. C. Siame, In House-Counsel

For the 4th and 5th Respondent:

Mr. M. Muchende SC, Solicitor General, Mr. C. Mulonda, Deputy Chief State Advocate and Mr. N. Mwiya, Principal State Advocate, Mr. C. Simuusa Assistant Senior State Advocate and Mr. A. Chisenda, State Advocate - State Chambers.

JUDGMENT

MUSALUKE, JC, delivered the Judgment of the Court

Cases referred to:

1. Legal Resources Foundation Limited v the Attorney General 2025/CCZ/0020
2. Joseph Malanji v Charles Abel Mulenga and the Electoral Commission of Zambia
2021/CCZ/0021
3. Ronald Kaoma Chitotela & 8 Others v Miles Sampa & 2 Others 2023/CCZ/0028

Legislation referred to:

The Constitution of Zambia, Chapter 1 of the Laws of Zambia as amended by Act No. 2 of 2016 and Act No. 13 of 2025

The Constitution of Zambia Act No. 1 of 2016

The Electoral Process (Amendment) Act No. 12 of 2026

Introduction

[1] The Electoral Commission of Zambia (ECZ) in accordance with the mandate conferred on it in Article 229 of the Constitution of Zambia Chapter 1 of the Laws of Zambia as amended by Act No. 2 of 2016 and Act No. 13 of 2025 (the Constitution) set presidential nomination dates for aspiring candidates for August 2026 general elections. On 22nd May, 2026, it received nominations from the United Party for National Development (UPND) which sponsored Mr. Hakainde

Hichilema as a presidential candidate and Mrs. W.K Mutale Nalumango as his running mate.

Petitioner's case

- [2] The Petitioner challenges the nomination of President Hakainde Hichilema as a presidential candidate under the UPND anchoring the petition under Articles 52 (4) and 128 of the Constitution.
- [3] The Petitioner further relies on Article 1 of the Constitution which affirms the supremacy of the Constitution as the ultimate law of the Republic. In addition, reliance is placed on Article 5, which vests sovereign authority in the people of Zambia, exercisable either directly or through elected representatives and established institutions. The Petitioner also invokes Article 8, which sets out the national values and principles that guide good governance, including democracy, constitutionalism, human dignity, equality, and social justice. Finally, reference is made to Article 60, which regulates the organization and management of political parties, requiring them to uphold democratic practices, national unity, and constitutionalism.
- [4] By these reasons the Petitioner herein seeks the following declarations and relief:

- (a) A declaration that the persistent failure by the UPND to conduct regular, free and fair intra-party and elective General Assemblies contravened Articles 8 and 60 of the Constitution;**
- (b) A declaration that the continued operation of UPND office bearers and governance structures beyond their prescribed tenure was inconsistent with Articles 1, 5 and 60 of the Constitution;**
- (c) A declaration that the persistent failure of the UPND to align its governance structures and democratic processes with Article 60 of the Constitution was inconsistent with section 18 of the Constitution of Zambia Act No. 1 of 2016;**
- (d) A declaration that upon expiry of their prescribed tenure, the UPND's office bearers and governance structures ceased to possess constitutional authority to exercise the powers and functions of their respective offices unless and until renewed through duly conducted elective processes;**
- (e) A declaration that the UPND's persistent failure to hold regular elective processes violated the participatory rights guaranteed under Article 60(2)(e) of the Constitution and Article 25 of the ICCPR;**
- (f) A declaration that decisions, acts and nominations undertaken by UPND organs and office bearers acting beyond their prescribed tenure are Constitutionally challengeable where they affect constitutional or electoral rights;**
- (g) A declaration that the adoption certificate submitted in support of the 2nd Respondent's nomination was not issued by duly constituted party organs and is therefore invalid and of no legal effect;**
- (h) A declaration that the nomination of the 2nd Respondent as the UPND's Presidential candidate was inconsistent with Articles 52 and 60 of the Constitution, section 18 of the Constitution of Zambia Act No. 1 of 2016 and section 30(1)(b) of the Electoral Process Act, and is therefore unconstitutional, unlawful, null and void;**
- (i) A declaration that the 3rd Respondent acted inconsistent with Articles 52 and 60 of the Constitution in accepting the nomination of the 2nd Respondent;**
- (j) A declaration that the 3rd and 4th Respondents are under a Constitutional duty to ensure compliance by political parties with**

Article 60 of the Constitution and section 18 of the Constitution of Zambia Act No. 1 of 2016

- (k) An order setting aside the Third Respondent's acceptance of the 2nd Respondent's nomination;**
- (l) A declaration that political parties are constitutional actors subject to constitutional obligations under Article 60 of the Constitution;**
- (m) An order directing the 4th Respondent to take lawful steps necessary to secure compliance by the 1st Respondent and the UPND with the Constitution, the Constitution of Zambia Act 2016 and the Societies Act**
- (n) Costs**
- (o) Such further or other relief as this Honourable Court may deem fit**

[5] The Petition was filed together with an affidavit and skeleton arguments. In addition to the declarations and relief sought under paragraph 4 above, the Petitioner wants us to determine the following questions:

- a) Whether or not the petition raises constitutional questions falling within the jurisdiction of this Court under Article 128 of the Constitution;
- b) Whether or not Article 60 (2) (a) (d) and (e) of the Constitution imposes enforceable constitutional obligations upon political parties;
- c) Whether or not the alleged failure by the 1st Respondent to conduct regular elective General Assemblies and regular

intra-party elections contravened Articles 1,5, 8 and 60 of the Constitution;

- d) Whether or not governance structures and office bearers whose mandate had expired possessed constitutional authority to sponsor, adopt or nominate a presidential candidate; and
- e) Whether or not the nomination of the 2nd Respondent complied with Article 52 and 60 of the Constitution, section 18 of the Constitution of Zambia Act No. 1 of 2016 and section 30 (1) (b) of the Electoral Process Act.

1st Respondent's case

[6] The 1st Respondent filed his answer on 5th June, 2026 in which he asserts that this Court lacks jurisdiction to entertain the petition as the grounds of the petition therein do not disclose a constitutional controversy falling within the jurisdiction of this Court. It is the 1st Respondent's contention therefore, that the petition is incompetently before this Court.

[7] The 1st Respondent further contends that the petition constitutes an abuse of the process of the Court as the Petitioner has already

invoked the jurisdiction of the High Court under cause number 2026/HP/0045 on the same facts.

[8] The 1st Respondent also contends that the petition herein fails to disclose sufficient material facts establishing the Petitioner's *locus standi* to maintain the present proceedings. In particular, that the petition does not sufficiently disclose firstly; the basis upon which the Petitioner claims to stand on in challenging alleged misconduct and secondly the specific rights or interests of the Petitioner alleged to have been infringed in each of the matters complained of.

[9] The 1st Respondent therefore contends that the petition fails to disclose sufficient facts establishing the Petitioner's *locus standi* in respect of the matters complained of.

2nd Respondent's case

[10] The 2nd Respondent did not file any documents into Court. At the hearing, Counsel adopted the 1st Respondent's case.

3rd Respondent's case

[11] The 3rd Respondent filed its answer on 5th June, 2026 in which it avers that the 2nd Respondent and his running mate met all the qualifications outlined in the Constitution and the Electoral Process (Amendment)

Act No. 12 of 2026 (the EPA) for nomination as a presidential candidate.

[12] The 3rd Respondent further avers that in the performance of its functions, it is guided by the relevant electoral laws which amongst others include the Constitution, the EPA and Regulations promulgated thereunder.

[13] It is the 3rd Respondent's position is that the Presidential nominations were carried out in accordance with the provisions of the Constitution, the EPA and Regulations promulgated thereunder.

4th and 5th Respondents' case

[14] The 4th and 5th Respondents filed their answer on 5th June, 2026. In the said answer, the 4th and 5th Respondents' averred that the petition herein, which purports to be premised on Article 52(4) of the Constitution, does not assail the eligibility or qualification of the 2nd Respondent to file nominations for election as President pursuant to Article 100 as read with Article 106(3) of the Constitution.

[15] The 4th and 5th Respondents further averred that the 2nd Respondent is eligible and qualifies for all intents and purposes under the criteria set out in the Constitution to contest in the election and that the Petitioner's assertions concern internal affairs of the UPND as a

political party which fall outside the ambit of Article 52(4) of the Constitution.

- [16] The 4th and 5th Respondents contend that a nomination challenge under Article 52(4) of the Constitution should be read in line with the qualifications and disqualifications of a candidate. That the Petitioner would only succeed in the nomination challenge if he proved that the 2nd Respondent was not qualified as per Article 100(1) of the Constitution which provides for the qualifications of a presidential candidate. The Petitioner has not, however, demonstrated that the 2nd Respondent is disqualified under Article 100(2) of the Constitution. As such, that the Court ought to dismiss the petition.
- [17] The 4th and 5th Respondents further contend that the Petitioner in this case is seeking declaratory relief which is discretionary remedies and can only be granted judiciously and only where proper factual or legal foundation has been established.
- [18] Further that the questions posed by the Petitioner for determination are otiose having already been resolved by this Court in the case of **Legal Resources Foundation Limited v the Attorney General**¹.
- [19] That therefore, the petition is incompetent for purposes of a challenge under Article 52(4) of the Constitution.

Hearing

[20] During the hearing, the parties relied on their respective affidavits, list of authorities and skeleton arguments. They also made extensive oral submissions in amplification of the issues in dispute. For brevity, we will not recite the oral submissions which augmented the written ones.

Consideration and determination

[21] We have considered the petition and the relief sought by the Petitioner, the affidavit verifying the petition and the skeleton arguments in support of the petition. We have also considered the Respondents' answers and opposing affidavits and as well as the Respondents' skeleton arguments. We have also considered the respective oral arguments by counsel for the parties.

[22] What we find as the core issue that falls for this Court's determination is as follows:

Whether or not the alleged breaches of the UPND constitution in its internal governance can invalidate the nomination of its Presidential candidate.

[23] Before we interrogate the issue in dispute, it is necessary to restate that the jurisdiction of this Court is conferred by Article 128 of the Constitution which provides as follows:

128. (1) Subject to Article 28, the Constitutional Court has original and

final jurisdiction to hear—

- (a) a matter relating to the interpretation of this Constitution;
- (b) a matter relating to a violation or contravention of this Constitution;
- (c) a matter relating to the President, Vice-President or an election of a President;
- (d) appeals relating to election of Members of Parliament and councilors; and
- (e) whether or not a matter falls within the jurisdiction of the Constitutional Court.

(2) Subject to Article 28 (2), where a question relating to this Constitution arises in a court, the person presiding in that court shall refer the question to the Constitutional Court.

(3) Subject to Article 28, a person who alleges that—

- (a) an Act of Parliament or statutory instrument;
- (b) an action, measure or decision taken under law; or
- (c) an act, omission, measure or decision by a person or an authority; contravenes this Constitution, may petition the Constitutional Court for redress.

[24] Further Article 52(4) of the Constitution vests this Court with specific and exclusive jurisdiction to hear and determine disputes arising from the nomination of presidential candidates. It provides as follows:

A person may challenge, before a court or tribunal, as prescribed, the nomination of a candidate within seven days of the close of nomination and the court shall hear and determine the case within twenty-one days of its lodgement.

[25] In dealing with the issue for determination, the key question is on what grounds can a nomination of an aspiring presidential candidate be invalidated under the Constitution?

[26] We begin by looking at Article 52(1) of the Constitution which provides for the nomination process of candidates vying for the position of President, Member of Parliament, mayor, council chairperson or councillor respectively. It provides as follows:

A person who intends to be a candidate for election as President, Member of Parliament for a constituency-based seat, mayor, council chairperson, or councilor for a ward-based seat shall file that person's nomination paper to a returning officer, supported by an affidavit stating that the person is qualified for nomination for election as President, Member of Parliament for a constituency-based seat, mayor, council chairperson, or councilor for a ward based seat, in the manner, on the day, and at the time and place set by the Electoral Commission, by regulations.

[27] Article 52(1) of the Constitution entails that where a person wishes to be nominated as a candidate for President, Member of Parliament for a constituency-based seat, mayor, council chairperson, or councilor for a ward-based seat they ought to file in nomination papers supported by an affidavit to support that nomination before a returning officer.

[28] Article 52(2) of the Constitution further provides that a returning officer shall, immediately on the filing of a nomination paper, in accordance

with clause (1), duly reject the nomination paper if the candidate does not meet the qualifications or procedural requirements specified for election to that office.

- [29] It is therefore, at the completion of the nomination process for that particular candidate that the returning officer can reject the nomination papers if the candidate does not meet the qualifications or procedural requirements. These qualifications are set out in Article 100(1) of the Constitution for presidential candidates and the procedural requirements are the processes to file nomination papers and accompanying affidavit as provided for under Article 52(1) of the Constitution. If it is not rejected at that stage, then therefore, the nomination is accepted and can only be challenged under Article 52(4) of the Constitution on the basis of Article 100 of the Constitution.
- [30] Article 100(1) of the Constitution sets out the qualifications for nomination of a presidential candidate as follows:

- (1) A person qualifies to be nominated as a candidate for election as President if that person—**
- (a) is a citizen by birth or descent;**
 - (b) has been ordinarily resident in Zambia;**
 - (c) is at least thirty-five years old;**
 - (d) is a registered voter;**
 - (e) has obtained, as a minimum academic qualification, a grade twelve certificate or its equivalent;**

- (f) is fluent in the official language;**
- (g) has paid that person's taxes or has made arrangements, satisfactory to the appropriate tax authority, for the payment of the taxes;**
- (h) declares that person's assets and liabilities, as prescribed;**
- (i) pays the prescribed election fee on, or before, the date fixed for the delivery of nomination papers; and**
- (j) is supported by at least one hundred registered voters from each Province.**

[31] Our Understanding of Article 100(1) of the Constitution is that the provision speaks to the eligibility of a person intending to contest the Republican presidency in an election, such that a candidate is only eligible to be nominated as a presidential candidate if he/she meets the qualifications set out in Article 100(1) of the Constitution.

[32] It is evident from the wording of Article 52(4) of the Constitution that any person has the right to challenge the validity of a candidate's nomination. Any such challenge to the nomination of a presidential candidate must be anchored on an allegation that the candidate is disqualified under Article 100 of the Constitution and Article 106 of the Constitution, where applicable.

[33] In this case, the Petitioner has based his challenge to the 2nd Respondent's nomination on the alleged failure of the UPND to

regularly conduct free and fair intra-party elections which is not one of the grounds specified under Article 100 of the Constitution.

[34] In the case of **Joseph Malanji v Charles Abel Mulenga and the Electoral Commission of Zambia**² we held *inter alia* that:

That Article 52 (4) of the Constitution is only one provision governing the electoral process relating to Members of Parliament and therefore ought to be read with Article 70 and 73 of the Constitution. Article 70 of the Constitution sets out the qualifications which a person must hold in order to occupy the office of Member of Parliament whilst Article 73 of the Constitution permits a person to challenge the election of a person as a Member of Parliament after the election without limiting the grounds of or the timing for such a challenge.

[35] Although the **Malanji**² case concerned the nomination of a Member of Parliament, Article 52(4) of the Constitution applies to all nomination challenges, including those for President, Member of Parliament, mayor, council chairperson, and councillor. The guidance provided in **Malanji**² must therefore, be read together with Article 100(1) of the Constitution which prescribes the qualifications for presidential candidates. Consequently, a petition challenging a presidential nomination under Article 52(4) of the Constitution must establish that the candidate failed to satisfy the qualifications set out in Article 100 (1) of the Constitution.

[36] Article 52(4) of the Constitution does not contemplate challenges to nominations based on intra-party democracy or matters outside Articles 52 and 100 of the Constitution or other provisions in the Constitution bearing on the nomination of a presidential candidate. Such concerns fall beyond the scope of nomination disputes. Entertaining them would be requiring this Court to adjudicate on political party constitutions, which lies outside its jurisdiction in the context of presidential nominations. In **Ronald Kaoma Chitotela & 8 Others v Miles Sampa & 2 Others**³ this Court affirmed that its jurisdiction does not extend to the interpretation or enforcement of political party constitutions.

[37] Although the Petitioner has also invoked Article 128 of the Constitution as a basis for this petition, we are satisfied that such reliance was intended merely to disguise what is, in substance, a nomination challenge under Article 52(4) of the Constitution.

[38] In the present case, the Petitioner has not adduced any evidence capable of establishing that the 2nd Respondent does not satisfy the constitutional qualifications for nomination as a presidential candidate as prescribed under Article 100(1) and 52(1) of the Constitution.

Consequently, the Petitioner has not discharged the burden of proof required to invoke this Court's jurisdiction under Article 52(4) of the Constitution to invalidate or otherwise interfere with the 2nd Respondent's nomination.

[39] This petition lacks merit and is accordingly, dismissed.

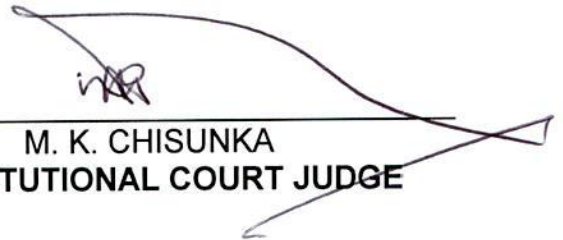
[40] Each party shall bear own costs.



A.M. SHILIMI
DEPUTY PRESIDENT - CONSTITUTIONAL COURT



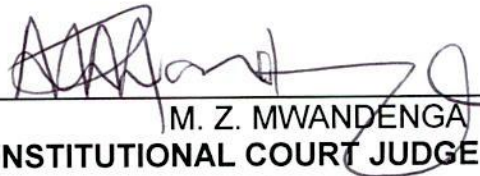
M. MUSALUKE
CONSTITUTIONAL COURT JUDGE



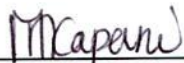
M. K. CHISUNKA
CONSTITUTIONAL COURT JUDGE



J. ZULU MULONGOTI
CONSTITUTIONAL COURT JUDGE



M. Z. MWANDENGA
CONSTITUTIONAL COURT JUDGE



M. MAPANI-KAWIMBE
CONSTITUTIONAL COURT JUDGE



G. MUKUWA IMBWAE
CONSTITUTIONAL COURT JUDGE