

## REGISTRATION OF POLITICAL PARTIES AND JUDICIAL SAFEGUARDS

*A Comparative Analysis of Sections 75-76 (Electoral Act 2022 and 2026)*



### This Factsheet:

- Analyses the legal framework governing the registration of political parties in Nigeria;
- Explains how recent reforms have strengthened INEC's regulatory gatekeeping at the point of entry into the political system,
- Highlights judicial safeguards available where registration is refused and the implications for political pluralism in Nigeria.

### Executive Summary

The Electoral Act 2026 significantly changes the rules governing entry into Nigeria's political party system. While the constitutional framework remains intact, **section 75** of the Act removes deemed registration, introduces a fixed N50 million administrative fee, and expressly expands INEC's regulatory discretion. Although **section 76** preserves judicial review of non-registration, it now functions as the primary safeguard against regulatory abuse within a stricter and more controlled entry regime.

### I. Introduction: Why Party Registration Matters

In Nigeria's constitutional democracy, political parties are the exclusive vehicles through which candidates may contest most elective offices. Independent candidacy is not permitted. This means that access to the electoral process begins not with the ballot, but with the legal registration of a political party.

Section 75 of the Electoral Act sets out the powers of the Independent National Electoral Commission (INEC) to register political parties. It regulates who may enter the political system and under what conditions.

The Electoral Act 2026 introduces important changes to this registration framework when compared with the Electoral Act 2022. While the broad structure of party registration remains intact, the 2026 amendments significantly expand regulatory control, increase financial thresholds, and remove certain procedural safeguards.

**What was “Deemed Registration”?**

*A legal mechanism under the 2022 Act that treated an association as registered if INEC failed to respond to a party registration request within 60 days. It functioned as a safeguard against administrative delay.*

**2. Constitutional Basis for Political Party Registration**

The registration of political parties is rooted in the 1999 Constitution (as amended). These constitutional provisions are particularly relevant:

- **Section 40** guarantees freedom of association, including the right to form or belong to political parties.
- **Sections 222 and 223** set out substantive requirements that any association must meet before it can be registered as a political party. These include:
  - A national character (not ethnic or religious in identity)
  - A national executive structure reflecting federal character principles
  - A registered national headquarters in Abuja
  - Submission of its constitution to INEC

INEC is constitutionally empowered to register political parties that comply with these requirements. **Section 75** of the Electoral Act provides the statutory mechanism through which this constitutional power is exercised. It says that any political association that complies with the provisions of the Constitution and the Electoral Act for the purposes of registration shall be registered as a political party; PROVIDED that the application for registration as a political party is submitted to INEC not later than 12 months before a general election.

**3. Comparative Overview of Electoral Act Provision: Section 75 (2022 vs 2026)**

The table below provides a contextual comparison of the key differences between the 2022 and 2026 Acts.

Regulatory Issue	Electoral Act 2022	Electoral Act 2026	What Changed and Why It Matters
<b>INEC’s power to prescribe conditions and required documents for party registration</b>	Section 75 did not expressly state that INEC could prescribe additional conditions, though such power could be implied administratively.	Section 75(2) now expressly provides that INEC shall prescribe the conditions and documents required for registration.	INEC’s regulatory authority is more explicitly grounded in statute. This clarifies and strengthens the Commission’s discretion to design procedural and documentary requirements for party formation.
<b>Verification of information supplied by applicant associations</b>	Verification authority was implied but not clearly stated in Section 75.	The Act now expressly requires INEC to verify the information supplied by applicant associations.	The verification role is now codified, strengthening INEC’s investigative oversight before registration is approved.
<b>“Deemed registration” after 60 days of INEC inaction</b>	If INEC failed to register an association or formally refuse an application within 60 days, the association was deemed registered by operation of law.	The deemed registration provision has been completely removed.	Registration now requires affirmative approval by INEC. There is no automatic fallback if the Commission fails to act. This significantly strengthens regulatory gatekeeping power.
<b>Administrative fee for party registration</b>	Fee amount was to be fixed by INEC administratively.	The Act fixes the registration fee at N50,000,000.	The Legislature has imposed a high statutory threshold, removing INEC’s discretion and creating a substantial financial barrier to entry.

#### **4. Removal of Deemed Registration: A Structural Shift in Regulatory Balance**

Under the Electoral Act 2022, **section 75(4)** contained an important procedural safeguard. If INEC failed to communicate approval or refusal within 60 days of receiving a valid application for registration, the association would be deemed registered automatically. This provision served three purposes:

- It protected applicants from administrative delay.
- It limited the possibility of regulatory inaction being used as an indirect veto.
- It provided certainty and predictability in the registration process.

The Electoral Act 2026 removes this clause entirely:

- Registration does not occur automatically.
- Approval must be expressly granted by INEC.
- Silence or inaction by the Commission does not result in registration.

#### *Institutional effect*

The removal shifts the balance of power. While INEC retains a 90-day period to communicate refusal, there is no longer a statutory mechanism compelling a positive outcome in the event of delay. This change strengthens INEC's gatekeeping authority at the entry point into the political system.

#### **5. Express Power for INEC to Prescribe Conditions**

The 2026 Act now explicitly provides that INEC shall prescribe the conditions and documents required for party registration. While INEC always had general regulatory authority, the current law removes ambiguity and expressly anchors this discretion in statute. The explicit power allows INEC to do the following:

- Define procedural frameworks for party registration and compliance by associations.
- Specify documentary requirements.
- Structure the application and verification process in detail.

This creates a more formally regulated entry system. However, when combined with the removal of deemed registration, it also centralises significant discretionary power in the Commission.

#### **6. Administrative Fee: Purpose and Escalation**

An administrative fee is a statutory payment required to process an application for party registration. In the context of party registration, it is intended to:

- Cover regulatory and verification costs.
- Discourage frivolous or unserious applications.
- Ensure that parties demonstrate minimal financial and organisational capacity.

**2022 Framework:** Under the 2022 Act, the amount of the registration fee was to be determined by INEC. This allowed flexibility and administrative adjustment over time.

**2026 Framework:** The 2026 Act fixes the fee at N50,000,000.

*Legal and policy implications*

- INEC no longer has discretion to vary the amount.
- The Legislature has imposed a high statutory threshold.
- The fee now constitutes a significant financial barrier to entry.

This may disproportionately affect women and youth-led political movements, issue-driven coalitions, and grassroots civic formations. While high fees may encourage organisational seriousness, they may also reduce political pluralism.

### **N50 Million for Party Registration in Context**

For emerging political movements without access to elite funding networks, this fee represents a substantial barrier to formal political participation.

## **7. Express Verification Requirement**

The 2026 Act also introduces an explicit obligation that INEC shall verify the information supplied by applicant associations. Although verification was always implied in regulatory practice, its codification:

- Formalises investigative scrutiny;
- Signals legislative intent to tighten compliance; and
- Strengthens INEC's oversight authority before approval.

This reinforces the move toward a more carefully regulated party formation process.

## **8. What Remains Unchanged**

Despite these changes, several elements remain consistent:

- Applications must be submitted at least **12 months** before a general election.
- INEC must notify applicants within **90 days** if registration is refused.
- False information attracts criminal penalties.
- Constitutional requirements under Section 222 remain binding.

The architecture of party registration remains intact; what has changed is the degree of regulatory intensity.

Having examined how entry into the party system has become more tightly regulated under Section 75, it is necessary to consider the remaining safeguard against abuse i.e. judicial review under Section 76.

## **9. Section 76: Judicial Review of Non-Registration**

**Section 75** of the Electoral Act 2026 grants INEC broad authority to register political parties and, by implication, to refuse registration where statutory requirements are not met.

**Section 76** provides the counterbalance by establishing the legal mechanism through which an association may challenge INEC's refusal to register it as a political party. Although the text of Section 76 remains unchanged from the Electoral Act 2022, its functional importance has increased significantly under the 2026 framework. This provision preserves three key elements:

**a. Judicial Oversight**

An association that is aggrieved by INEC's refusal to register it as a political party may apply to the Federal High Court for review.

**b. Strict 14-Day Limitation Period**

The application must be filed within 14 days from the date of receipt of INEC's notice of refusal.

**c. Exclusive Jurisdiction**

Only the **Federal High Court** has jurisdiction to hear and determine such matters. These provisions collectively ensure that INEC's decisions are not final or immune from scrutiny.

***Why Section 76 Now Matters More***

When Section 76 is read in isolation, it appears procedurally stable and unchanged. However, when read together with Section 75 (as amended in 2026), its practical significance is elevated.

As noted above, under the 2022 Act, an applicant had a statutory fallback. If INEC failed to act within 60 days, registration occurred automatically. Under the 2026 framework, no such automatic safeguard exists. Judicial review under Section 76 therefore becomes the primary safeguard against, arbitrary refusal, unreasonable delay, excessive regulatory demands, or improper exercise of discretion.

***The 14-Day Limitation Period and Scope of Judicial Review***

Section 76 imposes a strict 14-day window within which an aggrieved association must file an action at the Federal High Court. The Federal High Court may examine whether INEC acted within its statutory authority, complied with constitutional requirements, exercised discretion reasonably, followed due process, and/or provided lawful grounds for refusal.

However, courts generally do not substitute their own discretion for that of a regulatory authority unless the decision is unlawful, irrational, or procedurally improper. This means that while judicial review exists, it is not a guarantee of registration, but only a safeguard against unlawful refusal.

This has significant consequences:

- The limitation period is short.
- Failure to file within 14 days extinguishes the right to challenge.
- There is little room for delay, negotiation, or internal reconsideration.

The burden shifts heavily to applicant associations to:

- Obtain legal advice immediately,
- Prepare court processes swiftly,
- Mobilise financial resources for litigation.

Given the N50 million administrative fee already required at the registration stage, litigation adds an additional financial and logistical burden.

## **Broader Democratic Implications**

### **Section 75 – Registration requirements**

Taken together, the 2026 amendment reflect a policy shift from a relatively open and procedurally safeguarded registration system toward a more controlled, regulated, and financially gated entry framework.

Key questions emerge:

- Would increased regulation promote party seriousness and stability?
- Does the N50 million fee entrench elite dominance?
- Should there be safeguards against administrative delay?

The answers to these questions will shape how open or controlled Nigeria’s party formation process becomes in practice.

### **Section 76 – Judicial Review**

Regulatory gatekeeping power has increased, but judicial remedies have not been expanded correspondingly. There is:

- No extension of the filing window.
- No introduction of administrative appeal mechanisms.
- No reinstatement of deemed registration as a fallback safeguard.

The protection against abuse therefore relies almost entirely on prompt judicial intervention.

## **10. Conclusion**

**Section 75** of the Electoral Act determines who may enter Nigeria’s political competition space. The 2026 reforms significantly strengthen INEC’s regulatory authority and raise the threshold for new party formation.

Under **Section 76**, which is retained from the 2022 Act, judicial review is no longer a secondary safeguard, but now the primary procedural protection against non-registration of associations.

The effectiveness of this safeguard will depend on judicial independence, speed of adjudication, access to legal resources, and the willingness of courts to scrutinise regulatory discretion robustly.



## **About PLAC**

Policy and Legal Advocacy Centre (PLAC) is a non-governmental organization committed to strengthening democratic governance and citizens' participation in Nigeria. PLAC works to enhance citizens' engagement with state institutions, and to promote transparency and accountability in policy and decision-making process.

The main focus of PLAC's intervention in the democratic governance process is on building the capacity of the legislature and reforming the electoral process. Since its establishment, PLAC has grown into a leading institution with capacity to deliver cutting-edge research, policy analysis and advocacy. PLAC receives funding support from donors and other philanthropic sources.

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