

National News

The Attorney General has warned that the by-election is a process and carrying out one before the 12th Parliament is constituted is an illegality.

BY FRANKLIN DRAKU

Parliament has suspended the process leading up to the by-election to pick Uganda's representatives to the East African Legislative Assembly (Eala) following a sharp legal disagreement between Attorney General Kiryowa Kiwanuka and Parliament Speaker Anita Among.

Uganda's Parliament had chosen March 30 and 31 as the dates for nomination of the new representatives.

Eala, the regional Parliament, had informed the Speaker of Uganda's Parliament of the vacancies after two of the country's representatives, Denis Namara and James Kakooza, were elected to the national Parliament.

Consequently, Speaker Among wrote to the ruling NRM party to nominate candidates to compete for the two seats, sparking off intense debate, with some legal brains arguing the members can only be replaced after they are sworn in by the Parliament of Uganda.

But the suspension has now thrown the exercise into limbo, after a total of 32 aspirants had been nominated by the party.

Nevertheless, Speaker Among insisted on progressing with the by-election even when the two had not yet been sworn in. But a notice issued by Mr Adolf Mwesige, the Clerk to Parliament, called off the process, with no dates indicated for the nominations.

"Notice is hereby given that nomination of members for the by-election of Uganda's representatives to the East African Legislative Assembly earlier scheduled for 30th and 31st March, 2023, has been suspended until further notice," the notice reads.

Now it is not clear when the nomination will be kicked into motion again.

Last week, Speaker Among nominated a 20-member committee to vet those intending to contest for the two seats. She insisted the by-elections would have to go on as planned.

But the MPs last Thursday questioned why the elections should be carried out before the swearing-in of the new Members of Parliament elected on January 15.

Eala by-election thrown into chaos amid legal rift



MPs during plenary on March 21, 2023. Parliament has suspended a by-election for Eala legislators. PHOTO/FILE

Attorney General, LoP disagree with Speaker

Subsequently, Mr Kiryowa Kiwanuka, the Attorney General, weighed in, advising against the exercise. He warned that the by-election is a process and carrying out one before the 12th Parliament is constituted is an illegality that must not happen.

"I have listened to your communication with the House. I tend to hold a different view of what an election is because an election is not an event.

It's a process; a member is a member-elect, but you do not become a Member of Parliament until you have completed certain activities. For example, we have the 11th Parliament sitting now. We have MPs elected not in the 11th Parliament. They cannot be called MPs until they are sworn in, and the term of office in Uganda at least ends on May 12. That is my understanding of the provision as it is," Mr Kiwanuka said.

Mr Kiwanuka requested more time to study the provisions of the Eala rules of procedures and other relevant laws before offering his legal advice.

"If you allow me to study this matter when they write their opinion, confer with a Clerk to the Community at Aru-

sha, and understand what the issue is from their perspective, then you can render the necessary guidance. Right now, you have a letter that the Eala has given, and I am sure the Parliament is well within its right to proceed with that, but we shall confer with them and guide them because we think there is a misinterpretation of the law in that regard," he said.

But Speaker Among said the elections would proceed as planned and that the only exception is through either a court order or another instruction from Eala

to stop the process.

"I want to refer you to Article 51.3c of the Treaty, which says an elected member of the assembly shall vacate his or her seat in the Assembly upon the following events: upon his or her election, or nomination as a Member of Parliament of the National Assembly of the Partner State Nomination. It does not talk about swearing-in. So, we are only acting because we got a notice from Eala. And we're given a deadline of 15th to present the name," she said.

However, Mr Joel Ssenyonyi, the Lead-

er of the Opposition in Parliament (LoP), disagreed with the Speaker, calling for a halt to the exercise.

He said the legality of the by-elections will be questioned if it is done before the swearing-in of the members of the 12th Parliament.

Mr Ssenyonyi challenged: "I actually do concur with the Attorney General because our colleagues, the two, who are current members of Eala and have now been elected to the 12th Parliament, are not MPs yet until they do swear because what happens if for example, the court decides to throw one of them out before they swear in?"

"So, it's very important that we are careful with the law because these colleagues will become MPs after they have sworn in," he added.

He said while the Speaker of Eala had called for the by-elections, the Clerk to the Eala Parliament disagreed, noting that those elected have not yet been sworn in and are, therefore, not Members of Parliament.

"I have seen a communication by the Clerk to the Community, which actually disagrees with the communication of the Speaker of Eala. The Clerk to the Community says these two members have not yet become Members of the Parliament of a partner state because the swearing-in has not happened. There is now squabbling between the Speaker of Eala, the Clerk to the Community, and us here, proceeding with this matter. So, I think we need to just wait it out a little bit and not be in a hurry so that we are on the right side of the law," he said.

Ring-fencing the slots

Mr Ssenyonyi also faulted the Speaker for attempting to ring-fence the slots to the ruling NRM party, arguing that this is wrong. He said while previously two seats were reserved for the Opposition, the rules of procedure were amended and the NRM no longer has a monopoly on electing only its members to the Eala.

"You know that the rules were altered; previously, the Opposition had two slots. So the NRM colleagues would choose their seven, and then the Opposition would choose the other two. However, the rules were altered, and now it's very possible for the Opposition to actually have no representation at Eala," he said.

fdraku@ug.nationmedia.com

NRM NOMINEES

The ruling NRM nominated 32 candidates, including Charles Odongtho, a journalist and former spokesperson for the Office of the Prime Minister, Juliet Agasha Bashisha, Thomas Ainebyona, Davis Akampurira, Vankar Akol, Juliana Amal Obonyo, Beatrice Balya Karungi, Fred Rwakazi Bangumya, Emmanuel Buhaburwa, and Philemon Bwanga.

Others are James Byarugaba, Brownie Ebal, Enid Mirembe, Isaac Mulindwa Ssozi, Joslyn Kamateni, Elias Kamukama, Steven Kas-

haka Mutungi, Robert Kato, Kataramu Hood Kiribedda, Stella Kiryowa, Ronex Kisembo Tendo, Godfrey Kiwanda Ssubi, Britton Kiwanuka, Israel Kyarisiima, Lauben Bwengye, Marwaha Katongole Singh Parminder, and Ronald Musoke Mivule.

Also nominated were Muhammad Mwesigye, Sharon Veron Nabwire, Peninah Winfred Namufumba, Aminah Nanziri Lukanga, Phiona Rwandarugali, Godfrey Wanzira Sasagah, Stephen Tiberondwa Bujingo, John Kabezire Tuhaise, Nobert Twizire, Hamuza Wadero, and Juma Witonzze.

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MPs ELECTED
TO EALA