



**In re Stichting Hivos-Triodos Fonds (Applicant) (Miscellaneous Application E236 of 2026)
[2026] KEHC 3001 (KLR) (Commercial & Admiralty) (27 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 3001 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND ADMIRALTY
MISCELLANEOUS APPLICATION E236 OF 2026
MA OTIENO, J
FEBRUARY 27, 2026
IN THE MATTER OF THE COMPANIES ACT, 2015
AND IN THE MATTER OF AN APPLICATION TO EXTEND THE TIME
FOR REGISTRATION OF A CHARGE AT THE COMPANIES REGISTRY BY
STICHTING HIVOS-TRIODOS FONDS.....APPLICANT

RULING

Introduction

1. The Applicant, Stichting Hivos-Triodos Fonds, moved this Court by way of a Notice of Motion dated 26th February 2026, brought under, among others, Section 885 and 888 of the *Companies Act*, 2015. The application seeks orders to certify the matter as urgent and to extend the statutory time for the registration of a Charge created in its favor by Limbua ENA EPZ Limited.
2. The application is supported by the affidavit of Nicholas Owino, sworn on 26th February 2026, together with annexures evidencing the creation of the charge, steps taken towards registration, and the administrative impediments encountered.
3. The Applicant depones that on 18th December 2025, Limbua ENA EPZ Limited created a Land Charge in favor of the Applicant to secure a principal amount of EUR 3,000,000.
4. That pursuant to Section 885 of the *Companies Act*, 2015, the Charge was required to be registered within 30 days of its creation.
5. It is contended that the Applicant attempted to register the Charge on 19th December 2025 via the Business Registration Service (BRS) Version 1 system. However, registration was delayed due to the BRS migrating from "Version 1" to "Version 2," necessitating a re-lodgment of the application.



6. It was further contended that a requirement to upload the Charge as stamped by the Lands Registry coincided with the Christmas break "scale down," resulting in the Charge only being stamped on 22nd January 2026—already past the 30-day statutory window.
7. The Applicant averred that the BRS system subsequently rejected the late filing, advising the Applicant to obtain a court order.

Analysis and Determination

8. Having duly considered the application, the affidavit in support thereof, and the annexures, I find that the sole issue for determination is whether the prayer for extension of time is merited.
9. The application is brought under Sections 885 and 888 of the *Companies Act*, 2015. Section 888 grants this Court the discretion to extend the time for registration if the failure was accidental, due to inadvertence, or other sufficient cause, and provided it does not prejudice the position of creditors or shareholders.
10. The Court notes that the Applicant took proactive steps to register the Charge within 24 hours of its creation. The subsequent delays were largely attributable to administrative transitions at the BRS and seasonal closures at the Lands Registry. These, in the view of the Court, constitute inadvertent administrative lapses rather than intentional neglect.
11. Furthermore, there has been no inordinate delay in seeking this relief once the BRS requirement for a court order was communicated.
12. In *In re Application for Extension of time for Registration of a Charge by Silverspead Hardwares Limited in Favour of Bank of Baroda (Kenya) Limited* [2021] KEELC 2015 (KLR), the Court emphasized that the parameters the court has to consider before granting the extension are:
 - i. Whether it was accidental or due to inadvertence or some other reasonable cause.
 - ii. Whether non-compliance has prejudiced the creditors or members of the company.
 - iii. If it is just, equitable, fair and reasonable.
 - iv. Whether the mistake, or omission and misstatement is rectifiable.
13. Similarly, in *Bank of Baroda Kenya Ltd v Registrar of Companies* [2025] eKLR, the Court, allowing a similar application, held that inadvertent delay in lodging a charge, where explained and untainted by bad faith, constitutes sufficient cause for extension. The Court stated that:

“The omission in the present case pertains solely to the failure to register the Debenture at the Companies Registry within the statutory period prescribed under Section 885 of the *Companies Act*. Notwithstanding this procedural lapse, the Debenture was duly executed, assessed for stamp duty, duly franked, and registered at the Lands Registry. The omission is therefore procedural in nature and, in the Court’s view, clearly rectifiable.”
14. The present case falls squarely within these principles. The delay arose from administrative transitions at the BRS and seasonal closures at the Lands Registry, not neglect.
15. Additionally, there is no suggestion, nor evidence, that any third-party rights have intervened or that the extension sought would prejudice creditors or undermine the integrity of the register.



16. On the contrary, declining the application would have the disproportionate effect of invalidating an otherwise lawful and commercially negotiated security, solely on account of procedural delay attributable to administrative transitions.
17. The Court is satisfied that the Applicant has brought itself within the parameters of section 888 of the *Companies Act* and that this is an appropriate case for the exercise of judicial discretion in its favour.
18. In the result, the Notice of Motion dated 26th February 2026 is merited and is allowed on the following terms:
 - i. The time for registration of the Charge dated 18th December 2025, created by Limbua ENA EPZ Limited in favor of Stichting Hivos-Triodos Fonds, is hereby extended by thirty (30) days from the date of this Ruling.
 - ii. The Registrar of Companies is directed to accept and register the said Charge upon payment of the requisite fees.
 - iii. The registration, once effected, shall relate back to the date of creation of the charge.
 - iv. There shall be no order as to costs.
19. It is so ordered.

SIGNED, DATED, AND DELIVERED IN VIRTUAL COURT THIS 27TH FEBRUARY 2026

ADO MOSES

JUDGE

