



## NOTE VERBALE

Ref. No: NC291/738/02/94

The Permanent Mission of the United Republic of Tanzania to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and with reference to OHCHR letter N0.AL TZA 1/2020 dated 31 January 2020, has the honour to transmit herewith a response of the Government of the United Republic of Tanzania to the allegations on Enforced Disappearance, Arbitrary Detention and subsequent charges with non-bailable financial crimes against human rights lawyer-Tito Magoti and journalist-Erick Kabendera.

The Permanent Mission of the United Republic of Tanzania to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurance of its highest consideration.

Geneva, 2 July 2020

Office of the High Commissioner for Human Rights (OHCHR),  
GENEVA.



**JOINT COMMUNICATION FROM SPECIAL PROCEDURES-THE SPECIAL  
RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS, THE  
WORKING GROUP ON ARBITRARY DETENTION, THE WORKING GROUP ON  
ENFORCED DISAPPEARANCES, THE SPECIAL RAPPORTEUR ON THE  
PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND  
EXPRESSION AND THE SPECIAL RAPPORTEUR ON THE RIGHTS TO FREEDOM  
OF PEACEFUL ASSEMBLY AND OF ASSOCIATION**

We acknowledge receipt of a joint communication from the Special Procedures of the Human Rights Council being; the Special Rapporteur on the Situation of Human Rights Defenders, the Working Group on Arbitrary Detention, the Working Group on Enforced Disappearances, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association. We have gone through the concerns and questions raised therein and wish to clarify and respond accordingly.

- 1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.**

Tanzania is a sovereign state governed by the rule of law and no one is above the law. Therefore, journalist, human rights defenders and lawyers are required to observe and abide by the Constitution of the United Republic of Tanzania, 1977 and the laws of the land as do all other Tanzanians regardless of their profession. This compliance is stipulated by Article 26 of the Constitution of the United Republic of Tanzania, 1977.

It must be stated at the outset that the case by the Republic against Mr. Eric Kabendera was finalised with his confession through a Plea Bargaining Agreement entered and signed on the 24<sup>th</sup> of February 2020 as provided by the Criminal Procedure Act, Cap 20. We also wish to respectfully state that the case filed by the Republic against Mr. Tito Magoti is still ongoing and some of the issues in the Joint Communication may be raised by either the State or Mr. Magoti as his case is still being adjudicated within our national justice system. Further, Mr. Magoti has filed Reference No. 32 of 2020 in the East African Court of Justice challenging provisions of the law in charges against him

and he has also filed Misc. Civil Cause No. 06 of 2020 in the High Court of Tanzania challenging provisions of the law in charges against him. Misc. Civil Cause No. 06 of 2020 was struck out as there is already a public interest litigation law suit in the High Court of Tanzania, Misc. Civil Cause No. 35 of 2019 on the same contentions. Therefore, in consideration of the principle of *res subjudice* and in appreciation of the independence of the Judiciary, we can not go into details of the charges and case against Mr. Magoti at this juncture. However, we feel it prudent to comment on some of the issues raised which we regard as general matters and will have no outcome on Mr. Magoti's case or subsequent appeals and applications while justice is being pursued by either the State and/or Mr. Magoti.

In the course of answering the questions posed by the Special Procedures we shall address the various concerns and allegations raised in the Joint Communication.

**2. Please provide information on the legal and factual basis of the charges against Mr. Tito Magoti and Mr. Erick Kabendera, and please explain how these are consistent with international human rights standards.**

Mr. Erik Kabendera was charged with the offences of leading organized crime, failure to pay tax and money laundering contrary to section 12(d) and section 13 (1) (a) of the Anti-Money Laundering Act No. 12 of 2006. The charges were adjudicated before a competent court of law in Economic Crimes Case No. 75 of 2020 in the Resident Magistrates Court of Dar es Salaam Region at Kisutu District.

Mr. Titio Elia Magoti was charged with a first count of leading organized crime, contrary to paragraph 4(1)(a) of the First Schedule to and Sections 57(1) and 60(2) of the Economic and Organised Crimes Control Act, Cap 200. A second count of possession of a computer program designed for the purpose of committing an offence; contrary to section 10(1)(a) of the Cybercrimes Act, No. 14 of 2015 read together with Paragraph 36 of the First Schedule to, and Section 57(1) and 60 (2) of the Economic and Organised Crimes Control Act, Cap. 200 and a third count of Money Laundering contrary to section 12(d) and 13(a) of the Anti-Money Laundering Act, 2006 read

together with Paragraph 22 of the First Schedule to, and Sections 57(1) and 60 (2) of the Economic and Organised Crimes Control Act, Cap. 200. The charges are being adjudicated before a court of law in Economic Crime Case No. 137 of 2019 in the Resident Magistrates Court of Dar es salaam at Kisutu District.

We wish to categorically state that Mr. Erick Kabendera and Mr. Tito Magoti were not charged with these offences as a result of their profession, activism and criticism of the Government as alleged in the Joint Communication. Criticism of the Government is permitted in Tanzania under section 52(2) of the Media Services Act, 2016 where any person is allowed to criticise if the Government has been misled on a policy or implementation issue or to point out errors or defect. Criticism of the Government has been sanctioned by law therefore the Government can not condemn criticism which will be contrary to the law.

Mr. Kabendera and Mr. Magoti were charged with committing criminal offences as a result of investigation which led to prima facie evidence that they committed these crimes. The most compelling evidence that the State acted within the confines of the law is the fact that Mr. Kabendera admitted to committing the offences of failure to pay tax and money laundering and plead guilty in a Court of law. The plea took place on the 24<sup>th</sup> of February, 2020 in the Court of the Resident Magistrate of Dar es Salaam. A Plea Agreement was entered between the Director of Public Prosecutions and duly signed by Mr. Kabendera before his Advocate and his sister who were witnesses and present in Court. One aspect of the Plea Agreement is to cooperate with the State. Therefore, in the interest of justice and in compliance with the Whistle Blowers and Victims Protection Act, 2015 we can not go into further details of the matter. Kindly note that the offence of money laundering which both Mr. Kabendera and Mr. Magoti were charged with is linked to organized transnational crimes and syndicates.

We also strongly dispute the allegation that charging people with the offences of sedition, and money laundering which is an un-bailable offence, is being used to silence dissent. Money laundering is an un-bailable offence in Tanzania law as are the offences of Armed Robbery, Murder, Treason and possession of an amount of narcotic drugs

above a specified amount. We dispute the claim that accused persons are being charged with this un-bailable offence by the Government in order to hold its critics in detention without trial and for an indefinite period of time. The fact that Mr. Kabendera plead guilty to the offence of money laundering is testament that an accused person charged with the offence of money laundering in Tanzania is only charged because there is available evidence sufficient to substantiate a conviction against the accused person. It should be noted that there are on-going cases within our national justice system challenging the constitutionality of un-bailable offences. Therefore, we respectfully can not comment further on the matter at this juncture until the Courts have reached a decision. The fact that there is room to challenge the constitutionality of un-bailable offences should be appreciated and is evidence of a robust and dynamic justice system which provides avenues of legal address for those who feel aggrieved.

We further state that the charges against Mr. Kabendera and Mr. Magoti are not in contravention of International human rights law. There was a complainant, there was an offence, there was a professional investigation, there was a charge and the accused tried before a competent Court. Mr. Kabendera had legal representation while Mr. Magoti has legal representation and both Mr. Kabendera and Mr. Magoti duly accorded the right to be heard. This is in compliance with Article 9 of the International Covenant on Civil and Political Rights (ICCPR) which provides for the right to a fair trial.

Therefore, the claim in the Joint Communication that Mr. Kabendera will be held indefinitely is void of any basis especially as he confessed, plead guilty and has already been released based on a Plea Bargaining Agreement. Further, Mr. Magoti shall be subject to the same due process and respect for rule of law as his case is being adjudicated.

- 3. Please explain how the alleged arrest of Mr. Magoti and Mr. Kabendera without a warrant, without informing them of the reasons for their arrest and without disclosing their location is consistent with your obligations under international human rights law.**

We wish to state at the outset that we dispute the reference to the arrest of Mr. Magoti and Mr. Kabendera as "alleged." Mr. Magoti and Mr. Kabendera were lawfully arrested in compliance with the law. We also dispute the allegations that Mr. Magoti and Mr. Kabendera were not informed of the reasons for their arrest or that their location pursuant to their arrest was not disclosed. We also state that standards for arrest under International human rights law were met during the arrests of both Mr. Kabendera and Mr. Magoti.

### **3.1. The Arrest of Mr. Erick Kabendera**

Mr. Kabendera had been notified several times by the Police to report to the police station but on each occasion, he refused to comply with the police request and never showed. Mr. Kabendera was arrested in the course of the police searching for him and tracing his whereabouts due to his continued refusal to report to the police station. He was found at his home by plain clothes policemen who arrested him there. Mr. Kabendera was arrested by plainclothes police men who duly identified themselves as policemen and informed Mr. Kabendera and the occupants at the house that he was being taken to Oysterbay Police Station. Mr. Kabendera was initially taken to Oysterbay Police Station and then relocated to Kilwa Police Station soon after on the same day.

We wish to point out that under Tanzania law it is permissible to make an arrest without a warrant under specific situations. Section 14 of the Criminal Procedure Act, Cap 20 provides conditions for arrest by a police officer without a warrant and Section 14(b) further provides that no warrant is necessary during an arrest for "any person who willfully obstructs a police officer while in the execution of his duty, or who has escaped or attempts to escape from warrant lawful custody." Therefore, in light of the fact that Mr. Kabendera had been summoned by the Police to the Police Station several times but refused to appear, placed him in the category of persons who willfully obstruct a police officer in the execution of his duty.

The Police confirmed the arrest of Mr. Kabendera to the public and explained that he was being questioned over his citizenship. This is because the trail of investigation led the State to question his citizenship. The fact that he was questioned over his

citizenship did not mean that subsequent charges relating to other offences could not be made against him. Do take note that he was never charged with any offence relating to his citizenship, he was only questioned on his citizenship as part of the investigation.

We also dispute the allegations of arbitrary arrest and detention and state that Section 32 of the Criminal Procedure Act, Cap 20 which stipulates to produce an accused person in court within twenty-four hours after their arrest was not contravened as there was legal justification for not meeting the twenty-four hour requirement. Section 32 of Cap 20 provides as follows:

(1) When any person has been taken into custody without a warrant for an offence other than an offence punishable with death, the officer in charge of the police station to which he is brought may, in any case, and shall if it does not appear practicable to bring him before an appropriate court within twenty-four hours after he was so taken into custody, inquire into the case and, unless the offence appears to that officer to be of a serious nature, release the person on his executing a bond with or without sureties, for a reasonable amount to appear before a court at a time and place to be named in the bond; but where he is retained in custody he shall be brought before a court as soon as practicable.

(2) Where any person has been taken into custody without a warrant for an offence punishable with death, he shall be brought before a court as soon as practicable.

(3) Where any person is arrested under a warrant of arrest he shall be brought before a court as soon as practicable. (emphasis is underscored)

The law prescribes that an accused person is to appear before a court of law within twenty-four hours of arrest as soon as practicable. In the case of Mr. Kabendera it was practical to bring him before a court of law and formally charge him after the elapse of a period of twenty-four hours. This is in consideration of the fact that Mr. Kabendera was charged with serious and complicated matters and his interrogation itself lasted more than twenty-four hours. It was necessary to be diligent and ensure that the information

he was providing the police with was accurate as he had initially refused to cooperate with the investigation and come to the police station. Also, the information he provided the police during his interrogation led to the formulation of new charges. These are the intricacies of investigation which the law has accommodated by stating an accused person is to be brought before the court as soon as is practicable. This leeway has also been considered by international human rights law under Article 9 of the ICCPR.

Article 9 (1) of the ICCPR provides that "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law." (emphasis underscored)

In Tanzania, section 32 of the Criminal Procedure Act, Cap 20 is the law which provides latitude to being brought before a court of law within twenty-four hours of arrest. The law prescribes that one should be brought before a court of law as soon as it is practically possible.

Article 9(3) of the ICCPR provides that "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement." (emphasis underscored)

We emphatically state that it is not the general rule in Tanzania for a person to wait longer than twenty-four hours before he is charged in a court of law. Paragraph 38 of the Human Rights Committee, General Comment No. 35 on Article 9 of the ICCPR on the Right to Liberty and Security of Person provides the exceptions to detention pending trial. It stipulates that pre-trial detention should not be the general practice and that detention pending trial must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime.



Mr. Kabendera was indeed considered a flight risk in light of the fact that he had been notified on numerous occasions to report to the police station but failed to show each time. The period of time he spent in police custody was due to the seriousness and complicated nature of the offences being investigated. The investigation also involved evidence from other jurisdictions beyond the territory of Tanzania which is a rigorous process. Therefore, his detention was reasonable in light of the circumstances leading to his arrest based on his non-cooperation, the seriousness and complicated nature of the evidence against him and the leeway provided by the law to accommodate these circumstances. In this regard, his arrest and detention can not be considered arbitrary as there was legal justification to arrest and question Mr. Kabendera.

### **3.2. The Arrest of Mr. Magoti**

Mr. Magoti was also not abducted but lawfully arrested by police and charged with the offence of leading organised crime, possession of computer program designed for the purpose of committing an offence and Money Laundering. His case is pending in Court and he has also filed cases challenging provisions of law in the charges against him in the High Court of Tanzania and in the East African Court of Justice. Therefore, we shall respectfully refrain from commenting further at this juncture.

- 4. Please provide the details of any investigation, or judicial or other inquiries which may have been carried out in relation to the reported arbitrary arrest and enforced disappearance of Mr. Magoti and Mr Kabendera. If no inquiries have taken place, or if they have been inconclusive, please explain why.**

We reiterate that there was no arbitrary arrest or enforced disappearance of either Mr. Magoti or Mr. Kabendera. As already elaborated above, both men were arrested and charged in compliance with the laws of the land for criminal offences provided by statute.

With regard to revealing the details of the investigation which led to the arrest of Mr. Magoti and Mr. Kabendera we can not go into the specifics and details of our intelligence system which is also protected by the Whistleblower and Witness Protection Act of 2015. However, we can state that a thorough investigation was the basis of their arrest. This is substantiated by the fact that Mr. Kabendera confessed to the commission of the charges he was facing after listening to the facts and evidence in the charge against him which were duly read out in a court of law.

Further, there has been no complaint or call for any type of investigation or inquiry filed by Mr. Kabendera with regard to allegations of arbitrary arrest and enforced disappearance. Similarly, Mr. Magoti has not called for any type of investigation or inquiry with regard to allegations of arbitrary arrest and enforced disappearance. There has been no investigation or inquiry as these have not been initiated by either Mr. Kabendera or Mr. Magoti. The State has also not initiated any investigation or inquiry for the reasons elaborated above due to the fact that there was no arbitrary arrest and enforced disappearance of either Mr. Magoti or Mr. Kabendera. Mr. Kabendera is now at liberty after confessing to committing some of the charges against him and entering a Plea Bargaining Agreement with the State. Mr. Magoti continues to face the charges against him in a Court of law.

- 5. Please Indicate what specific legal and administrative measures have been taken to ensure that journalists and human rights defenders in Tanzania, including human rights lawyers are able to carry out their legitimate work, including through the exercise of their rights to freedom of opinion and expression, their rights to freedom of peaceful assembly and of association in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort against themselves or their families.**

The right to freedom of opinion and expression is provided by Article 18 of the Constitution of the United Republic of Tanzania, 1977 and the right to peaceful assembly and association is provided by Article 20 of the Constitution of the United Republic of Tanzania, 1977. Tanzania has also ratified international and regional human rights treaties which provide for these rights including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights. The State has taken normative and administrative measures to ensure the realisation of these rights and to further ensure that journalists and human rights defenders including lawyers in Tanzania exercise their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort against themselves or their families.

#### **A. Legal Measures**

**Legal measures to ensure journalists and human rights defenders carry out their legitimate work and are guaranteed their rights to and freedom of opinion and expression.**

Normative measures which provide the right to freedom of opinion and expression stem from Article 18 of the Constitution of the United Republic of Tanzania, 1975 which provides that, "Without prejudice to expression and the laws of the land, every person has the right to freedom of opinion and expression, and to seek, receive and impart or disseminate information and ideas through any media regardless of national frontiers, and also has the right of freedom from interference with communications." In order to ensure the realisation of this right a number of laws were enacted including; the Media Services Act of 2016, the Access to Information Act of 2016 and the Tanganyika Law Society Act, Cap 307.

##### **i. The Media Services Act of 2016**

The Media Services Act, No 12, 2016 addresses a number of long-recognized concerns with media law in Tanzania. In particular, by replacing the highly restrictive 1976 Newspaper Act, the new Act brings media industry up to date and into line with

international law and best practices. Section 7(1) of the Act introduces and spells out the various rights to be enjoyed by the media such as freedom to collect or gather information from different sources; freedom to process and edit information and freedom to publish or broadcast. Section 24 of the Act establishes an Independent Media Council which is a kind of a self-Regulatory Body and section 27(2) provides a Complaints Committee under the Independent Media Council which functions independently as a Quasi judicial body for determining all complaints against print Media content.

The Act also considers the welfare of journalists by mitigating the economic challenges facing journalists in terms of low wages and lack of job security. Section 62 of the Media Services Act provides for risk insurance and social security coverage for journalists employed to respective media houses. This also includes personal insurance cover for freelancers and correspondents.

As no rights are absolute and in consideration of Article 18 of the Constitution, the Act has clearly articulated the parameters to the right to freedom of information while journalists discharge their duties. Section 7 (3) ( a-j) of the Act stipulates that Journalists should not undermine; national security of the United Republic of Tanzania, lawful investigations being conducted by a law enforcement agent, impede due process of law or endanger safety of life of any person; does not constitute hate speech, disclose the proceedings of the cabinet, facilitate or encourage the commission of an offence, involve unwarranted invasion of an offence, involve unwarranted invasion of the privacy of an individual, infringe lawful commercial interests, including intellectual property rights of that information holder or a third party from whom information was obtained, hinder or cause substantial harm to the Government to manage the economy, significantly undermines the information holder's ability to give adequate and judicious consideration to a matter of which no final decision has been taken and which remains the subject of active consideration or damage the information holder's position in any actual or contemplated legal proceedings, or infringe professional privilege. These limitations on Media freedom are reasonable as provided by Article 30 the Constitution of the United

Republic of Tanzania, 1977 and Article 19(3) of the International Covenant on Civil and Political Rights of 1966.

## **ii. The Access to Information Act of 2016**

This law was enacted to empower the public to exercise the right of access to information as enshrined in the Constitution of the United Republic of Tanzania. Section 5 of the Act provides that every person shall have the right of access to information which is under the control of information holders and information holders will make the information available to the public, or on request, to any person, information which is under his control. The Act also enables the public to access information held by public offices. This legislation in principle, goes a long way towards bringing the Government closer to the people by allowing the public, civil society, the media and others to better understand what the government is doing, and encourages more and better public participation in decision making processes.

Section 10 of the Act provides the process for accessing information where a request is made in a prescribed form and address and sent to the information holder with clarity of information required with the inclusion of applicant name and address and be made in writing, save for illiterate and disabled people oral application is allowed. The information holder is required to give the information requested within thirty days from the date he received an application and in accessible manner and incase more details are needed for information holder to identify kind of information requested he has to write to the requester within 14 days from the date he has received the request.

## **iii. The Tanganyika Law Society Act, Cap 307**

The Act was enacted to establish a body corporated by the name of the Tanganyika Law Society (TLS) with perpetual succession and a common seal, with power to sue and be sued in its corporate name. TLS is not a Non-Governmental Organsiation but a statutory membership professional body that has unique, comparative and competitive statutory role excercising its mandate and responsibilities as provided by its establishing

legislation to promote rule of law, democracy and good governance. Therefore, there is a statutory body in place which governs lawyers and advocates in Tanzania who have been empowered by the law to among other things, protect and assist the public in all matters touching, ancillary or incidental to the law which includes the promotion and protection of human rights.

**Legal measures to ensure journalists and human rights defenders carry out their legitimate work and are guaranteed their rights to and freedom of assembly and association.**

Normative measures which provide the right to freedom of assembly and association stem from Article 20 of the Constitution of the United Republic of Tanzania, 1977 which provides that, "Every person has a freedom to freely and peaceably assemble, associate and cooperate with other persons, and for that purpose, express views publicly and to form and join with associations or organisations formed for purposes of preserving or furthering his beliefs or interests or any other interests"

In order to guarantee the realisation of these rights for journalists and human rights defenders while carrying out their legitimate work a number of laws were enacted including the Non-Government Organisations Act, No. 24 of 2002; the Media Service Act, No.12 of 2016; the Companies Act No. 12 of 2002; the Societies Act, Cap 337; the Employment and Labour Relations Act No. 6 of 2004 and the Political Parties Act, Cap 258.

**i. The Non-Government Organizations Act, No. 24 of 2002**

The Non Government Organisation Act was enacted to provide for registration of Non-Governmental Organizations with a view to coordinate and regulate activities of Non-Governmental Organizations and to provide for related matters. The 2019 Amendments to the law included Community Based Organisation, to mean a voluntary group of individuals or organisations which is non-partisan or non-profit sharing established and operates for the benefit or welfare of the community or public, organized at the local , national or international levels for the purpose of enhancing or promoting economic,

environmental, social or cultural development or protecting environment, good governance, law and order human rights and lobbying or advocating on such issues. This is a comprehensive normative framework for human rights defenders and lawyers to form associations and perform their legitimate work.

**ii. The Media Services Act of 2016**

The Media Services Act calls for journalist to converge, meet, associate and established an independent Media Council and a Journalist Accreditation Board.

**iii. The Companies Act No. 12 of 2002**

The Companies Act was enacted to provide for more comprehensive provisions for regulation and control of companies, associations and related matters. Media houses can be registered as companies under this Act involved in the business of publication and media thereby promoting the right to freedom of assembly and association.

**iv. The Societies Act, Cap. 337**

The Societies Act which provides for the registration of societies and for related matters. A "society" has been defined in the Amendment to the Act as a non-partisan and non-political association of ten or more people established for professional, social, cultural, religion or economic benefits or welfare of its members formed or registered under the act. Therefore lawyers, journalists and human rights defenders are free to form societies as per the requirements of the law.

**v. The Employment and Labour Relations Act, No. 6 of 2004**

The Employment and Labour Relations Act provides for the establishment of trade unions which are formed for purposes of regulating relations between employees and their employers or the employer's association to which the employers belong. Under this Act every organization is accorded the right to join and form a federation, participate in the lawful activities of a federation, affiliate with and participate in the affairs of any international workers' organization or international employers' organization

**vi. The Political Parties Act, Cap 258**

The Political Parties Act provides for the terms, conditions and the procedure for the registration of political parties and for related matters. The 2019 Amendments to the Act further provide for the formation of a Political Party which among other things strives to uphold the union of Tanzania as well as commit to the promotion of democracy, good governance, anti-corruption, national ethics and core values of patriotism, secularism, national peace and tranquility, gender, youth and social inclusion in the formulation of and implementation of the policies of political parties. Section 6B provides the qualification for people applying for registration of a political party and Section 6C provides the qualifications to be a member of a Political Party. In compliance with the requirements journalists, lawyers and human rights defenders are free to establish political parties and to be members of political parties. There are indeed a number of journalists, lawyers and human rights defenders in Tanzania who are active members of political parties.

**B. Administrative Measures**

**Administrative measures to ensure journalists and human rights lawyers including defenders carry out their legitimate work and are guaranteed their rights to freedom of opinion and their rights to and freedom of assembly and association.**

The Government acknowledges the important role the media plays in any modern society and it will continue to put in place favorable mechanisms for media pluralism to flourish. Currently, the Government has licensed more than 183 radio station of which 3 are State owned and the rest owned by private institutions. There are also 43 television Stations in Tanzania and more than 230 newspapers and magazines. More over the Government has registered 26 Simulcasting Radio, 21 Online Radio, 6 Simulcasting Television, 264 Online Television, 85 Online Blogs, 30 Web Blogs and 6 Online Forum. International Media Houses operate in Tanzania's media industry through a media bureau that represent Media Houses from different countries including the BBC



from the United Kingdom, DW from Germany, VOA from USA and CCTV from China. These bureaus work independently without any interference from the Government.

The Journalists Accreditation Board has been established under the Media Services Act which is composed of members from the Government, journalists and private institutions. One of the functions of the Board is to uphold standards of professional conduct and promote good ethical standards and discipline among journalists, to accredit and issue press cards to journalist, to enforce the adopted code of ethics for journalists professionals. The Board also advises the Government on matters pertaining to the education and training of journalists.

An independent Media Council is operational and is composed of all accredited Journalists and its functions include to set a code of ethics for journalists professionals, to set and promote ethical and professional standards amongst journalist and media enterprises, to conduct reviews of the performance of media sector, to determine print media content complaints, to collaborate with stakeholders in promoting media accountability and to perform such other related promotional functions as the Council may by resolution determine.

Similarly, there are approximately 10,000 Non-Government Organisations which have been registered and perform various activities towards the promotion and protection of civil, political, economic, social and cultural rights. Civil Society Organisations play a significant role in complementing Government's efforts in the promotion and protection of human rights. The Tanganyika Law Society has enrolled 6,312 lawyers who work in various legal fields in the country are free to institute public interest litigation, constitutional petitions, applications, matters of habeus corpus and institute all types of cases challenging the Government under both the civil and criminal justice systems.

### **Protection of Journalists and Human Rights Lawyers and Defenders**

There is protection of journalists and human rights defenders by ensuring no impunity for perpetrators of attacks against them. This was recognized by UNESCO in 2018 which, listed Tanzania among the countries in Africa and the world with; no killings of

journalists in the past 5 years, the least violations against journalists that are unresolved with the highest prosecution rates (over 50%) of perpetrators to crimes committed against journalists. Tanzania takes seriously the issue of protection of journalists in terms of their physical protection and guaranteeing their right to work as provided under Article 22 of the Constitution. As a measure to further guarantee the safety of Journalist, the Government of the United Republic of Tanzania and UNESCO established a Safety of Journalists Committee to make sure that journalists are protected all the time. An official Government focal point for the safety of journalists from the Ministry of Information, Culture, Arts and Sports was appointed in 2017.

Therefore, we dispute the allegations in the Joint Communications that there has been a general crackdown on freedom of expression and freedom of association and peaceful assembly in Tanzania. We also strongly dispute the statement that in recent years, a number of media outlets have allegedly been closed and online speech and peaceful protest are becoming increasingly restricted. Firstly, only one newspaper publication had its license cancelled in the past five years. This was on the 19<sup>th</sup> of February 2019 when the Government canceled the license of the TUNATEKELEZA newspaper for professional misconduct. What should be noted is that TUNATEKELEZA which means "We are Implementing" was a pro-Government newspaper and its publications were in full support of the Government's development agenda. Regardless, it was closed due to corrupt activities. This is the only newspaper which has been shut down and interestingly it was a pro-Government publication.

There has been suspensions of newspapers for periods ranging from two to six months for unethical and unprofessional conduct in their reporting. The Government of Tanzania compels the media in Tanzania to comply with international, regional as well as local ethical and legal standards including undertaking to be fair and objective in their reporting. In compliance with the principle of natural justice, the editors of a Newspaper publication are given the right to be heard as per Rule 27(1)(a) of the Media Services Regulations, 2017 whereby the Director of Information Services issues a notice giving them three days to explain why legal measures should not been taken against them for

violating the cardinal principals of journalism and the law. Further, the Media Services Act, No. 12 of 2016 provides legal redress for an outlet suspended under section 10(1) to appeal to the Minister of Information if dissatisfied by the decision of the Director of Information Services. The publications which were suspended have all resumed business after elapse of the probation period and continue to publish newspapers, some of which are highly critical of the Government.

Therefore, freedom of the press and freedom of expression in Tanzania continues to be upheld, respected, promoted and protected. Journalists are generally able to investigate stories, write critically of the Government or other political figures, and even deal with issues of corruption without fear of physical reprisals. Thus, the environment in Tanzania is considered a mostly peaceful one, an encouraging sign for active journalists, human rights lawyers and defenders.