

# TANZANIA ARTISTS RIGHTS ORGANIZATION (TARO)

## LEGAL POSITION PAPER



## THE BURDEN OF LEGAL COMPLIANCE IN THE ARTS AND CULTURAL SECTOR (TANZANIA)

Artist in order to practice or showcase his or her artistic work freely and protected in Tanzania, must consider to comply with a bundle of unfriendly legal requirements and fees discussed hereunder.

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## 1.0 INTRODUCTION

**Tanzania Artists Rights Organization (TARO)** is a non-governmental organization that advocates for the rights and interests of artists and their works. TARO serves as both a human right and a cultural rights defender for artists. It engages to contribute to the development of the Tanzanian arts and cultural sector by focusing on enhancing **Artistic freedom** in the area of **promotion of artistic freedom of expression, artists' rights and interests, professionalism, and gender equality**. The organization achieves this through advocacy, awareness campaigns, research, monitoring, and reporting on artistic freedom in Tanzania. It was registered in 2021 under "Non-Governmental Organizations Act. No.24. of 2002"

In May 2023, TARO was invited to attend **the 9<sup>th</sup> World Summit on Arts and Culture** which took place in **Stockholm, Sweden**. The aim of the summit was **"SAFEGUARDING ARTISTIC FREEDOM"**. The summit was coordinated by **the Swedish Arts Council** and **the International Federation on Arts and Cultural Agencies (IFFCA)**. The organization acted as delegate and expert to present on **"Building the Case from Action to Law"**

The preparation and publication of this legal position is a part of SANAA RIGHTS PROGRAM.

**Sanaarights/ArtistsRights** is a project that aims at enhancing the policy and legislative landscape for the Tanzania arts scene. The initiative has invested its resources to develop innovative recommendations for improving the policy and legal framework that govern Tanzania's arts and cultural sector. It is a three-year program (2022-2025). **Tanzania Artists Rights Organization (TARO)** is a cooperating partner **of Culture and Development East Africa (CDEA)** to implement the legal component of the Sanaarights project, which is funded by the **Norwegian Embassy in Tanzania**. Its implementation includes roundtable meetings with various strategic stakeholders in the arts and cultural sector, **"drafting legal position papers"**, parliamentary advocacy on artists' human rights, public dialogues on the status of artists, and drafting of policy briefs

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" We stand for the Rights and Interests of All Artists "



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## THE BURDEN OF LEGAL COMPLIANCE IN ARTS AND CULTURAL SECTOR (TANZANIA)

### 2.0 MEANING OF LAW

Law refers to the legal system as a whole (and not just the legal profession, the practice of law, legal authority/precedents, legal concepts, or legal documents). Law is viewed by Wetlaufer as a **"serious business . . . conducted on a field of 'pain or death.'"** Thinking like lawyers, therefore, is essential to the legal pedagogue, as the process may reinforce the legitimacy and dignity of the legal system itself.

On the other hand, the text that matters to law often encompasses more than just legal precedents and the system as a whole. Quite often, in the congested arts and cultural sector, the winning brief provides the roadmap of the legal framework and supplies the persuasion force for the authorities and actors to ease the burden for artists on the compliance of laws in the arts and cultural sector.

Legal compliance is one of the essential elements in the effective management of arts and cultural sectors in Tanzania. **The purpose of this legal position paper is to assess factors that burden legal compliance in managing the arts and cultural sector through the legal framework of Tanzania's creative industry.** Specifically, aimed at finding the extent to which authorities and actors are aware of the existing inadequate management legal framework; and determining factors limiting artists in complying with procedures codified with legal frameworks for arts and cultural rights.

In Tanzania, there is a bureaucratic contingency for an artist to be recognized and protected under the laws. This protection is anchored in both Tanzania's international commitments and the country's domestic laws, which, however, remain hardly known in the creative industry.

### 3.0 MANDATORY REQUIREMENT TO COMPLY WITH CODIFIED LEGAL FRAMEWORKS OF ARTS AND CULTURAL SECTOR

Art as it is acknowledged even without registration. So, registration of the art is not mandatory. However, registration of the art is of utmost importance. Specifically, when it comes to the protection and enforcement of artistic rights and interests, the legal compliance system enables the creator to enjoy legal protection rights. Thereafter an artist to be registered as well can help his creative work to be used as evidence in dispute settlements.

#### What is artistic work?

According to **Section 2** of **The National Arts Act, No. 23 of 1984**, reading together with **Section 17** of **Written Laws (Miscellaneous Amendments) (No. 5) Act, 2019**. The term “**Artistic works**” means a work, irrespective of its artistic quality, of any of the following descriptions:

- a) paintings, drawings, graphic designs, etchings, lithographs, woodcuts, engravings, computer-aided animations, and prints
- b) maps, plans, illustrations, and diagrams
- c) Works of sculpture
- d) Photographs not comprised in cinematography film
- e) Works of architecture in the form of buildings or models; and
- f) Works of artistic craftsmanship, and also, includes pictorial woven tissues and articles of applied handicraft and industrial art.
- g) modeling, and pageantries, fashion designs, and such related works and
- h) playwriting, music composition, costume design” and makeup

“**Artist**” means a person engaged in or undertaking artistic works

Thereafter an artist in order to practice or showcase his or her artistic work freely and protected in Tanzania must consider complying with a bundle of unfriendly legal requirements and fees as discussed below: -

#### i. **Application for a Business Name and Company Registration**

According to **The Business Names (Registration) Act. Cap 213. R.E 2002**), Business name is defined by the Act to include any name or style under which any business is carried on, whether in partnership or otherwise. **Section 8** of the same Act

provides that any person carrying on a business must register the business name 21 days from the beginning of the date of the business.

Application for registration of a business name is conducted online through the website of The Business Registration and Licensing Agency (**BRELA**) as provided below:

- After filling in the information of the business name and making payments the application is submitted to **BRELA** and may be approved if the provided information is correct. The **BRELA** website for registration is <http://www.brela.go.tz> or a registered user can open a browser and navigate to the online registration system <https://ors.brela.go.tz>. The fee for the registration of a business name is **Tsh. 20,000/=**

## ii. Registration of a Company

If an artist wishes to execute his artistic activities in a more complex, structural, and commercial way, may form a company. It is not mandatory to form a company.

## iii. Application for Tax Identification Number

**Section 133 (1) of The Income Tax Act Revised Edition of 2008**, provides for a tax identification number (**TIN**).

**Section 133 (2)** of the same Act requires any person who carries in the United Republic to apply for a tax identification number within 15 days of beginning to carry on the business.

## iv. Trademark registration

Refer to **Section 21 (1) of The Trade and Services Mark Act of 1986**, which prescribes that; Any person who or whose proposed registered user uses or proposes to use a trade or service mark shall apply for the registration of the trade or service mark.

According to the same Act, **Section 21 (2)** states that applications shall be made in writing to the Registrar as prescribed and shall include

- a) the name and address of the applicant;

- b) the trade or business description of the applicant;
- c) a reproduction of the trade or service mark;
- d) the particular goods or services in respect of which registration of the trade or service mark is applied for listed under the applicable classes of the International Classification;
- e) if the applicant's address is outside Tanzania an address for service within Tanzania;
- f) a declaration that the applicant or his proposed registered user is using or proposes to use the trade or service mark within Tanzania.

Therefore, Trademark registration is recommended for any of the applicants who are using their business name, the artist's name as a brand for his artistic products and when conducting any other business by using his mark. The application for registration is conducted online through BRELA's website <http://www.brela.go.tz>, the cost for registration for one mark is **TZS 60,000**

#### v. **Registration of Artist's membership and their artistic works at COSOTA**

The Copyright and Neighboring Rights Act No. 7 of 1999 Cap 218 R.E 2002 (the Act) Read together with **The Copyright and Neighboring Rights (Registration Of Members And Their Works) Regulations, 2005** provide for the protection and registration of artistic works in Tanzania. Artistic works are registered at the Copyright Office of Tanzania (**COSOTA**) which is established under **Section. 46** of the same Act.

At the moment COSOTA is in the process of amending the regulations related to registration of artistic works. like the proposed draft is called (**Voluntary Registration of Members and their Works) Regulations, 2022.**

Registration of members and their work is conducted online through the website <http://www.hakimiliki.go.tz>. Thereto, the applicant will apply through the online form by using the National Identity Card or Passport and then will pay a fee of **Tsh. 20,000** for the membership registration. After the applicant paid the annual subscription fee of **Tsh. 20,000**, thereto the registration of every work is **Tsh. 1,000**.

**vi. Application for membership of BASATA**

**Baraza la Sanaa la Taifa (BASATA)** – is the National Arts Council. It is an official parastatal organization established under the **National Arts Council Act No. 23 of 1984** and is the official government agency for the revival, promotion, and development of the arts in Tanzania. Section 20 of **The Written Laws (Miscellaneous Amendments) Act No. 5, 2019** amended **National Arts Council Act No. 23 of 1984** by adding Section **4A** concerning the registration of artists and artistic works. The section criminalizes an act of doing artistic activities without being registered with the National Arts Council. It declares the act to be an offense.

**Regulation 65** of the National Arts Council Regulations of 2018 (**Kanuni za Baraza la Sanaa la Taifa za Mwaka 2018**), provides for the schedule of services and fees for the registration cost of members and their work.

No.	SERVICES	COSTS
A. Registration Services	1. Organization	50,000 Tsh.
	2. Federations	50,000 Tsh.
	3. Associations	50,000 Tsh.
	4. Civil society or organizations	50,000 Tsh.
	5. Promoter	50,000 Tsh.
	6. Company using Artists for promotions	50,000 Tsh.



	7. Individual Artists	50,000 Tsh.
	8. Individual Artists outside Tanzania	50,000 Tsh.
	9. Artists in Art Groups	15,000 Tsh.
	10. Choir and Qasida Groups	40,000 Tsh.
	11. Small Businessmen of artistic works	50,000 Tsh.
	12. Art Groups	40,000 Tsh.
	13. Labels	50,000 Tsh.
	14. Audio Recording Studios	50,000 Tsh.
	15. Agents and Distributors of artistic Works	50,000 Tsh.
	16. Theatres	50,000 Tsh.
	17. DJs	40,000 Tsh.

**vii. Application to Tanzania Film Board**

Tanzania Film Board is an entrusted authority to regulate all matters of the production, distribution, and use of film works and stage plays. Thus, companies or individuals shall adhere to the requirements set in the legislation and regulations. Along with other powers, the film board may suspend the permit for the production of a film if a person has not complied with the script approved by the film board as per **Regulation 6 (1) and (2)** of the Films and Stage Plays Regulations, 2020. ( **Kanuni za Filamu na Michezo ya Kuigiza za mwaka 2020**)

Refer to **The Third Schedule of Regulations of The Film and Stage Plays Regulations, 2020** below mentioned are the services and fees for film production in Tanzania as follows:





No.	TYPES OF PERMITS	DESCRIPTION	FEES FOR LOCALS (Tsh.)	FEES FOR FOREIGNERS (USD)	TIME LIMIT
1	The permit for Film or a stage play production	i). A producer with 1 up to 5 Films	50,000 Tsh. per permit	1000 (Normal) 3000 (emergence)	-6 months for a local -3 months for a foreigner
		ii). Every Episode for a season film and short films of less than 40 minutes	50,000 Tsh.	USD 1000 (Normal) USD 3000 (emergence)	
		iii) A producer with more than 5 Films and funded films	500,000	USD 1000 (Normal) USD 3000 (emergence)	
		iv) Business Companies	2,000,000	USD 1000 (Normal) USD 3000 (emergence)	

Thereafter, there are other permits, licenses, and certificates of approval to be adhered to as provided under **The Films and Stage Plays Act, No. 4, 1976**. As discussed below: -

## a) Film Permit

**Section 3 (1)** provides that *whereby Subject to the provisions of subsection (2) of this section and **section 8** of this Act, no person shall direct, or take part, or assist in, the making of film, whether intended exhibition or sale either within or outside Tanganyika except under and accordance with the terms and conditions of a film permit granted by the minister under this part.*

**Section 5 (1)** of the same Act provides that *"The Minister may, in his discretion, grant or refuse to grant a film permit for which application has been made under this Act, or may issue it subject to the observance of any regulations made under this Act, or to such special conditions and restrictions to be specified in such permit as he may deem fit"*

## b) Theatre Licenses

**Section 10 (1)** provides that no person shall use any place as a theatre except under and Theatre license in accordance with the terms and conditions of a theatre license granted by a licensing authority under this Part.

## c) Certificate Of Approval for Exhibition

**Section 15 (1)** provides that no person shall direct, or assist or take part in. Or Permit Restriction on Exhibitions in any premises under his control or management, an exhibition of a film unless a certificate of approval in respect thereof approving the film for such exhibition has been granted by a Censorship Board:

## d) Certificate of Approval for Poster or Cover

Refer to **Section 16 (1)** of **The Films and Stage Plays Act, No. 4, 1976**, says no person shall display, or cause, or permit to be displayed in a public place, or so as to be visible from a public place, any poster of unless a Censorship Board has first approved the poster for public display.

**e) Filming Permit from Tanzania National Parks Authority (TANAPA)**

You must apply to the Tanzania National Parks Authority headquarters in Arusha. Permit from Tanzania Filming Board should be presented at the time of application. The filming fees also include camping and conservation fees, which make up the largest portion of all park fees. This means you will not be charged any additional fees for overnight stays in the parks. Fees are paid once the TANAPA approves the filming project. The payment is done through a special online system.

Refer to **The National Parks Act, (CAP 282), REGULATIONS**, made under Section 25 which is **The National Parks (Amendments) Regulations, 2018**, have provided the costs of filming and video shooting in National Parks. The following is the schedule of the fees of **filming and video shooting** in Tanzania National Parks.

No.	Services	Description	Parks	Fee	
1	Filming fee	The following filming fees are applicable to all Nationals per each person per day and covers entrance, camping and filming.	i) Serengeti	300 USD	300 USD
			ii) Gombe and Mahale	180 USD	180 USD
			iii) Others	250 USD	250 USD
2	Video Shooting	1 <sup>st</sup> Group: This is paid on top of daily conservation	i) Video Shooting in the Park.	100,000 Tsh. (local)	300 USD (Non-East African)



		fees. Group here means 2-20 persons.	ii) Video Shooting at Headquarter and Park Office Ground	100,000 Tsh. (local)	50 USD (Non-East African)
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But also, Tanzania National Parks has released **2023/2024 Tariffs** from 1<sup>st</sup> July 2023 to 30<sup>th</sup> June 2024. The Tariffs mentioned include all the description fees charged by TANAPA in a calendar year, which is provided online through their website <http://www.tanzaniaparks.go.tz>. Therefore, for Video Shooting they recommend to consult Park Management for guidance.

According to the Tariffs the following are the fees for Filming apply to all Nationalities applicable to each person per day and cover entrance, camping, and filming, which are:

- i. Serengeti and Nyerere **USD 300**
- ii. Gombe and Mahale Mountains **USD 180**
- iii. Ugala River and Kigosi **USD 200**
- iv. Other Parks **USD 250**

**viii. Municipal Fees at District and Regional Cultural officers**

According to the bylaws of each municipal council in Tanzania, an artist is not allowed to organize a public artistic event that involves gathering the community without seeking a permit and paying the permit fees to a respective cultural officer. The fees for events vary depending on the Municipal Council and the type of event.

## ix. Application for Membership in Arts Associations

Last but not least, to comply with all these legal regulations in the arts and cultural sector, art authorities require each artist to join the associations concerning his or her art. For instance, Musicians who practice urban music (**Bongo Flewa**), are required to join Tanzania Urban Music Association (**TUMA**). By joining these Associations artists are required to pay annual fees as well for membership. The Arts and Cultural Fund does not support any artist who is not a member of the art association.

## 4.0 CONCLUSION

Legal compliance procedures in Tanzania's arts and cultural sector are lengthy and complex. The majority of Tanzanian Artists are financially weak to comply with the costly legal requirements. It is hard for a single artist to be aware of all existing legal requirements. The bureaucratic legal framework weakens the arts and cultural sector. There should be a single centralized system where artists should register once and pay few reasonable fees. Most of the requirements are not designed to assist artists but a systematic way of monitoring artistic work which undermines artistic freedom. For more than 20 years, some arts authorities have been proven ineffective in the sector. There is a great need to review the laws in the sector and rectify the situation. The existing weak laws act as the burden of legal compliance in the arts and cultural sector