



AMBASSADE DE LA REPUBLIQUE UNIE DE TANZANIE PARIS

TELEGRAPH-ADDRESS: TANZANREP PARIS
TELEPHONE: 01 53 70 63 66
Fax: 01 47 55 05 46
Courriel: ambtanzanie@wanadoo.fr.
Site Internet: www.fr.tzembassy.go.tz

7 ter rue Leonard de Vinci.
75116 PARIS
FRANCE

STATEMENT ON THE STATE OF FREEDOM OF THE PRESS IN THE UNITED REPUBLIC OF TANZANIA AND CRIMINAL PROCEEDINGS AGAINST MR. ERIC KABENDERA

For several days, the Embassy has been receiving statements and inquiries from different individuals and organisations with respect to the state of freedom of the press in the United Republic of Tanzania and on-going criminal proceedings against Mr. Eric Kabendera.

The Embassy wishes to express its concern regarding misconceptions about the state of freedom of the press in the United Republic of Tanzania and the criminal proceedings against Mr. Kabendera. The Embassy is convinced that the misconceptions could be attributed to the lack of knowledge concerning not only the facts about the ongoing judicial process, but also the fundamental rights, freedoms and guarantees under **the Constitution of the United Republic of Tanzania** (hereinafter referred to as '**the Constitution**'), and the respective laws of the United Republic of Tanzania, as well as the general state of affairs of the freedom of the press in the United Republic of Tanzania.

It should be noted that the United Republic of Tanzania recognises the important role played by freedom of the press, among other fundamental rights and freedoms, in a free society. These are important not only for purposes of informing the masses, but also for the promotion of social dialogue and building bridges among communities, thereby preserving unity, peace and order. Freedom of the press is guaranteed under the provisions of **article 18 of the Constitution**.

Furthermore, the United Republic of Tanzania also recognises that freedom of the press, as well as other fundamental rights and freedoms, are enhanced by the protection of the right to equal protection under the law through the guarantee of the independence of the judiciary, where magistrates and judges are free to decide honestly and impartially, in accordance with the law and evidence, without concern or fear of interference, control, or improper influence from anyone, including private individuals and institutions. The right to protection and equality before the law is guaranteed under the provisions of **article 13 of the Constitution**; and the independence of the judiciary is guaranteed under the provisions of **article 107A**

and 107B of the Constitution. In this regard, the Embassy would like to make reference to the provisions of article 26 of the Constitution, according to which every person has the duty to observe and to abide by the Constitution and the laws of the land. This being the case, and like in other civilised societies, citizens are not expected to engage in such acts like organised crimes, money laundering or such other acts which are prescribed as offences under the law.

The Embassy wishes to inform all those concerned that Mr. Kabendera is not being prosecuted for any matter related to the practice of his profession, for doing so would be contrary to the fundamental rights and freedoms as entrenched in our Constitution. Mr. Kabendera is being accused of leading organised crime and money laundering, and therefore charged under paragraph **4(1)(a) of the first Schedule to Section 57(1), and section 60(2) of the Economic and Organised Crimes Control Act [Cap. 200 R.E. 2002]**, and **sections 12 and 13 of the Anti-Money Laundering Act, 2006 (Act No.12 of 2006)**, read together with **paragraph 22 of the first schedule to Section 57(1), and 60(2) of the Economic and Organised Crimes Control Act [Cap. 200 R.E. 2002]**.

It is important to understand that under **article 13(6) of the Constitution**, a person charged with a criminal offence is not being treated as a guilty of that offences until so proven by the Court. Mr. Kabendera is still in custody because the offences which he is charged with are non-bailable, and for this, we make reference to the provisions of **article 15(2)(a) of the Constitution** according to which a person can be detained only under circumstances and in accordance with the procedure prescribed by the law, and section **148(5)(v) of the Criminal Procedure Act, [Cap. 20 R.E. 2002]** as amended, which prescribes circumstances under which bail shall be denied.

The Embassy further wishes to bring to the attention of all those concerned that Mr. Kabendera is being represented by competent lawyers of his choice, and just like any other accused person in Tanzania, he enjoys the protections of the provisions of **article 13 (6) of the Constitution** which entitles him to a fair hearing, and in case of conviction, to the right of appeal or other legal remedy against the decision of the court.

The Embassy noted with great concern the legally unjustified calls for 'immediate and unconditional release' of Mr. Kabendera, since such calls arrogantly and dangerously disregard the principle of the independence of the judiciary, which is accepted in all civilised societies. The Embassy would like to remind all those concerned that the independence of the judiciary means that only the court of law has the power to determine the guilt or innocence of an accused person.

On behalf of the Government of the United Republic of Tanzania, the Embassy categorically denies the unjustified accusations regarding the state of affairs of freedom of the press and operations of journalists in Tanzania and wishes to bring to the attention of all those concerned that State practices and existing laws have not only promoted the growth of the media sector, in particular private media, but also guaranteed the freedom of journalists. This is evidenced by the fact that while there are approximately 10,000 or more journalists practicing in the United Republic of Tanzania, there is no journalist serving any sentence in the United Republic of Tanzania; and there is no journalist in custody **except, and** regrettably, Mr. Kabendera. It is also important to note that among 220 newspapers and magazines

in the United Republic of Tanzania, only two are State owned daily newspapers, and over 90% of all magazines and newspapers are privately owned. In addition, while there are over 160 radio stations in the United Republic of Tanzania, including community radios, only one of them is State owned; and among 35 TV stations in the United Republic of Tanzania, only one is State owned.

Since human rights are inalienable; **indivisible; interdependent** and interrelated, freedom of the press cannot be construed in isolation of other ideals of human rights, such as the independence of the judiciary. Therefore, it is the considered opinion of the Embassy that the independence of the judiciary must be respected by all those concerned and the progress so far made by the United Republic of Tanzania in the field of human rights by observing relevant laws of the land and international human rights standards should be acknowledged.

**ISSUED BY THE EMBASSY OF THE UNITED REPUBLIC OF TANZANIA IN PARIS,
FRANCE**

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