

24 July 2019



Plea Bargaining system to be introduced in Tanzania

- The Bill introduces plea bargaining in criminal cases
- Procedures for plea bargaining agreement articulated
- Consequences of plea bargaining stipulated in the Bill
- Plea bargaining agreement to be registered for it to be effective
- Some offences ineligible for plea bargaining
- Circumstances to set aside a verdict founded on plea agreement enumerated

In a bid to ensure timely delivery of justice, reduce backlog of cases, as well as reducing inmate congestions in prison facilities, the Government of Tanzania has issued a Bill whose aim is, among others, to introduce plea bargaining in criminal cases. The Bill was tabled in the last session of the National Assembly for first reading and will formalize what has been practiced for a while.

Plea bargaining has been defined in the Bill to mean an arrangement between a prosecutor and accused whereby the accused pleads guilty to a particular offence or a lesser charge in exchange for a more lenient sentence or an agreement to drop other charges.

The Bill obliges a public prosecutor to conduct plea bargaining with the accused person after consultation with the victim/investigator and before pronouncement of judgment. However, the accused is also permitted to initiate plea bargaining by notifying the Court, but the Court is prohibited to participate in plea negotiation between a public prosecutor and the accused.

The Bill makes it mandatory for the plea agreement to be in writing and to fully state the terms of the agreement, the substantial facts of the matter and all other relevant facts of the case and any admissions made by the accused person. It must also be read and explained to the accused in a language that he understands, must be accepted by the accused and be signed by the prosecutor, the accused and his legal representative (if any).

A plea agreement is required to be registered by the Court for it to be binding, and the Court will convict the accused person accordingly. However the Court is vested with powers to reject a plea agreement so long as there are adequate reasons to do so.

Additionally, prior to registration of plea agreements, the Bill makes it necessary for the Court to inform the accused person of the below consequences:

- registration of plea agreement will lead to a waiver of a right to full trial
- the right to appeal will only be permitted to the extent or legality of sentence
- the prosecution has the right, in the case of prosecution for perjury or false statement, to use any statement against the accused, which is in the agreement

For further information on legal updates please contact:

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Further, plea bargaining shall not be exercised in sexual offences whose punishments exceed five years or involve victims under eighteen years; treason and treasonable offences; possession or trafficking in narcotic drugs whose value is above ten million shillings; terrorism; possession of Government trophy whose value is above ten million shillings; or other offence as the Minister may publish in the Gazette.

Finally, for the purposes of protecting public interests, the Director of Public Prosecution may apply to the Court to set aside conviction and sentence that was obtained on the grounds of fraud or misrepresentation pursuant to a plea bargaining. Equally, the accused person may do the same if the plea agreement was procured involuntarily or by misrepresentation.

When passed, this Bill will be similar to plea bargaining laws in neighbouring Kenya and Uganda that have assisted in reducing the number of criminal cases.

To read the Bill [click here](#).

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