

9 September 2022



## Bilingualism in Court proceedings remains confusing

- The law allows use of English and Kiswahili in Courts
- Circumstances for the use of English language enunciated
- Pleadings to be mandatorily filed in both languages
- Failure to file in both languages render pleadings improper capable of being struck out
- Court strikes out a case for non-compliance with the Rules

In a bid to promote the use of Kiswahili language in official business of the Government, in 2021, the Parliament of Tanzania through the Written Laws (Miscellaneous Amendments) Act, No 1 (the Written Laws) passed amendments to the Interpretation of Laws Act [Cap. 1] to expressly require the language of Courts, Tribunals and other bodies (Courts) charged with the duties of dispensing justice to be Kiswahili. However, the Written Laws allow Courts to use English language in the proceedings and decisions where the interests of justice so require.

It should be noted that the above amendments vested powers to the Chief Justice in consultation with the Minister for Legal Affairs to make Rules for better carrying out of the amendments.

Following the amendments, on 4 February 2022, the Chief Justice issued the Interpretation of Laws (Use of English Language in Courts) (Circumstances and Conditions) Rules (the Rules). Rule 4 of the Rules require pleadings, proceedings or decisions to be in English language in the following circumstances: where parties or their representatives to the proceedings are not Swahili speakers; the matter is about an international investment dispute, foreign trade or business, finance and monetary affairs, tax and taxation, international, regional or sub regional affairs, science and technology; and the law governing the matter subject of litigation, and practice and procedure thereto are not available in Kiswahili language.

The Rules further oblige a party who intends to initiate proceedings that fall under the above circumstances, to file his pleadings in English language with their corresponding translation in Kiswahili language and to state the grounds upon which s/he relies to have the proceedings conducted in English language.

As a result of the above legal developments, on 6 September 2022, the High Court of Tanzania at Kigoma (the High Court) in Land Appeal No. 8 of 2022, delivered a Ruling relating to circumstances and conditions for the use of English language in Courts. The background of the case is that, the Appellants filed an appeal against the decision of the District Land Housing Tribunal and presented the grounds of Appeal in Kiswahili. The Respondents came out with a preliminary objection that the Appellants appeal is bad in law for contravening the mandatory provision of rule 4 of the Rules.

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# LEGAL UPDATE

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9 September 2022

The High Court held that there is no mandatory requirement to use Kiswahili in Court, rather where the pleadings are filed in English language, there must be a corresponding Kiswahili translation. In other words, the High Court insisted that there must be two copies, one in English and another in Kiswahili. Further, where a party has filed a Memorandum of Appeal or a Chamber Application in English, he is duty bound to attach to it a Kiswahili translation. Failure to comply with the above requirement renders the pleadings to be improper before the Court and the same are liable to be struck out.

Further to the foregoing, the Court ruled that any party filing pleadings must be guided by the circumstances and conditions for the use of English language in Courts. If one opts to use Kiswahili, he must be satisfied that the law governing the subject matter of the litigation, the practice and procedure thereto are available in Kiswahili language. Very few such laws are in Kiswahili as of today.

Moreover, the Court observed that the law and Rules are flexible and are designed to accommodate the use of Kiswahili language in Courts although a lot has to be done for statutes, books and law reports to be translated to Kiswahili. Lastly, the Court found the appeal to be improper having been filed in Kiswahili, whereby the law the appeal was brought under is in English, and hence struck it out.

To read the Written Laws (Miscellaneous Amendments) Act, No. 1 of 2021 [click here](#)

To read the Interpretation of Laws (Use of English Language in Courts) (Circumstances and Conditions) Rules, 2022 [click here](#)

To read the Ruling [click here](#)

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