



## **INSTITUTION OF JUDICIAL REVIEW PROCEEDINGS IN TANZANIA.**

### **INTRODUCTION**

Judicial review is a legal process in Tanzania that allows individuals to challenge the legality or constitutionality of decisions made by public bodies. It is a process that is enshrined in the Constitution of the United Republic of Tanzania and regulated by the Law Reform (Fatal Accident and Miscellaneous Provisions) Act.

In Tanzania, the High Court of Tanzania is the court that has jurisdiction to hear judicial review cases, and that, for a person to challenge a decision or action of a public body must file a petition in the High Court. The petition must specify the grounds on which the decision is being challenged, the relief sought, and must be supported by an affidavit verifying the facts alleged.

The High Court can grant various remedies in a judicial review proceedings to include declaring the decision or action to be illegal or unconstitutional, quashing the decision or action, or ordering the public body to take a particular action. The court may also award damages or costs to the petitioner if any as it thinks fit.

It is important to note that before initiating a judicial review proceeding in Tanzania, a person must exhaust all available administrative remedies such as filing an appeal or complaint with the relevant public body. Failure to do so may result in the High Court dismissing the petition.

### **LAWS GOVERNING JUDICIAL REVIEW**

#### **1. The Constitution of the United Republic of Tanzania of 1977**

This law provides for judicial review as per Article 26, the Constitution establishes the High Court of Tanzania being the highest court in the land, with the power to hear appeals from lower courts and to review the constitutionality of laws and other acts of government. In addition, Article 30 of the Constitution establishes the Commission for Human Rights and Good Governance, which has the power to investigate complaints of human rights violations and to make recommendations to the government and other authorities. The Commission also has the power to bring legal actions to challenge actions that are inconsistent with the Constitution or other laws.



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### 1. Judicature and Application of Laws Act, Cap 358

This law also plays a significant role in defining the scope and procedure of judicial review as it contains rules on the application of laws in Tanzania, including the application of the common law, principles of equity, and customary law. JALA provides for the reception of English law, as well as the adaptation of English law to the Tanzanian context.

- The Law Reform (Fatal Accident and Miscellaneous Provisions) Act, Cap 310

This act provides for the jurisdiction of judicial review being the High Court for review of administrative actions or decisions, and to grant appropriate remedies or reliefs. It further sets out the grounds on which an application for judicial review can be made, including illegality, irrationality, procedural impropriety, and unreasonableness.

### 1. Appellate Jurisdiction Act, Cap 141

This act plays an important role in the judicial review process in Tanzania as it provides for the establishment of the Court of Appeal, which is the highest court in Tanzania with jurisdiction over appeals from lower courts and tribunals. One of the functions of the Court of Appeal is to hear appeals from decisions of the High Court made in the exercise of its original jurisdiction or on an application for judicial review. This means that if an affected party is dissatisfied with the decision of the High Court in a judicial review application, they can appeal to the Court of Appeal. The Act also provides for the procedure for appeals, including the time limits within which appeals must be made, the grounds on which appeals can be brought, and the powers of the Court of Appeal to make orders and judgments.

### 2014. The Law Reform (Fatal Accident and Miscellaneous Provisions) (Judicial Review Procedure and Fees) Rules, 2014.

This law provides a framework for the procedure and fees related to judicial review. These Rules set out the time limits for seeking judicial review, the required documents and evidence, and the fees that must be paid for the review process. They also provide for the possibility of waiving or reducing the fees in cases of hardship or public interest.

## **GROUNDINGS AND PROCEDURES FOR INSTITUTION OF JUDICIAL REVIEW**



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In Tanzania, the institution of judicial review proceedings is based on the following grounds, Illegality, Irrationality and Procedural impropriety. The stages for application of judicial review includes, Application for leave to institute a case, Substantive Application and Hearing of the case. Practically, before the substantive application of judicial review is lodged, an applicant must first seek leave (permission) to file the same. This Leave is sought through a Chamber Summons supported by an affidavit sworn by an applicant or his or her lawyer stating the facts and grounds supporting the application. Where a leave to apply for judicial review has been granted, the application shall be made by way of chamber summons supported by an affidavit and the statement in respect of which leave was granted.

### **REMEDIES FOR JUDICIAL REVIEW**

The High Court of Tanzania may grant various remedies in judicial review proceedings, including declaring the decision or action in question to be illegal or unconstitutional, quashing the decision or action, or ordering the public body to take a particular action. The High Court may also award damages or costs to the petitioner. And any person aggrieved by an order made by the High Court in exercising its inherent powers of judicial review may appeal to the Court of Appeal of the United Republic of Tanzania