

A BILL ON OWNERSHIP OF LAND BY DIASPORA: A LEGAL ANALYSIS



Introduction

On June 26, 2024, Tanzania's Attorney General published the Written Laws (Miscellaneous Amendments) (No. 2) Act, 2024, proposing significant changes to the Land Act and Immigration Act. These amendments aim to allow Tanzanian diaspora to own land in Tanzania, marking a historic shift in the country's land ownership policies.

Despite these proposed changes, the National Assembly removed the amendments concerning diaspora land ownership when passing the Bill on 3rd September 2024. On 8th November 2024, the Written Laws (Miscellaneous Amendments) (No.4) Bill, 2024 (the November Bill) was tabled before Parliament for its first reading. This Bill reintroduces the previously removed amendments and introduces additional provisions, particularly concerning land ownership for the Tanzanian diaspora.

The amendments to the Land Act and the Immigration Act, aims at granting Tanzanian non-citizen diaspora special immigration status, which would, in turn, allow them to occupy land through a special derivative right issued by the Commissioner for Lands.

Current Land Ownership Restrictions

Historically, land ownership in Tanzania has been restricted to Tanzanian citizens. Non-citizens could only acquire land through derivative rights granted by the Tanzania Investment Centre (TIC) or Export Processing Zones Authority (EPZA), primarily for investment purposes. This policy has posed significant barriers to foreign investors of Tanzanian origin and limited their ability to invest and live in Tanzania.

Proposed Changes on the Land Act

The Bill introduces the concept of "Special Derivative Right," allowing Tanzanian diaspora to own land directly without going through TIC or EPZA. This right includes leases, subleases, licenses, usufructuary rights, and analogous interests. The amendments to sections 2 and 19 of the Land Act redefine land ownership possibilities for the diaspora, addressing their long-standing demands for direct land ownership.

Eligibility for Diaspora Land Ownership

To qualify for land ownership under the new Bill, individuals must hold a Diaspora Tanzanite Card, which grants special status to Tanzanian non-citizen diaspora. This status is available to former citizens of Tanzania or their descendants, provided they observe national ethos, traditions, customs, and cultural values¹. The card also requires holders to have a valid passport, be of good moral turpitude, and comply with other prescribed regulations.

Objectives of the Proposed Bill

Impact on Investment and Development

The proposed amendments are expected to boost investment and development in Tanzania by enabling the diaspora to contribute more significantly to the economy. By removing the stringent requirements previously imposed by TIC and EPZA, the Bill opens up new opportunities for Tanzanian-origin investors to engage in various economic activities, including real estate, agriculture, and tourism.

Strengthening Economic ties

The Bill helps bridge the gap between Tanzania and its diaspora, fostering stronger economic and social

A BILL ON OWNERSHIP OF LAND BY DIASPORA: A LEGAL ANALYSIS



connections. Diaspora members can contribute to the country's development while maintaining their cultural and familial ties.

Simplified Land Ownership Process

Previously, non-citizens had to go through the Tanzania Investment Centre (TIC) or Export Processing Zones Authority (EPZA) to acquire land. The Bill simplifies this process, making it easier for diaspora members to invest in Tanzania.

Enhanced Property Rights

The introduction of the "Special Derivative Right" allows diaspora members to have more secure and direct property rights, including leases, subleases, licenses, and usufructuary rights.

Boosting Real Estate Market

With more diaspora members able to purchase land, the real estate market in Tanzania is likely to experience growth, leading to increased property values and development projects.

Cultural and Social Integration

The Diaspora Tanzanite Card grants special status to diaspora members, encouraging them to observe national ethos, traditions, customs, and cultural values. This promotes cultural integration and strengthens national identity.

Challenges and Considerations

While the Bill presents numerous benefits, it also poses challenges. Ensuring that the diaspora adheres to national values and regulations is crucial to maintaining social harmony and preventing misuse of land. Additionally, the implementation of the Diaspora Tanzanite Card and the management of special derivative rights will require robust administrative frameworks.

Conclusion

The Diaspora Land Bill represents a transformative step in Tanzania's land ownership policies. By granting Tanzanian diaspora the right to own land, the country is poised to benefit from increased investment and development. As the Bill progresses through the legislative process, it will be essential to address potential challenges and ensure that the new policies are effectively implemented to achieve their intended goal. The reintroduction of the Diaspora Land Bill through the November Bill demonstrates the government's willingness to accommodate diaspora interests while maintaining state oversight over land ownership. The introduction of a fixed-term derivative right, and ministerial powers of revocation, and restrictions on political engagement highlight a more structured and regulated approach.

FURTHER INFORMATION:

This editorial is intended to give you a general overview of the Law. If you would like further information and clarification on any issue raised in this editorial, please contact.

Haika-Belinda John Macha
Partner

E: hb.macha@vemmaattorneys.co.tz
M: +255 717 307 999

Haika Allen Mrango
Associate

E: h.mrango@vemmaattorneys.co.tz
M: +255 746 716 191