

Approved for tabling in the House.



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – SIXTH SESSION

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM

REPORT ON THE CONSIDERATION OF A PUBLIC PETITION BY MR. KENNEDY KAUNDA OMUGA REGARDING PROPOSED AMENDMENTS TO THE TOURISM ACT, NO. 28 OF 2011 TO RECOGNISE TOUR GUIDES AND APPOINTMENT TO BOARDS OF DIRECTORS OF THE TOURISM BOARD AND OTHER RELATED BOARDS

DIRECTORATE OF DEPARTMENTAL COMMITTEES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

MARCH, 2022

Pat SNA
3/3/2022

THE NATIONAL ASSEMBLY	
DATE: 03 MAR 2022	DAY: THURSDAY
TABLED BY:	VICE CHAIR PERSON SPORTS, CULTURE & TOURISM HON. KOREI OLE LENIN
CLERK-AT THE TABLE:	C. NDIRITU



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CHAIRPERSON'S FOREWORD

The Public Petition by Mr. Kennedy Kaunda Omuga dated 28th June, 2021 seeking amendments the Tourism Act, No. 28 of 2011 to provide for recognition of tour guides and nomination of representatives of the Boards of other entities responsible for the regulation, marketing and development of tourism was conveyed to the House by the Honorable Speaker in accordance with Article 119 of the Constitution and Standing Order 225(2)(b) of the National Assembly Standing Orders on 12th August, 2021. The Petitioner prays “that the National Assembly through the Departmental Committee on Sports, Culture and Tourism:

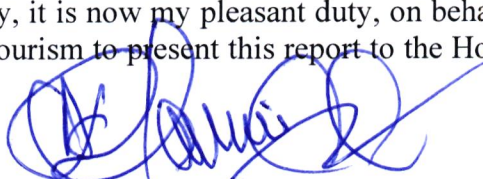
- i) amends the Tourism Act, No. 28 of 2011 to provide a definition of the terms “tour guide” and recognition of tour guides;
- ii) amends Section 32 (1) (f) of the Act to provide for appointment of representatives of Tour Guides Association to the Board of Directors of the Tourism Board and the Boards of the other entities that are responsible for regulation, development and marketing of tourism.

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

I take this opportunity to thank all the Members of the Committee for their commitment during the long sitting hours under tight schedules, which enabled us to complete the tasks within the stipulated period.

The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts made the work of the Committee and the production of this Report possible.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Sports, Culture and Tourism to present this report to the House pursuant to the provisions of Standing Order 227 (2).



Hon. Patrick Makau Kingóla, M.P.
Chairperson, Departmental Committee on Sports, Culture and Tourism

1.0 MANDATE OF THE COMMITTEE

1. The Departmental Committee on Sports, Culture and Tourism is one of the fifteen departmental committees of the House established pursuant to Article 124 of the Constitution of Kenya 2010 and Standing Order 21 of the National Assembly and mandated to:
 - (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
 - (b) study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
 - (c) study and review all the legislation referred to it;
 - (d) study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
 - (e) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - (f) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);
 - (g) examine treaties, agreements and conventions;
 - (h) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - (i) consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and examine any questions raised by Members on a matter within its mandate.
2. The Committee is charged with the following subject matter as provided for in the Second Schedule of the National Assembly Standing Orders No. 216 (M): - Sports, culture, language, arts, national heritage, betting and lotteries, tourism promotion and management.

1.1 Oversight

3. The Committee oversees the following Ministry and State Department:
 - i. Ministry of Sports, Culture and Heritage, and
 - ii. State Department for Tourism.

1.2 Committee Membership

4. The Committee on Sports, Culture and Tourism comprises of the following Members:

Hon. Patrick Makau Kingóla, M.P – Chairperson

Mavoko Constituency

Wiper Democratic Party

Hon. (Dr.) Korei Ole Lemein, M.P - Vice Chairperson

Narok South Constituency

Jubilee Party

Hon. Christopher Omulele, M.P

Luanda Constituency

Orange Democratic Movement Party

Hon. Lydia Haika Mnene Mizighi, M.P

Taita Taveta County

Jubilee Party

Hon. Beatrice Kones, M.P

Bomet East Constituency

Jubilee Party

Hon. Jane Jepkorir Kiptoo Chebaibai, M.P

Elgeyo Marakwet County

Jubilee Party

Hon. Cyprian Kubai Iringo, M.P

Igembe Central Constituency

Jubilee Party

Hon. Rehema Dida Jaldesa, M.P

Isiolo County

Jubilee Party

Hon. Jones Mlolwa, M.P

Voi Constituency

Orange Democratic Movement Party

Hon. Sylvanus Maritim, M.P

Ainamoi Constituency

Jubilee Party

Hon. Daniel Wanyama Sitati, M.P

Webuye West Constituency

Jubilee Party

Hon. Jane Kihara, M.P

Naivasha Constituency

Jubilee Party

Hon. Florence Chepngtich, M.P

Kericho County

Jubilee Party

Hon. Charles Ngusya Nguna, M.P

Mwingi West Constituency

Wiper Democratic Party

Hon. (Prof.) Jacqueline Oduol, M.P

Nominated

Orange Democratic Movement Party

Hon. Titus Mukhwana Khamala, M.P

Lurambi Constituency

Amani National Congress

Hon. (Dr.) Tecla Chebet Tum, M.P

Nandi County

Jubilee Party

Hon. Mohammed Garane, M.P

Lagdera Constituency

KANU Party

Hon. Jeremiah Lomurukai, M.P

Loima Constituency

Orange Democratic Movement Party

1.3 Committee Secretariat

5. The Committee secretariat comprises of:

Mr. Samuel Kalama
Principal Clerk Assistant II
Lead Clerk

Mr. Fredrick Otieno
Second Clerk Assistant

Mr. Peter Mwaura
Senior Legal Counsel

Mr. Vitus Okech
Research officer III

Ms. Sheila Chebotibin
Senior Sergeant At-Arms

Mr. Wilson Mwangi
Fiscal Analyst III

Ms. Noelle Chelagat
Media Relations Officer

Ms. Jane Serem
Audio Officer

PART II

2.0 INTRODUCTION

2.1 Background Information

6. Article 119(1) of the Constitution provides that every person has a right to Petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation. This particular provision is operationalized by the Petitions to Parliament (Procedure) Act, 2012 and Standing Orders 219 and 220.
7. The Public Petition seeking to amend the Tourism Act, 2011 to recognize tour guides and nomination to boards of directors of the Tourism Board and other related boards by Mr. Kennedy Kaunda Omuga was conveyed to the House by the Honorable Speaker in accordance with Article 119 of the Constitution, Standing Order 225 (2) (b) and the Petition to Parliament (Procedure) Act, 2012 on 12th August, 2021. In accordance with Standing Order 227, the Petition was referred to the Departmental Committee on Sports, Culture and Tourism for consideration and reporting to the House.

2.2 The Petition

8. The Petitioner wished to draw the attention of the House to the following: -
 - 1) **That**, the East Africa Tour Guides and Drivers Association represents trained and licensed practicing Tour Guides and Drivers within Kenyan touristic circuits and the East African Community partner states with the mandate for Advocacy, Training, Skills development & sustainability for Tourism partnership & collaboration;
 - 2) **That**, in line with development of the Tourism sector within East African Community, Partner States such as Uganda, Rwanda and Tanzania through their respective Acts of Parliament endeavored to recognize and define who Tour Guides are and provided for their membership in their respective Tourism Promotion Boards;
 - 3) **That**, however, the Tourism Act, 2011, CAP 383 does not recognize or define who a Tour Guide is. Failure by the Act to recognize and define who a Tour Guide is has greatly affected the tour guide in terms of standards, remuneration and capacity building and advocacy;
 - 4) **That, Section 32** of the Tourism Act, 2011 provides for the establishment of members of Board of Directors of the Tourism Board. In particular, Section 32 (1) (f) provides that: *“Five other members nominated or selected through a competitive process taking into consideration regional balance and gender parity and appointed by the Minister, of whom –*
 - i) Two shall be nominated by the registered national tourism association.”*
 - 5) **That**, the foregoing provision does not provide clarity when it refers to national tourism, in that members from the tour guides association have never been considered for membership of the Tourism Board;
 - 6) **That**, we have made the best efforts through physical meetings to have these matters addressed by the Tourism Regulatory Authority all of which have failed to give a satisfactory response;
 - 7) **That**, none of these issues raised in this Petition is pending in any court of Law, Constitutional or any other legal body.

3.0 SUBMISSIONS AND EVIDENCE

9. Having been seized of the Petition, the Committee invited the Petitioners, and the State Department for Tourism for consultative meetings and comments on the Petition.

3.1 Petitioners – East Africa Tour Guides and Drivers Association

10. The East Africa Tour Guides and Drivers Association led by the Group Chief Executive Officer and Petitioner, Mr. Kennedy Kaunda Omuga, appeared before the Committee on 16th September, 2021 and made the following submissions:

11. **That:**

- i) East Africa Tour Guides and Drivers Association represents trained and licensed practicing Tour Guides and Drivers within Kenyan touristic circuits and the East African Community partner states with the mandate for Advocacy, Training, Skills development & sustainability for Tourism partnership & collaboration.
- ii) On 29th June, 2021 on behalf of the aforementioned Association, he did submit a Petition to the Clerk of the National Assembly. In the said Petition he prayed that the National Assembly through the Departmental Committee on Sports, Culture & Tourism amend the Tourism Act, 2011 to:
 - (a) provide for the recognition of ‘Tour Guides’ by providing for a definition of the same; and
 - (b) provide for nominations of member (s) of the ‘Tour Guides Association’ to the Kenya Tourism Board and the membership to other related Boards.
- iii) As regard to the definition of a Tour Guide, Section 2 of the Tourism be amended to provide for definition of a tour guide as follows-

Tour guide is defined to mean a person with either formal or informal training, registered and licensed to lead tour itineraries, accompanies any person who travels within or visits any place and who furnishes such person with information or comments for a fee.

- iv) Further to this definition it will be necessary to clarify the following:
 - a. That such a person shall be listed in a national registrar of tourists guides and county registrar of tourist guides to be under registered tour guides associations
 - b. That the tour guide society and the Ministry at the time responsible for Tourism will in conjunction with the ministry responsible for education develop training and accreditation mechanisms to achieve the appropriate professional career development for tour guides in Kenya.
- v) The justification for the proposed amendments to the Tourism Act is as hereunder
 - a) All persons interacting with the public to provide services in any part of the country will now be identifiable and traceable.
 - b) Persons not familiar with the travel destinations have an independent tool to use to verify bonafide service providers
 - c) It will guarantee security and protection of services innovated and provided by persons from the local to the national level

- d) It will provide formal recognition of persons that choose to invest in the service from the lowest entry level to the highest based competence acquired by formal or informal training.
 - e) It will provide a provision for a transition period to accommodate those currently in practice but also provide incentive for undertaking of training to elevate standards of practice from basic to higher levels.
 - f) The definition will structure the career path for guiding services attractive to the youth with higher levels of education. The new blood drawn into the sector will bring innovation, use of technology and raise the image of the tourism services in the country comparable to destinations such as Cape Town.
- vi) As regard to Prayer 2 on the Composition of Tourism boards for the purposes of representation by Travel Agents, Tour Operators and Tour Guides. There is need to amend the appropriate Sections to include the term **tour guides**. In particular, the following Section will need to be amended as follows -
Composition of the Tourism boards for the purposes to be represented by Travel agents, Tour Operators **and Tour guides**. The Sections that they proposed to amended to include the term tour guides include:
- a. 8g -(TRA),
 - b. 20g -(Members of council for Utalii College),
 - c. 32f -(Members of the board of directors of the Kenya Tourism Board),
 - d. 43f (Members of the Convention Center),
 - e. 54h -(Board of the Institute, Tourism Research Institute)hereinafter referred to as "the Institute"),
 - f. 67(4)d - Board of Trustee Tourism fund,
 - g. 77e -(Board of Tourism finance corporation)
- vii) Further to the proposed inclusion in the boards, there is need to provide for mechanisms aimed at managing complaints, assessing, appeal or removal of those found guilty of malpractice or convicted of breaking the law from practice. This has been provided for in legislation in other jurisdictions.
- viii) **The justifications for the proposed amendments are as follows-**
- a) Provision in the current act Section 32 (1) (f) does not make clear reference to tour guides
 - b) Provide for corrective actions against any person that may present to offer services to the public in any part of the country.
- ix) The matter canvassed in the Petition is not pending before a court of law or any other legal entity.
- x) Lastly, past efforts by tour guides to have the matter addressed has not yield fruits. To demonstrate previous effort undertaken by the tour guides to have the matter addressed, the tour guides have held physical meetings with the Tourism Regulatory Authority but no satisfactory response has been achieved.
- xi) The Committee on Sports, Culture and Tourism to consider admitting the prayers sought, and the two proposed amendments to the Tourism Act once effected, the entire tourism sector will be structured. These amendments will support the development and promotion of sustainable tourism, enable communities to maximize on the benefits from tourism while minimizing harm that may arise out of engaging in tourism. The proposed amendments

will harmonize the legislative regime in the tourism sector with comparable economies such as South Africa, Tanzania, Uganda and Rwanda.

3.2 Submissions by the State Department for Tourism

12. The Cabinet Secretary Ministry of Tourism and Wildlife submitted the following comments to the Committee:

13. **That**, Tour guiding is a critical part of tourism as good quality guiding ensures that the visitor enjoys the promised experience. The ninth schedule of the Tourism Act on “**Provisions Relating to Regulated Tourism Activities and Services**” lists all categories of regulated tourism enterprises and services from classes “**A**” to “**H**”. Tour guiding is one of regulated tourism enterprise and or service with “**Non – Citizen tour leaders or guides** listed as class “**D**”, (h) and “**Citizen tour leaders or guides** listed as Class “**E**”, (v) enterprises respectively. This clearly demonstrates tour guiding is recognized by the Tourism Act.

14. **That, on the prayers raised by the Petitioners, the Ministry responded as follows:**

i) **On the review of the Tourism Act, and enacting a legislation necessary to recognize and define who tour guides are;**

(a) Section 2 of the Tourism Act on – interpretation should be amended through subsidiary legislation to include Tour guide definition to mean “*a person trained and registered and licensed to lead tour itineraries of persons, accompanies any person who travels within or visits any place and who furnishes such person with information*”. The term ‘tourguide’ its definition in *bold italics* above should be inserted after the definition of the word ‘tourism board’ but before the definition of the word ‘tourist’ so that the terms follow the alphabetical order.

(b) Request for provision of national registrar of tourist guides and provincial registrar of tourist guides to be under registered tour guides association. This is not feasible due to:

i) Violation of Article **36 (1) and (2) of the constitution on Freedom of association** which states; every person has the right to freedom of association, which includes the right to form, join or participate in the activities of an association of any Kind and that a person shall not be compelled to join an association of any Kind.

ii) Tour guides among other specified tourism activities and services in the ninth schedule of Tourism Act and whom voluntarily are members of various associations are regulated by the Tourism Regulatory Authority.

iii) The Societies Act. Cap 108, and Associations Bill 2018 are the relevant statutes for registration and incorporation of all associations in the Country.

(c) East Africa Tour and Driver Guides Association (EATDGA) is one of the several ~~tour~~ guide associations regulated by Tourism Regulatory Authority. Others are:

(i) Safari Guide Professional Association of Kenya

(ii) Coast Tour Guides Association

(iii) Kenya Professional Safari Guides Association

(iv) Mara Guides Association

- (v) Freelance Tour Guides Association
- (vi) Kenya Tour Guide Drivers Association
- (vii) South Coast Tour Guides and Drivers Association

ii) **On amendment to Section 32 (1) to introduce clarity and provide for nomination of member(s) from the Tour Guides Association to Board of directors of the Tourism board and membership to the other related boards,** the issues of representation to the Boards, the Act allows appointments of representatives from the sector. The sector comprises other subsectors-hotels, restaurants, entertainment, tour operators, travel agents and other related establishments.

15. There are many local, regional and national tourism associations in the country and more are expected to be registered. It is important to note, that the Kenya Tourism Federation (KTF) is recognized as the umbrella association for the sector. In order to ensure representation of the sector associations in boards of agencies in tourism, KTF in consultation with member associations submits names of persons with required competencies for appointment to the respective boards of an agency. This ensures that interests of all member associations are articulated.

16. Other Tourism Associations are:

- i) Kenya Tourism Federation (KTF) - the umbrella tourism association in the country.
- ii) Kenya Association of Hotel Keepers and Caterers (KAHC)- the national association for hoteliers and hospitality institutions
- iii) Pubs, Entertainment and Restaurants Association of Kenya (PERAK)-lobby association for bars and entertainment joints and which operates closely with KAHC.
- iv) Kenya Association of Tour Operators (KATO) - National association for tour operators.
- v) Kenya Coast Tourism Association (KCTA) - a regional association on tourism for the coast region.
- vi) Kenya Budget Hotels Association- lobbies for affordable rates for domestic travelers.
- vii) Kenya Association of Travel Agents (KATA) - a national association for travel agents.
- viii) North Rift Tourism Association
- ix) Mount Kenya Tourist Association
- x) Kenya Community Based Tourism Network (KECOBAT)
- xi) Tour Operators Society of Kenya (TOSK)- Comprises tour operators, mostly domestic operators
- xii) Retail Traders Association of Kenya (RETRAK) - provides a voice for retail outlets that offer food and drink and are mostly situated in larger malls, petrol service stations and the likes.

4.0 COMMITTEE OBSERVATIONS

17. The Committee considered the Petition and observed that:

- 17.1 The tourism sector is mainly dependent on the private sector and not the Ministry of Tourism and persons who work in the tourism sector are basically private individuals such as the tour guides and they not employed by tour operators.
- 17.2 The Tourism Act, No. 28 of 2011 does not define the term “tour guide” but the Act recognizes tour guides and the Ninth Schedule to the Act provides for segmentation tour guides as citizen and non-citizen tour guides.
- 17.3 The Ninth Schedule to the Tourism Act sets out the categories of regulated tourism enterprises and services which range from class “A” to “H”. Tour guiding is a regulated tourism enterprises and or service and “**Non-citizen tour leaders or guides** categorized as **class “D”, (h)** and “**Citizen tour leaders orguides** listed as **Class “E”, (v)** enterprises respectively.
- 17.4 The Act provides for appointment of representatives of the tourism sector to the Board and further observed that the sector is comprised of other subsectors such as hotels, restaurants, entertainment venues, tour operators, travel agents and other related establishments.
- 17.5 There exists numerous local, regional and international national tourism associations in the country and more are expected to be registered. It is important to note, that the Kenya Tourism Federation (KTF) is recognized as the umbrella association for the sector. In order to ensure representation of the sector associations in boards of agencies in tourism, Kenya Tourism Federation in consultation with member associations submits names of persons with required competencies for appointment to the respective boards of an agency. This will ensure that interests of all member associations are articulated.

5.0 COMMITTEE RECOMMENDATIONS

18. Having considered the Petition, the Committee recommends as follows:

18.1 The Tourism Act, No. 28 of 2011 be amended to provide a definition of the term “tour guide” and recognition of tour guides. The Committee recommends that Section 2 of the Act be amended to provide for the definition of interpretation of tour guide as follows—

“tour guide” means a person trained, registered and licensed to lead tour itineraries of persons, accompanies any person who travels within or visits any place and who furnishes such person with information”.

18.2 The prayer seeking amendment of Section 32 (1) (f) of the Tourism Act, No. 28 of 2011 to provide for appointment of representatives of Tour Guides Association as members of the Board of Directors of the Tourism Board and appointment of representatives of tour guides association as members of the Boards of other entities responsible for regulation development and marketing of tourism be not agreed to since—

(a) Section 32 (1) (f) of the Act to provides for appointment of representatives of Tour Guides Associations to the Board of Directors of the Tourism Board and the Boards of the other entities which are responsible for regulation, development and marketing of tourism; and,

(b) The Kenya Tourism Federation (KTF) is recognized as the umbrella association for the sector therefore; to ensure representation of associations in the sector in the Boards of the various agencies in the tourism sector, the Federation should consult with members of the respective associations, submit names of persons with the relevant competencies for appointment to the respective Boards. Therefore, the Committee recommends that the Petitioner seeks appointment of representative of tour guides to the respective Boards through the Kenya Tourism Federation which is the umbrella body for tour guides associations.

Signed: Date:

03, 03-2022

(THE HON. PATRICK MAKAU KINGÓLA, M.P.)

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND
TOURISM



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – (FIFTH SESSION)

**MINUTES OF THE 25TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
SPORTS, CULTURE AND TOURISM HELD ON THURSDAY 16TH SEPTEMBER, 2021
AT 12:150 PM**

PRESENT

- | | | |
|--|---|-------------------------|
| 1. The Hon. Patrick Makau King'ola, MP. | - | Chairperson |
| 2. The Hon. (Dr.) Korei Ole Lemein, MP. | - | Vice Chairperson |
| 3. The Hon. Christopher Omulele, CBS, MP | | |
| 4. The Hon. Daniel Wanyama Sitati, MP. | | |
| 5. The Hon. Jones Mlolwa, MP. | | |
| 6. The Hon. (Prof.) Jacqueline Oduol, MP. | | |
| 7. The Hon. Florence Chepngetich Bore, MP. | | |
| 8. The Hon. Rehema Dida Jaldesa, MP | | |
| 9. The Hon. Charles Nguna, MP | | |
| 10. The Hon. Mohamed Hire Garane, MP. | | |
| 11. The Hon. Sylvanus Maritim, MP. | | |

APOLOGY

1. The Hon. Kubai Iringo, MP.
2. The Hon. Jayne Nyeri Wanjiru Kihara, MP.
3. The Hon. (Dr.) Tecla Chebet Tum, MP.
4. The Hon. Jeremiah Lomorukai, MP.
5. The Hon. Beatrice Kones, MP.
6. The Hon. Lydia Haika Mnene Mizighi, MP.
7. The Hon. Titus Mukhwana Khamala, MP.
8. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP.

IN-ATTENDANCE -NATIONAL ASSEMBLY

THE SECRETARIAT

- | | | |
|------------------------|---|------------------------|
| 1. Mr. Samuel Kalama | - | Senior Clerk Assistant |
| 2. Mr. Fredrick Otieno | - | Second Clerk Assistant |
| 3. Mr. Peter Mwaura | - | Senior Legal Counsel |
| 4. Ms. Jane Serem | - | Audio Officer |

IN-ATTENDANCE- EAST AFRICA TOUR GUIDES AND DRIVERS ASSOCIATION

1. Mr. Kennedy Kaunda- Group CEO, and petitioner
2. Dr. Kefa Bosire Ogonyo-Patron
3. Mr. Felix Migoya- Secretary General

MIN.NO.NA/SCT/2021/101: PRELIMINARIES & ADOPTION OF AGENDA

The Chairperson called the meeting to order at Quarter past noon and said a prayer. The agenda of the meeting was adopted as hereunder having been proposed and seconded by the Hon. Charles Nguna, MP and the Hon. Daniel Wanyama, MP respectively.

AGENDA

1. Prayers
2. Introductions/preliminaries
3. Communication from the Chair
4. Confirmation of Previous Minutes
5. Matters arising
6. Pending Bills: None
7. Pending Petition(s): None
8. Questions:
 - (i) Question No. 115/2021 by the Hon. David Gikaria, MP to the Cabinet Secretary for Sports, Culture & Heritage regarding details of names of football teams under the Kenyan Premier League that are sponsored by the betting and lottery companies in the country and the amount of sponsorship in respect of each team or club;
 - (ii) Question No. 181/2021 by the Hon. Christopher Omulele, CBS, MP to the Cabinet Secretary for Sports, Culture & Heritage regarding status of Constituency Sports Academies
 - (iii) Question No. 213/2021 by the Hon. Malulu Injendi , MP to the Cabinet Secretary for Sports, Culture & Heritage regarding government plans to provide comprehensive medical cover for football players in national teams; and
 - (iv) Question No. 216/2021 by the Hon. Omar Mwinyi , MP to the Cabinet Secretary for Tourism & Wildlife regarding measures to revive the Akamba Handcraft Industry and Soapstone business
9. Statements: none
10. **Meeting with Mr. Kennedy Kaunda Omuga on public petition regarding proposed amendments to the Tourism Act, 2011 to recognize Tour Guides and nomination to Board of the Tourism Board and other related Boards**
11. Any Other Business
12. Adjournment & Date for the Next Sitting

MIN.NO.NA/SCT/2021/ 102 – SUBMISSION BY MR KENNEDY KAUNDA ON THE

PUBLIC ON PETITION TO AMEND THE TOURISM ACT, No. 28 of 2011 TO RECOGNISE TOUR GUIDES AND

NOMINATION TO BOARD OF THE KENYA TOURISM BOARD

The Chairperson invited the petitioner, Kennedy Kaunda to shed light on his petition. Mr. Kennedy Kaunda informed the Committee as follows:-

THAT:-

1. East Africa Tour Guides and Drivers Association represents trained and licensed practicing Tour Guides and Drivers within Kenyan touristic circuits and the East African Community partner states with the mandate for Advocacy, Training, Skills development & sustainability for Tourism partnership & collaboration.
2. On 29th June, 2021 on behalf of the aforementioned Association, he did submit a petition to the Clerk of the National Assembly. In the said petition he prayed that the National Assembly through the Departmental Committee on Sports, Culture & Tourism amend the Tourism Act, 2011 to:
 - (a) provide for the recognition of 'Tour Guides' by providing for a definition of the same; and
 - (b) provide for nominations of member (s) of the 'Tour Guides Association' to the Kenya Tourism Board and the membership to other related Boards.
3. As regard to the definition of a Tour Guide, Section 2 of the Tourism be amended to provide for definition of a tour guide as follows-

Tour guide is defined to mean a person with either formal or informal training, registered and licensed to lead tour itineraries, accompanies any person who travels within or visits any place and who furnishes such person with information or comments for a fee.

4. Further to this definition it will be necessary to clarify the following:
 - a. That such a person shall be listed in a national registrar of tourists guides and county registrar of tourist guides to be under registered tour guides associations
 - b. That the tour guide society and the Ministry at the time responsible for Tourism will in conjunction with the ministry responsible for education develop training and accreditation mechanisms to achieve the appropriate professional career development for tour guides in Kenya.
5. The justification for the proposed amendments to the Tourism Act is as hereunder
 - i. All persons interacting with the public to provide services in any part of the country will now be identifiable and traceable.
 - ii. Persons not familiar with the travel destinations have an independent tool to use to verify bonafide service providers
 - iii. It will guarantee security and protection of services innovated and provided by persons from the local to the national level

- iv. It will provide formal recognition of persons that choose to invest in the service from the lowest entry level to the highest based competence acquired by formal or informal training.
 - v. It will provide a provision for a transition period to accommodate those currently in practice but also provide incentive for undertaking of training to elevate standards of practice from basic to higher levels.
 - vi. The definition will structure the career path for guiding services attractive to the youth with higher levels of education. The new blood drawn into the sector will bring innovation, use of technology and raise the image of the tourism services in the country comparable to destinations such as Cape Town.
6. As regard to Prayer 2 on the Composition of Tourism boards for the purposes of representation by Travel Agents, Tour Operators and Tour Guides. There is need to amend the appropriate sections to include the term **tour guides**. In particular, the following section will need to be amended as follows -

Composition of the Tourism boards for the purposes to be represented by Travel agents, Tour Operators **and Tour guides**. The Sections that they proposed to amended to include the term tour guides include:

- a. 8g -(TRA),
 - b. 20g -(Members of council for Utalii College),
 - c. 32f -(Members of the board of directors of the Kenya Tourism Board),
 - d. 43f (Members of the Convention Center),
 - e. 54h -(Board of the Institute, Tourism Research Institute)hereinafter referred to as "the Institute"),
 - f. 67(4)d - Board of Trustee Tourism fund,
 - g. 77e -(Board of Tourism finance corporation)
7. Further to the proposed inclusion in the boards, there is need to provide for mechanisms aimed at managing complaints, assessing, appeal or removal of those found guilty of malpractice or convicted of breaking the law from practice. This has been provided for in legislation in other jurisdictions.
8. **The justification for the proposed amendments are as follows-**
- i. Provision in the current act section 32 (1) (f) does not make clear reference to tour guides
 - ii. Provide for corrective actions against any person that may present to offer services to the public in any part of the country.
9. The matter canvassed in the petition is not pending before a court of law or any other legal entity.
10. Lastly, past efforts by tour guides to have the matter addressed has not yield fruits. To demonstrate previous effort undertaken by the tour guides to have the matter addressed, the tour guides have held physical meetings with the Tourism Regulatory Authority but no satisfactory response has been achieved.

11. The Committee on Sports, Culture and Tourism to consider admitting the prayers sought, and the two proposed amendments to the Tourism Act once effected, the entire tourism sector will be structured. These amendments will support the development and promotion of sustainable tourism, enable communities to maximize on the benefits from tourism while minimizing harm that may arise out of engaging in tourism. The proposed amendments will harmonize the legislative regime in the tourism sector with comparable economies such as South Africa, Tanzania, Uganda and Rwanda.

The Committee raised the following concerns-

Whether tour guides operate independently from tour operators, it was clarified by the petitioner that most tour guides are not employed by tour operators. He further added that the tourism sector is largely dependent on the private sector and not the ministry of tourism. The personnel who works in the tourism sector are basically private individuals such as the tour guides hence their recognition in law will aid the growth of the tourism sector.

Lack of minimum qualification for tour guides; it was observed that most tour guides are not trained. However, the petitioner clarified that the ministry of Tourism is in the process of developing curriculum to train tour guides and other stakeholders in the hospitality industry. Tour guides are licensed by the Tourism Regulatory Authority. Tour guides without formal training are required to undertake a competency course before they are licensed. He further added that the Tourism Regulatory Authority has recognized people who are conversant and have knowledge on an area or locality and they can work as tour guides.

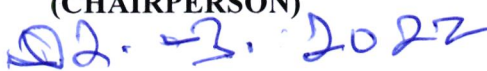
MIN.NO.NA/SCT/2021/103: ADJOURNMENT AND DATE OF NEXT MEETING

There no other business and the time being half past One O'clock, the meeting was adjourned. The next meeting will be held on a date to be communicated.

Signed.....


HON. PATRICK MAKAU KINGÓLA, M.P
(CHAIRPERSON)

Date.....





REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – (FIFTH SESSION)

**MINUTES OF THE 24TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
SPORTS, CULTURE AND TOURISM HELD VIRTUALLY ON THURSDAY 9TH
SEPTEMBER, 2021 AT 10:20 AM**

PRESENT

- | | | |
|--|---|-------------------------|
| 1. The Hon. Patrick Makau King'ola, MP. | - | Chairperson |
| 2. The Hon. (Dr.) Korei Ole Lemein, MP. | - | Vice Chairperson |
| 3. The Hon. Christopher Omulele, CBS, MP | | |
| 4. The Hon. Kubai Iringo, MP. | | |
| 5. The Hon. Daniel Wanyama Sitati, MP. | | |
| 6. The Hon. (Prof.) Jacqueline Oduol, MP. | | |
| 7. The Hon. Florence Chepngetich Bore, MP. | | |
| 8. The Hon. Rehema Dida Jaldesa, MP | | |
| 9. The Hon. Charles Nguna, MP | | |
| 10. The Hon. Mohamed Hire Garane, MP. | | |
| 11. The Hon. Sylvanus Maritim, MP. | | |
| 12. The Hon. Jane Jepkorir Kiptoo Chebaibai, MP. | | |

APOLOGY

1. The Hon. Jones Mlolwa, MP.
2. The Hon. Jayne Nyeri Wanjiru Kihara, MP.
3. The Hon. (Dr.) Tecla Chebet Tum, MP.
4. The Hon. Jeremiah Lomorukai, MP.
5. The Hon. Beatrice Kones, MP.
6. The Hon. Lydia Haika Mnene Mizighi, MP.
7. The Hon. Titus Mukhwana Khamala, MP.

IN-ATTENDANCE -NATIONAL ASSEMBLY
THE SECRETARIAT

- | | | |
|----------------------|---|------------------------|
| 1. Mr. Samuel Kalama | - | Senior Clerk Assistant |
| 2. Mr. Peter Mwaura | - | Senior Legal Counsel |
| 3. Ms. Jane Serem | - | Audio Officer |

MIN.NO.NA/SCT/2021/101: PRELIMINARIES & ADOPTION OF AGENDA

The Chairperson called the meeting to order at twenty minutes past Ten O'clock and said a prayer. The agenda of the meeting was adopted as hereunder having been proposed and seconded by the Hon. Charles Nguna, MP and the Hon. Daniel Wanyama, MP respectively.

AGENDA

1. Prayers
2. Introductions/preliminaries
3. Communication from the Chair
4. Confirmation of Previous Minutes
5. Matters arising
6. Pending Bills: None
7. Pending Petition(s): None
8. Questions:
 - (i) Question No. 115/2021 by the Hon. David Gikaria, MP to the Cabinet Secretary for Sports, Culture & Heritage regarding details of names of football teams under the Kenyan Premier League that are sponsored by the betting and lottery companies in the country and the amount of sponsorship in respect of each team or club;
 - (ii) Question No. 181/2021 by the Hon. Christopher Omulele, CBS, MP to the Cabinet Secretary for Sports, Culture & Heritage regarding status of Constituency Sports Academies
 - (iii) Question No. 213/2021 by the Hon. Malulu Injendi, MP to the Cabinet Secretary for Sports, Culture & Heritage regarding government plans to provide comprehensive medical cover for football players in national teams; and
 - (iv) Question No. 216/2021 by the Hon. Omar Mwinyi, MP to the Cabinet Secretary for Tourism & Wildlife regarding measures to revive the Akamba Handcraft Industry and Soapstone business
9. Statements: none
10. **Consideration of a Public Petition to amend the Tourism Act, No. 28 of 2011**
11. Any Other Business
12. Adjournment & Date for the Next Sitting

MIN.NO.NA/SCT/2021/ 98 - BRIEF BY THE LEGAL COUNSEL ON PETITION TO AMEND THE TOURISM ACT, No. 28 of 2011

The Chairperson invited the Legal Counsel to brief the Committee on the petition. The Legal Counsel thereupon briefed the Committee as follows:-

THAT:-

1. The petitioner, Mr. Kennedy Kaunda, is the Group Chief Executive Officer of the East Africa Tour Guides and Drivers Association.
2. The East African Tour Guides and Drivers Association represents trained and licensed Tour Guides and Drivers practicing in the region.

3. The petitioner observes that other the East African Community members states specifically, Uganda, Rwanda and Tanzania have provided for the recognition of 'Tour Guides and Drivers' in their respective local laws and observes that there is adequate justification for Kenya to actualize a similar development.
4. The petitioner state that the three Partner States have achieved this by—
 - (a) Providing for the recognition of 'Tour Guides and Drivers' within their respective local laws by providing a legal definition for the term 'Tour guide'; and
 - (b) Providing for the nomination of a representative of 'Tour Guides and Drivers' within the leadership of their respective tourism authorities.
5. The petitioner also states that the Tourism Act, 2011, *No. 28 of 2011* neither provides for the recognition of a "Tour Guide" nor does it provide for the recognition of 'Tour Guides and Drivers' in the leadership space of the Kenyan tourism sector i.e. the Kenya Tourism Board.
6. The petitioner further observes that Section 32(1)(f) provides that the Board shall consist of five other members nominated through a competitive process taking into account regional balance, gender parity and appointed by the Minister, of whom—
 - (i) two shall be nominated by the registered national tourism associations;**
7. The petitioner is of the view that there has been sustained non-compliance with paragraph (i) because 'Kenyan Tour Guides Associations' have never been offered the opportunity to nominate two members to the Kenya Tourism Board as required by law;
8. The petitioner also notes that efforts have been made through physical meetings with Tourism Board to have the matter addressed but all such efforts have failed to culminate to the desired outcome which is to have Kenyan Tourism Associations nominate to two (2) Board members;
9. He also notes that none of the issues raised in the Petition are pending before any court of law, constitutional or any other legal body.
10. The petitioner THEREFORE prays that the National Assembly amends the Tourism Act to—
 - (a) provide for the recognition of 'Tour Guides and Drivers' by providing for a definition of the same; and
 - (b) provide for nominations of member (s) of the 'Tour Guides Association' to the Kenya Tourism Board and the membership to other related Boards.

The Committee noted the brief by the Legal Counsel on the petition and resolved that the petitioner be invited for a meeting with the Committee on Tuesday, 14th September, 2021 to shed light on the petition.

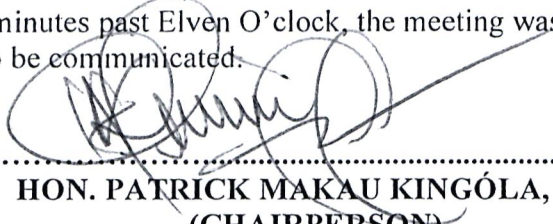
MIN.NO.NA/SCT/2021/099- ANY OTHER BUSINESS

The Committee resolved to hold a retreat to deliberate on the budget implementation status for the FY 2020/2021, implementation of key projects by Kenya Tourism Board, Kenyatta International Conventional Centre and the Bomas of Kenya in Mombasa County from Thursday, 23rd to 27th September, 2021.

MIN.NO.NA/SCT/2021/100: ADJOURNMENT AND DATE OF NEXT MEETING

The time being fifteen minutes past Eleven O'clock, the meeting was adjourned. The next meeting will be held on a date to be communicated.

Signed.....



**HON. PATRICK MAKAU KINGÓLA, M.P
(CHAIRPERSON)**

Date.....



30/09/2021



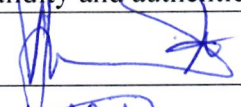



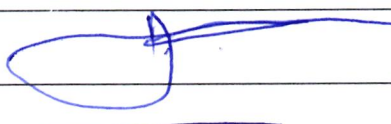

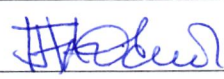
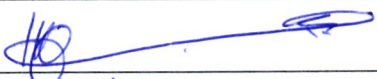

REPUBLIC OF KENYA

NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM

ADOPTION OF THE REPORT ON CONSIDERATION OF A PUBLIC PETITION BY MR. KENNEDY KAUNDA OMUGA REGARDING PROPOSED AMENDMENTS TO THE TOURISM ACT, NO. 28 OF 2011 TO RECOGNIZE TOUR GUIDES AND APPOINTMENT TO BOARDS OF DIRECTORS OF THE TOURISM BOARD AND OTHER RELATED BOARDS

We, the undersigned Honorable Members of the Departmental Committee on Sports, Culture and Tourism, today 9th February, 2022 do hereby affix our signatures to this **Report on the Consideration of a Public Petition by Mr. Kennedy Kaunda Omuga regarding proposed amendments to the Tourism Act, No. 28 of 2011 to recognize Tour Guides and appointment to Boards of Directors of the Tourism Board and other related Boards** to affirm our approval and confirm their accuracy, validity and authenticity: -

1.	The Hon. Patrick Makau King'ola, MP. - Chairperson	
2.	The Hon. (Dr.) Korei Ole Lemein, MP. - Vice-Chairperson	
3.	The Hon. Christopher Omulele, CBS, MP.	
4.	The Hon. Cyprian Kubai Iringo, MP.	
5.	The Hon. Jones Mlolwa, MP.	
6.	The Hon. Daniel Wanyama Sitati, MP.	
7.	The Hon. (Prof.) Jacqueline Oduol, MP.	
8.	The Hon. (Dr.) Tecla Chebet Tum, MP.	
9.	The Hon. Jane Jepkorir Kiptoo Chebaibai, MP.	
10.	The Hon. Lydia Haika Mnene Mizighi, MP.	
11.	The Hon. Sylvanus Maritim, MP.	
12.	The Hon. Jeremiah Lomurukai, MP.	
13.	The Hon. Charles Ngusya Nguna, MP.	
14.	The Hon. Titus Mukhwana Khamala, MP.	

15.	The Hon. Beatrice Kones, MP.	<i>Plans</i>
16.	The Hon. Jayne Nyeri Wanjiru Kihara, MP.	<i>←</i>
17.	The Hon. Mohamed Hire Garane, MP.	<i>Mohamed</i>
18.	The Hon. Florence Chepngetich Bore, MP.	<i>←</i>
19.	The Hon. Rehema Dida Jaldesa, MP.	<i>[Signature]</i>



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY (FIFTH SESSION)

CONVEYANCE OF A PUBLIC PETITION

(No. 032 of 2021)

RECOGNITION AND INCORPORATION OF REPRESENTATIVES
OF TOUR GUIDES IN TOURISM RELATED BOARDS

Honourable Members, Standing Order 225(2)(b) requires the Speaker to report to the House any petition, other than those presented by a Member. Further, Article 119 of the Constitution provides for the right of any person to petition Parliament to consider any matter within its authority, including petitioning the House to enact, amend or repeal any legislation.

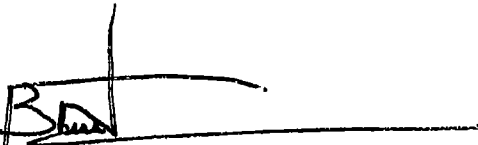
In this regard, **Honourable Members**, I wish to report to the House that my office has received a petition from an organization known as *The East Africa Tour Guides and Drivers Association* of P.O. Box 26176 Nairobi calling for "the entrenchment of the definition of 'tour guides' in the *Tourism Act* as well as the inclusion of a tour guides representative in the *Tourism Board* and other tourism-related boards."

The petitioners introduce themselves as an association that represents trained and licensed practicing tour guides and drivers within Kenyan and East African touristic circuits, and which is mandated to undertake advocacy, training, skills development and sustainability of tourism partnership and collaboration. They decry the fact that the *Tourism Act*, 2011 fails to recognize tour guides as exemplified by the fact that it does not define who a tour guide is, thereby affecting professionals who engage in this industry in terms of remuneration, capacity building and advocacy. This lack of recognition is additionally blamed for their non-inclusion in the Board of Directors of the *Tourism Board*.

Consequently, **Honourable Members**, the petitioners seek the intervention of this House in amending the Tourism Act, 2011 so as to define tour guides as is the case in Rwanda, Uganda and Tanzania. The petitioners also seek the amendment of section 32(1)(f) of the said Act to include tour guide associations as part of membership of the Board of Directors of the Tourism Board and of other related boards.

Honourable Members, pursuant to the provisions of Standing Order 227(1), this Petition stands committed to the Departmental Committee on Sports, Culture and Tourism. The Committee is requested to consider the petition and report its findings to the House and to the petitioners in accordance with Standing Order 227(2).

I thank you!



THE HON. JUSTIN B.N. MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Wednesday, August 11, 2021



EAST AFRICA TOUR GUIDES & DRIVERS ASSOCIATION

Southgate Centre West wing Mkoma rd. South B
Second Flr. Door S1-E
P.O BOX 26176-00504 Nairobi Kenya
TEL: +254 793 723 308 / 735 988 003
E-mail: eatgda@gmail.com / info@eatgda.com
www.eatgda.com

Samuel Kalama
pls facilitate
29/6/21

28th June 2021

REF/EATGDA/APPT/PS/TOUR/2021

The Clerk of the National Assembly
P.O. Box 41842 -00100
Nairobi.

D/C 29/6/21

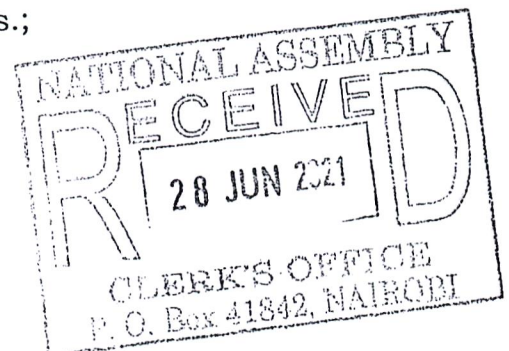
RE: - PUBLIC PETITION REGARDING PROPOSED AMENDMENT TO THE TOURISM ACT, 2011 TO RECOGNISE TOUR GUIDES AND NOMINATION TO BOARDS OF DIRECTORS OF THE TOURISM BOARD AND OTHER RELATED BOARDS

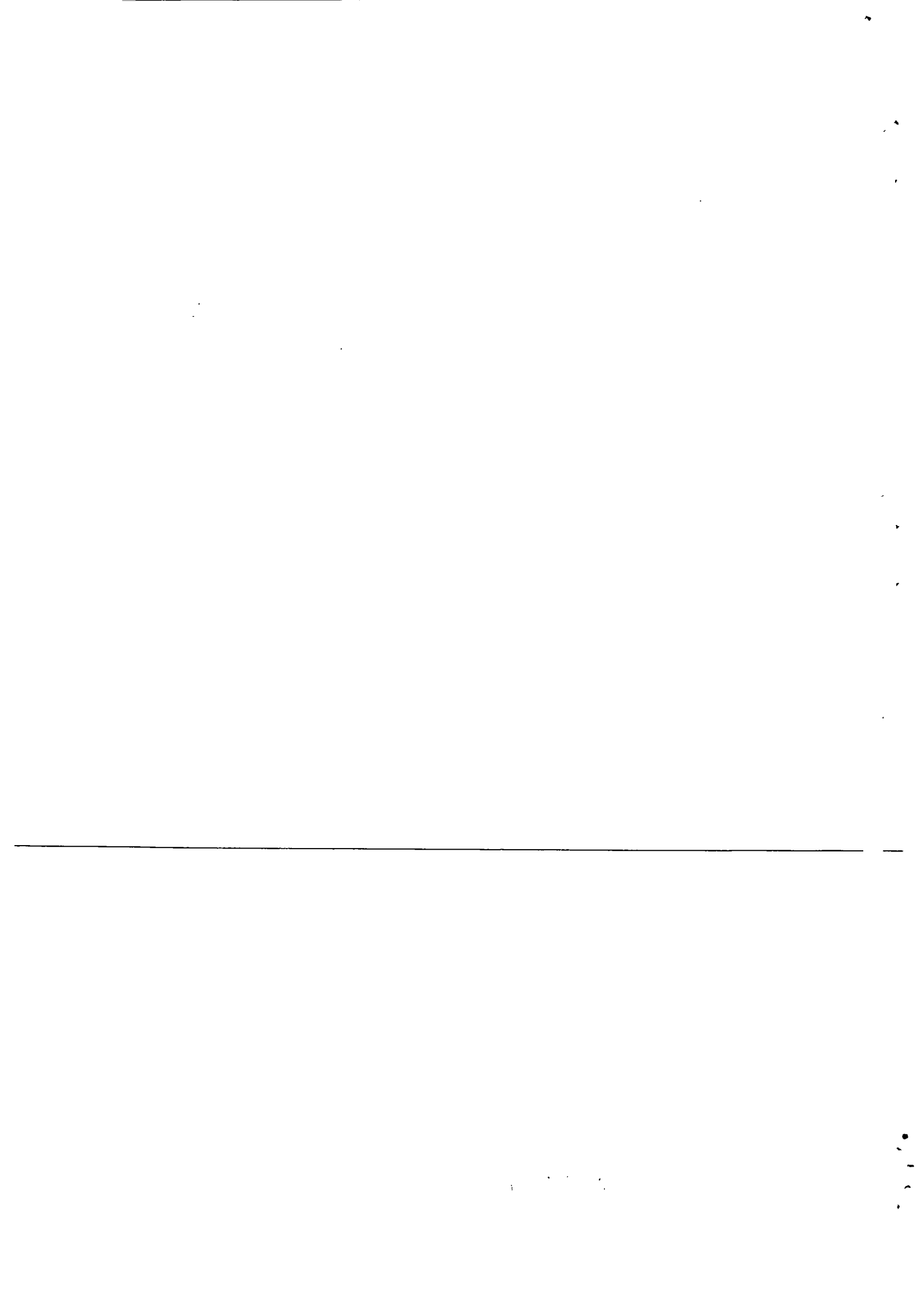
The above matter refers.

East Africa Tour Guides and Drivers Association represents trained and licensed practicing Tour Guides and Drivers within Kenyan touristic circuits and the East African Community partner states with the mandate for Advocacy, Training, Skills development & sustainability for Tourism partnership & collaboration.

In line with development of the Tourism sector within East African Community Partner States, we hereby request for the committee to consider amendments of the Bill to match steps taken by Uganda, Rwanda and now in Tanzania with the emphasis on the following areas: -

- i. Section 2 –Interpretations of a:
 - a. Tour Guide (definition) to mean –a person trained and registered and licensed to lead tour itineraries of persons, accompanies any person who travels within or visits any place and who furnishes such person with information or comments.;







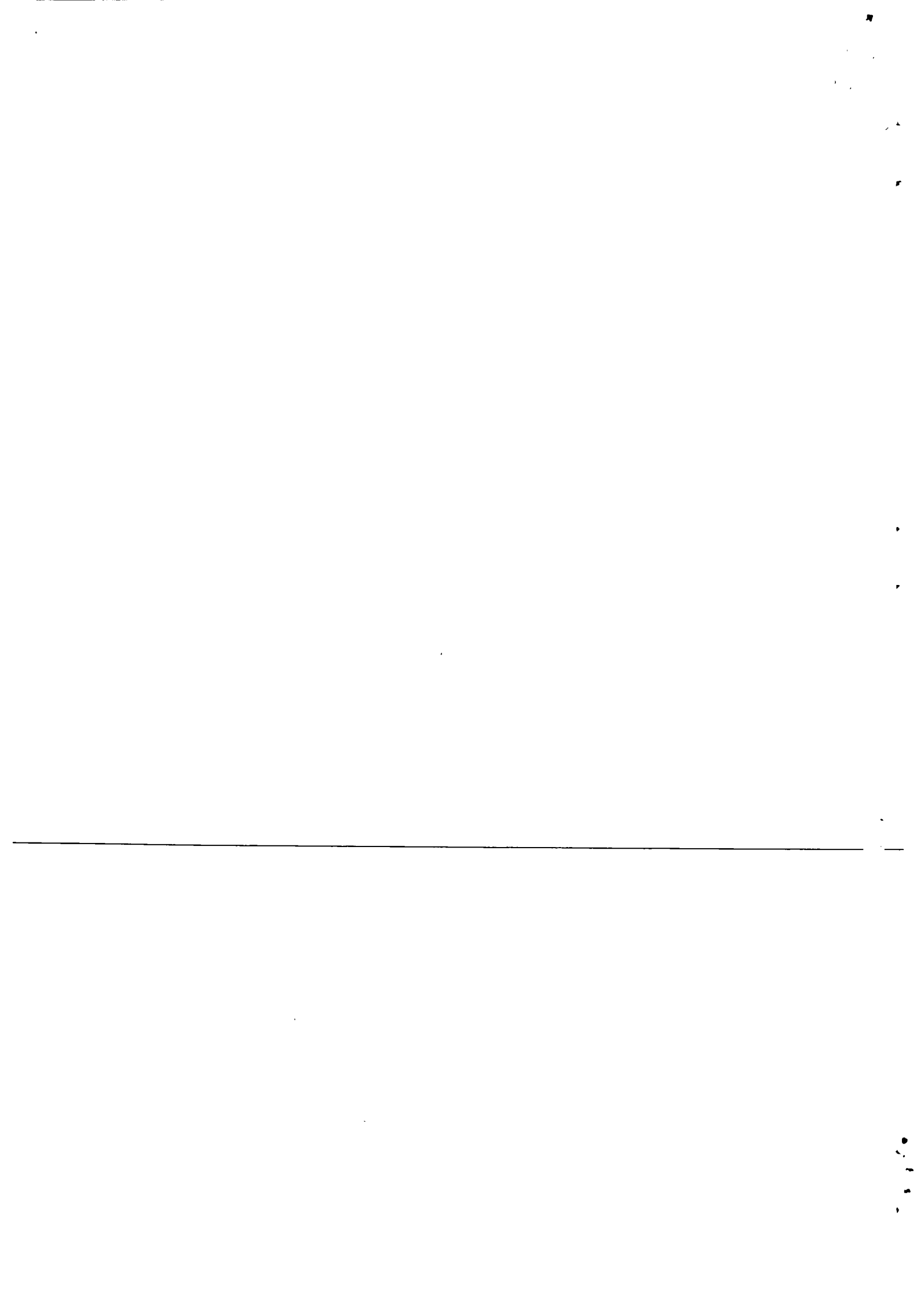
b. Request for provision of national registrar of tourists guides and provincial registrar of tourist guides to be under registered tour guides associations

ii. Composition of the Tourism boards for the purposes to be represented by Travel agents, Tour Operators **and Tour guides**. Please see the attached proposed draft taking example from South Africa a leading market in Africa

The purpose of this letter is to kindly forward the attached petition for the consideration of the House with a view to harmonize Tourism Act 383 and establish an integrated Tourism policy that will enable tour guides optimize the benefits from Tourism to our country as one of the stakeholders in the industry. We are willing and available for any additional explanation or consultation by your office.

With kind regards

KENNEDY KAUNDA OMUGA
Chief Executive Officer.
Cc: Chairman Parliamentary Committee
Tourism and wildlife National Assembly.



PUBLIC PETITION REGARDING PROPOSED AMENDMENT TO THE TOURISM ACT, 2011 TO RECOGNISE TOUR GUIDES AND NOMINATION TO BOARDS OF DIRECTORS OF THE TOURISM BOARD AND OTHER RELATED BOARDS

I, the undersigned of ID No. 9149551, on behalf of representatives of the East Africa Tour Guides and Drivers Association that represents trained and licensed practicing Tour Guides and Drivers within Kenyan touristic circuits and the East African Community partner states;

DRAW the attention of the National Assembly to the following:-

1. **THAT**, the East Africa Tour Guides and Drivers Association represents trained and licensed practicing Tour Guides and Drivers within Kenyan touristic circuits and the East African Community partner states with the mandate for Advocacy, Training, Skills development & sustainability for Tourism partnership & collaboration;
2. **THAT**, in line with development of the Tourism sector within East African Community, Partner States such as Uganda, Rwanda and Tanzania through their respective Acts of parliament endeavored to recognize and define who Tour Guides are and provided for their membership in their respective Tourism Promotion Boards,
3. **THAT**, However, the Tourism Act, 2011, CAP 383 does not recognize or define who a Tour Guide is. Failure by the Act to recognize and define who a Tour Guide has greatly affected the tour guide in terms of standards, remuneration and capacity building and advocacy;
4. **THAT**, Section 32 of the Tourism, Act 2011 provides the establishment of members of Board of Directors of the Tourism Board. In particular section 32 (1) (f) provides



**PUBLIC PETITION REGARDING PROPOSED AMENDMENT TO THE
TOURISM ACT, 2011 TO RECOGNISE TOUR GUIDES AND NOMINATION TO
BOARDS OF DIRECTORS OF THE TOURISM BOARD AND OTHER
RELATED BOARDS**

that:-

Five other members nominated or selected through a competitive process taking into consideration regional balance and gender parity and appointed by the Minister, of whom—

- (i) *two shall be nominated by the registered national tourism associations;*
5. **THAT**, The foregoing provision does not provide clarity when it refers to national tourism, in that members from the tour guides association have never been considered for membership of the Tourism Board;
 6. **THAT**, we have made the best efforts through physical meetings to have these matters addressed by the Tourism Regulatory Authority all of which have failed to give a satisfactory response;
 7. **THAT**, none of these issues raised in this Petition is pending in any court of Law, Constitutional or any other legal body.

WHEREFORE, your humble petitioners pray that the National Assembly through the Departmental Committee on Sports, Culture & Tourism-

1. Review the Tourism Act, and enact a legislation necessary to recognize and define who tour guides are;
2. Cause amendment to Section 32 (1) (f) to introduce clarity and provide for nominations of member (s) from the Tour Guides Association to Board of Directors of the Tourism Board and membership to other related Boards

KENNEDY KAUNDA OMUGA
GROUP CHIEF EXECUTIVE OFFICER
EAST AFRICA TOUR GUIDES AND DRIVERS ASSOCIATION





MINISTRY OF TOURISM AND WILDLIFE
STATE DEPARTMENT FOR TOURISM
OFFICE OF THE PRINCIPAL SECRETARY

Fax No.: +254-020-3310983
Telephone: +254-020-3315001
Email: pstourism2018@gmail.com
When replying please quote

NSSF Building, BLOCK "A"
P.O. Box 30430-00100
NAIROBI GPO

Ref. MOT/1/14/1

15th October, 2020

The Clerk of the National Assembly
National Assembly
Parliament Buildings
P. O. Box 41842-00100
NAIROBI (Attention: Samuel Kalama & Fredrick Otieno)

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM TO RESPOND TO A PETITION REGARDING RECOGNITION AND INCORPORATION OF REPRESENTATIVES OF TOUR GUIDES IN TOURISM RELATED BOARDS BY THE DEPARTMENTAL COMMITTEE ON SPORTS, CULTURE AND TOURISM

Reference is made to the above subject matter.

We wish to acknowledge receipt of your letter Ref. NA/DDC/SCT/2021 (033) dated 12th October, 2021 requesting for review of the afore cited petition and submission of comments on Tuesday, 19th October, 2021 in Committee Room on 4th floor, Continental House, Parliament Building.

We wish to notify you that the Cabinet Secretary has nominated Mr. Joseph Boinet, Chief Administrative Secretary and the Principal Secretary, Hon. Safina Kwekwe Tsungu to represent the Ministry in response to the petition before the Committee.

The purpose of this letter, therefore is to confirm our attendance to the physical meeting on **Tuesday, 19th October, 2021 at 12 noon**. A comprehensive response will be provided by **C.O.B 18th October, 2021**.

Hon. Safina Kwekwe Tsungu, CBS
PRINCIPAL SECRETARY

Copy to: The Cabinet Secretary
Ministry of Tourism and Wildlife

The Chief Administrative Secretary
Ministry of Tourism & Wildlife



MINISTRY OF TOURISM & WILDLIFE

**SUBMISSIONS BY THE CABINET SECRETARY MINISTRY OF TOURISM AND WILDLIFE
TO THE PARLIAMENTARY COMMITTEE ON SPORTS CULTURE AND TOURISM ON
CONSIDERATION OF THE PUBLIC PETITION REGARDING RECOGNITION AND
INCORPORATION OF REPRESENTATIVES OF TOUR GUIDES IN TOURISM RELATED
BOARDS**

27TH OCTOBER 2021

COMMENTS ON THE PRAYERS ON LEGISLATIVE PROPOSAL BY THE EAST AFRICA TOUR GUIDES AND DRIVERS ASSOCIATION SEEKING TO AMEND THE TOURISM ACT.

Hon. Chairperson,

Tour guiding is a critical part of tourism as good quality guiding ensures that the visitor enjoys the promised experience. The ninth schedule of the Tourism Act on "**Provisions Relating to Regulated Tourism Activities and Services**" lists all categories of regulated tourism enterprises and services from classes "A" to "H". Tour guiding is one of regulated tourism enterprise and or service with "**Non – Citizen tour leaders or guides** listed as class "D", (h) and "**Citizen tour leaders or guides** listed as **Class "E", (v)** enterprises respectively. This clearly demonstrates tour guiding is recognized by the Tourism Act.

Hon. Chairperson,

On the specific proposed changes in the Act as submitted by the petitioner my comments are as follows;

1. Review the Tourism Act, and enact a legislation necessary to recognize and define who tour guides are;

- (a) Section 2 of the Tourism Act on – interpretation should be amended through subsidiary legislation to include Tour guide definition to mean "**a person trained and registered and licensed to lead tour itineraries of persons, accompanies any person who travels within or visits any place and who furnishes such person with information**". The term 'tour guide' its definition in **bold italics** above should be inserted after the definition of the word 'tourism board' but before the definition of the word 'tourist' so that the terms follow the alphabetical order.

(b) Request for provision of national registrar of tourist guides and provincial registrar of tourist guides to be under registered tour guides association.

This is not feasible due to:-

- (i) Violation of Article **36 (1) and (2) of the constitution on Freedom of association** which states; every person has the right to freedom of association, which includes the right to form, join or participate in the activities of an association of any Kind and that a person shall not be compelled to join an association of any Kind.
- (ii) Tour guides among other specified tourism activities and services in the ninth schedule of Tourism Act and whom voluntarily are members of various associations are regulated by the Tourism Regulatory Authority.
- (iii) The Societies Act. Cap 108, and Associations Bill 2018 are the relevant statutes for registration and incorporation of all associations in the Country.

East Africa Tour and Driver Guides Association (EATDGA) is one of the several tour guide associations regulated by Tourism Regulatory Authority. Others are:

- Safari Guide Professional Association of Kenya
- Coast Tour Guides Association
- Kenya Professional Safari Guides Association
- Mara Guides Association
- Freelance Tour Guides Association
- Kenya Tour Guide Drivers Association
- South Coast Tour Guides and Drivers Association

2. **Cause amendment to section 32 (1) to introduce clarity and provide for nomination of member(s) from the Tour Guides Association to Board of directors of the Tourism board and membership to the other related boards;** *On issues of representation to the Boards, the Act allows appointments of representatives from the sector. The sector comprises others subsectors-hotels, restaurants, entertainment, tour operators, travel agents and other related establishments.*

There are many local, regional and national tourism associations in the country and more are expected to be registered. It is important to note, that the Kenya Tourism Federation (KTF) is recognized as the umbrella association for the sector. In order to ensure representation of the sector associations in boards of agencies in tourism, KTF in consultation with member associations submits names of persons with required competencies for appointment to the respective boards of an agency. This ensures that interests of all member associations are articulated.

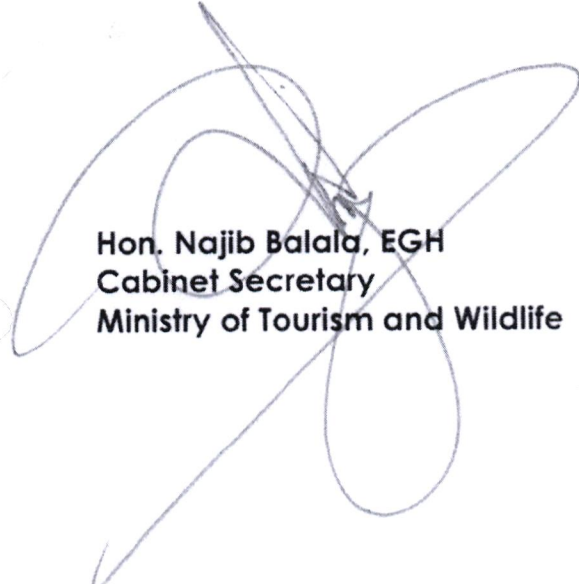
Hon. Chairperson,

Other Tourism Associations are;

- I. Kenya Tourism Federation (KTF)- the umbrella tourism association in the country.
- II. Kenya Association of Hotel Keepers and Caterers (KAHC)- the national association for hoteliers and hospitality institutions
- III. Pubs, Entertainment and Restaurants Association of Kenya (PERAK)-lobby association for bars and entertainment joints and which operates closely with KAHC.
- IV. Kenya Association of Tour Operators (KATO)- National association for tour operators.
- V. Kenya Coast Tourism Association (KCTA)- a regional association on tourism for the coast region.

- VI. Kenya Budget Hotels Association- lobbies for affordable rates for domestic travelers.
- VII. Kenya Association of Travel Agents (KATA)- a national association for travel agents.
- VIII. North Rift Tourism Association
- IX. Mount Kenya Tourist Association
- X. Kenya Community Based Tourism Network (KECOBAT)
- XI. Tour Operators Society of Kenya (TOSK)- Comprises tour operators, mostly domestic operators
- XII. Retail Traders Association of Kenya (RETRAK) - provides a voice for retail outlets that offer food and drink and are mostly situated in larger malls, petrol service stations and the likes.

Honorable Chairperson, I submit.



Hon. Najib Balala, EGH
Cabinet Secretary
Ministry of Tourism and Wildlife

END