



**EXTRADITION ACT (MODIFICATION)
ORDER, 2014
&
FEDERAL HIGH COURT
(EXTRADITION PROCEEDINGS)
RULES, 2015**

*S.I. No. 41 of 2014, published Gazette No. 119 in Vol.
101 of 24 December, 2014*

Extradition Act (Modification) Order, 2014

[23rd Day of December, 2014]Commencement

In exercise of the powers conferred upon me by virtue of section 315 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and all other powers enabling me in that behalf, I, DR. GOODLUCK EBELE JONATHAN, President of the Federal Republic of Nigeria, hereby make the following Order -

1. The Extradition Act, Cap E25, Laws of the Federation of Nigeria, 2004 (in this Order referred to as the “Principal Act”) is modified as set out in this Order.
2. The following sections of the Principal Act are modified as follows—
 - (a) in section 3(9), 4(2), 6(2), 7, 8 and 9, substitute the word “magistrate” with the word “judge”;
 - (b) in section 12, substitute the phrase “... the High Court of the territory in which he is ...” with the word “court”;
 - (c) in section 21(1), substitute the definition of

the word “court” with the phrase “means the Federal High Court”;

- (d) in section 21(1)(b), substitute the word “magistrate” and its definition with the phrase “judge” means a judge of the Federal High Court”;
 - (e) in sections 6, 7, 8, 9 and second schedule of the Act, substitute the word “order” in relation to powers of the Attorney-General of the Federation with the word “apply” “apply for” or “application” as the context so requires; and
 - (f) in the second schedule to the Act, substitute the word “magistrate” wherever it appears with the “judge”.
3. This Order may be cited as the Extradition Act (Modification) Order, 2014.

MADE at Abuja this 23rd day of December, 2014.

DR. GOODLUCK EBELE JONATHAN, GCFR
President, Federal Republic of Nigeria

EXPLANATORY NOTE

(This Note does not form part of the above Act but is intended to explain its purport)

This Order seeks to modify the Extradition Act, Cap. E25, Laws of the Federation of Nigeria, 2004, to bring the provisions of the Act in conformity with Section 251 of the Constitution of the Federal Republic of Nigeria 1999.

**CONSTITUTION OF THE FEDERAL OF
NIGERIA 1999
FEDERAL HIGH COURT (EXTRADITION
PROCEEDINGS) RULES, 2015**

ARRANGEMENT OF ORDERS

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Schedule

**CONSTITUTION OF THE FEDERAL REPUBLIC
OF NIGERIA, 1999**
**FEDERAL HIGH COURT (EXTRADITION
PROCEEDINGS) RULES, 2015**

In exercise of the powers conferred on me by section 254 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and all other powers enabling me in that behalf, I, Ibrahim Ndahi Auta OFR, Chief Judge of the Federal High Court of Nigeria, make the following Rules -

[21 May 2015] Commencement

ORDER I
OBJECTIVE

The objectives of these Rules are to –

- (a) ensure clarity of extradition proceedings;
- (b) set out in detail the requirements for specific Orders; and
- (c) minimise the time spent during extradition proceedings as a result of interlocutory applications, undue adjournments and other causes of delay.

ORDER II APPLICATION

These Rules shall apply to all extradition proceedings under the Extradition Act, CAP E25, Laws of the Federation of Nigeria 2004, save to the extent and as may otherwise be directed by the Chief Judge.

ORDER III PROVISIONAL ARREST WARRANT

1. Upon receipt of information that a fugitive is in Nigeria, suspected to be in or on his way into Nigeria, a Judge may issue a provisional arrest warrant under section 8 of the Act, to bring the fugitive before the Court.
2. Before issuing a provisional warrant of arrest upon information, a Judge shall consider whether —
 - (a) the alleged offence is an extraditable offence; and
 - (b) there is sufficient evidence or information to justify the issuance of a warrant of arrest.
3. The provisional warrant of arrest shall direct that the fugitive shall be brought before the issuing Judge within 48 hours of effecting the arrest or such longer period as the Court may deem reasonable.

**ORDER IV
PRELIMINARY HEARING AFTER
PROVISIONAL ARREST**

1. Where a fugitive is brought before the Court after arrest under a provisional arrest warrant pursuant to Order III of these Rules, the Court shall—
 - (a) explain to the fugitive in the language he understands, with assistance, where necessary—
 - (i) the allegation in respect of which the warrant was issued,
 - (ii) that he may consent to extradition, and
 - (iii) the effect of such consent;
 - (b) remand the fugitive in custody or admit him to bail pending the receipt of an application if any from the Attorney-General, requesting the extradition of the fugitive; and
 - (c) adjourn the matter to a return date not later than 30 days from the day the fugitive was arrested.
2. The Judge shall then cause a report of the proceedings to be sent to the Attorney-General in accordance with section 8(5) of the Act.

3. On the return date, where the Judge finds that the Attorney-General has –
 - (a) transmitted an order indicating that that an extradition request has been received in respect of the fugitive, the –
 - (i) Attorney-General shall be directed to file and serve his application within 48 hours or such other time as may be ordered, and
 - (ii) matter shall be set down for hearing within 14 days from the date of the preliminary hearing; or
 - (b) not transmitted to the Judge an order that an extradition request has been received in respect of the accused fugitive or has positively informed the court that no such request has been received, the judge shall discharge the fugitive.
4. The Judge may consider any relevant application and make appropriate orders.

ORDER V
EXTRADITION APPLICATION

1. An application for extradition shall be in line with the Schedule to these Rules containing—
 - (a) the particulars of the fugitive whose extradition is requested;
 - (b) a request for the surrender of the fugitive by the requesting country;
 - (c) a duly authenticated warrant of arrest or certificate of conviction issued in the requesting country;
 - (d) the particulars of the offence specified in the extradition request;
 - (e) the particulars of the corresponding offence in Nigeria; and
 - (f) a supporting affidavit.

2. Where the fugitive does not consent to extradition after being served with the application mentioned in rule 1, he shall file a counter affidavit and any other application within 5 days or such further time as the Court may permit.

3. Upon being served with the counter affidavit of the fugitive, the Applicant may file a reply on point of law within 48 hours.
4. Every application under these Rules shall be accompanied by a Written Address which shall be succinct argument in support of the grounds of the application.

ORDER VI
ISSUE OF ARREST WARRANT UPON
APPLICATION FOR EXTRADITION

1. This Order applies where the Applicant files an extradition application pursuant to section 6 of the Act.
2. Where the Applicant files an extradition application pursuant to section 6 of the Act, the Court shall decide whether -
 - (a) the offence in respect of which an extradition order is requested is an extraditable offence; and
 - (b) there is no bar to the extradition order in accordance with section 3 of the Act.
3. A Judge may consider an application for the issue of an arrest warrant and issue same in private.

**ORDER VII
PRELIMINARY HEARING UPON ARREST
PURSUANT TO AN EXTRADITION
APPLICATION**

Where the Applicant files an application for extradition in respect of which a fugitive has been arrested under an arrest warrant pursuant to Order VI, the Court shall, unless the time limit for service of the request has expired-

- (a) set down for hearing, the application for extradition within 14 days of the date of the preliminary hearing; or
- (b) consider any application, including an application for bail pending the extradition hearing; and
- (c) give any direction or directions it deems fit in the circumstance.

**ORDER VIII
EXTRADITION HEARING**

- 1. At the hearing of the application for extradition, the Court shall decide whether—
 - (a) the offence specified in the application for extradition is an extraditable offence;

- (b) a bar to extradition applies as provided for under section 3 of the Act
 - (c) extradition would be compatible with the fugitive's human rights;
 - (d) it would, having regard to all the circumstances in which the offence was committed, be unjust or oppressive or too severe a punishment, to extradite the fugitive; and
 - (e) to order the fugitive's discharge after deciding each of (a) to (d) of this Rule.
2. Where the Court discharges the fugitive, it may make any ancillary order, including an order on—
- (a) reporting restrictions;
 - (b) travelling restrictions;
 - (c) probation; or
 - (d) any direction or directions the Court may deem fit in the circumstance.
3. Where the Court does not discharge the fugitive, it shall—

- (a) exercise its power to order the fugitive's extradition;
 - (b) consider any ancillary application, including an order on -
 - (i) reporting restrictions,
 - (ii) travelling restrictions,
 - (iii) probation, or
 - (iv) any direction or directions the Court may deem fit in the circumstance.
4. Where the fugitive is not represented by a counsel, the Court shall explain to him in the language he, understands that he has a right of appeal.
 5. All applications challenging the competence of the proceedings or the jurisdiction of the Court shall be filed and argued together with the substantive extradition application at the hearing.
 6. No party shall be allowed more than two adjournments during the course of the hearing except where the Court considers it absolutely necessary.

ORDER IX
INTRODUCTION OF ADDITIONAL EVIDENCE
AT EXTRADITION HEARING

1. Where a party applies to introduce additional evidence at an extradition hearing and these Rules do not specifically make provisions for same, recourse shall be made to the Criminal Procedure Act, with such adaptations as the Court may direct.
2. All evidence before the Court at extradition proceedings shall be by affidavit and no oral evidence shall be called for any matter unless the Judge upon examination of the affidavit evidence requires clarification of relevant facts or issues.
3. Where a party introduces in evidence a fact admitted by another party, or the parties jointly admit a fact, the Court shall record such admission.

ORDER X
EXERCISE OF THE POWERS OF THE COURT

1. The proceedings shall be in public subject to the powers of the Court to -
 - (a) impose reporting restrictions;
 - (b) withhold information from the public; or

- (c) order a hearing in private.
2. The Court shall exercise its powers in the -
 - (a) presence of the fugitive; or
 - (b) absence of the fugitive, where the fugitive is represented and his presence is impracticable by reason of ill health or disorderly conduct.
 3. The court may, where necessary, require a fugitive to attend a preliminary hearing by live audio-visual link.
 4. The Court may adjourn on the application of either party, or on its own motion -
 - (a) to allow additional information to be brought before it;
 - (b) following a provisional arrest under section 8 of the Act and pending receipt of;
 - (i) an application of the Attorney-General under section 6 of the Act,
 - (ii) the extradition request;
 - (c) where it is informed that the fugitive is

charged with an offence or is serving a custodial sentence within Nigeria;

- (d) it appears to it that the fugitive is not fit to be extradited, unless the court discharges the fugitive for that reason; or
 - (e) where the court dealing with a warrant to which section 8 of the Act applies is informed that another warrant has been received in the Federal Republic of Nigeria.
4. In exercising its power under the Act, the court shall give each party an opportunity to make representations.

ORDER XI DUTY OF THE COURT REGISTRAR

The Court Registrar shall promptly serve any decision of the Court to extradite or discharge the fugitive on the —

- (a) Attorney-General; and
- (b) Fugitive.

**ORDER XII
DISCHARGE WHERE EXTRADITION
REQUEST IS WITHDRAWN**

The Court shall exercise its powers to discharge the fugitive, where the Applicant files a notice that the extradition request has been withdrawn -

- (a) after the commencement of the preliminary hearing under Order VII; and
- (b) before the conclusion of the extradition hearing.

**ORDER XIII
FUGITIVE'S APPLICATION TO BE
DISCHARGED AFTER FAILURE TO COMPLY
WITH TIME LIMIT**

1. A fugitive may apply to the court to be discharged, for failure -
 - (a) to serve on the fugitive a copy of any warrant under which the fugitive is arrested within 48 hours after arrest;
 - (b) to bring the fugitive before the court within 48 hours after arrest or such longer period as the court may deem reasonable;

- (c) of the Attorney-General of the Federation to file an application for extradition of the fugitive within 30 days of his remand under a provisional warrant of arrest pursuant to section 8(6) of the Act; or
 - (d) to issue a surrender order, after an extradition order has been made by the Court, in accordance with section 12 of the Act.
- 2. Unless the court otherwise directs, the fugitive mentioned under this Order shall -
 - (a) apply in writing, file the application in court and serve the Attorney-General of the Federation; and
 - (b) state the grounds on which the application is made;
- 3. The Court Registrar shall fix a date for hearing within 5 days of filing the application.

ORDER XIV TRANSITIONAL PROVISIONS

From the commencement of these Rules, any pending extradition applications which is in substantial compliance with these Rules shall not be defeated in

whole or in part, struck out or prejudiced, adjourned or dismissed or suffer any judicial censure, for failure to comply with these Rules.

ORDER XV INTERPRETATION

In these Rules -

“*Act*” means the Extradition Act, CAP E25, Laws of the Federation of Nigeria, 2004;

“*Applicant*” means the Attorney-General or an officer authorised by him;

“*Attorney-General*” means Attorney-General of the Federation;

“*Chief-Judge*” means the Chief-Judge of the Federal High Court of Nigeria;

“*Court*” means the Federal High Court;

“*Judge*” means a Judge of the Federal High Court;

“*Fugitive*” includes fugitive criminal and has the meaning assigned in the Act; and

“*Preliminary hearing*” means a hearing to determine if a fugitive has a prima facie extradition case to answer,

based on whether there are some substantial evidence in support of the application for extradition. If the judge finds sufficient evidence to proceed on hearing the application for extradition, the case proceeds on trial and where there is no such convincing evidence, the judge will dismiss the application;

“Private” means in chambers or in the Court, where only the parties to the proceedings are allowed to be present;

“Reporting restrictions” include directions on content, context and media, in the reportage of proceedings in the interest of national Security or security of individuals; and

“Territory” means the Federal Republic of Nigeria.

ORDER XVI CITATION

These Rules may be cited as the Federal High Court (Extradition Proceedings) Rules, 2015

SCHEDULE

[Order V (1)]

**FORM OF APPLICATION OF THE
ATTORNEY-GENERAL TO THE JUDGE**

To the Chief Judge, Federal High Court, Abuja

WHEREAS, in pursuance of the Extradition Act, a

request has been made to me by a diplomatic

representative/consular officer

of.....for the

surrender of.....

..... accused of/unlawfully at

large after conviction for the offence of

..... within the jurisdiction

of.....

.....

NOW I,.....

.....Attorney-General of the
Federation, by this application under my hand, signify to
you that this request has been made, and require you to
deal with the case in accordance with the provisions of
the Extradition Act.

Given under my hand this Day of 20.....

Attorney-General of the Federation

MADE at Abuja this 21 day of May 2015

A handwritten signature in black ink, appearing to read 'Ibrahim Ndahi Auta', written over a large, stylized 'X' mark.

HON. JUSTICE IBRAHIM NDAHI AUTA, OFR
Chief Judge, Federal High Court

EXPLANATORY NOTE

(This explanatory Note does not form part of these Guidelines and Practice Directions but intended to explain its purport)

These Rules seeks to ensure clarity of extradition proceedings, set out in detail the requirements for specific Orders; and to minimise the time spent during extradition proceedings as a result of interlocutory applications, undue adjournments and other causes of delay and shall apply to all extradition proceedings under the Extradition Act, CAP E25, Laws of the Federation of Nigeria 2004, save to the extent and as may otherwise be directed by the Chief Judge of the Federal High Court.

Produced with Support under the 10th European Development Fund



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