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COMMISSION ON HUMAN RIGHTS

QUESTION OF PUNISHMENT OF WAR CRIMINALS AND OF PERSONS WHO HAVE COMMITTED CRIMES AGAINST HUMANITY

Report of the Secretary-General

Addendum

1. In accordance with Council resolution 1158 (XLI), the Secretary-General has the honour to circulate herewith the texts of replies to his note of 19 October 1966 received from the Governments of the Byelorussian Soviet Socialist Republic and Nigeria.

2. The present document also contains an index to the Governments' replies, under the various topics mentioned in operative paragraph 1 of Council resolution 1158 (XLI).

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(20 p.)

BYELORUSSIAN SSR

[Original: Russian]
12 May 1967

3. The Byelorussian SSR attaches great importance to United Nations resolutions calling for the punishment of war criminals. These resolutions have reasserted the principle of the unconditional responsibility of persons who have committed crimes against humanity, without the application of a period of limitation for their prosecution and punishment - a principle which is one of the well-established rules of contemporary international law.

4. The monstrous crimes of Hitlerism have left an indelible imprint in the memory of mankind. The Byelorussian people cannot forget that, during three years of Nazi occupation of its territory, over 2.2 million civilians and prisoners of war were annihilated and 380,000 persons were carried off by force to slave labour in Germany, where many thousands of them died of exhaustion, starvation, disease and malicious maltreatment. These monstrous crimes of the Nazi murderers, who tried to exterminate whole nations, obviously cannot be placed on the same footing with ordinary crimes, and consequently there should be no question of the application of periods of limitation for Nazi criminals.

5. It is common knowledge, however, that a number of war criminals are evading justice in the Federal Republic of Germany, the United States of America, Canada, Australia, the United Kingdom and some other Western countries.

6. The ruling circles of the Federal Republic of Germany in practice pursue a policy of protecting war criminals and Nazi criminals. The West German authorities permit war criminals to walk the streets in freedom; the courts of the Federal Republic of Germany, disregarding the demands of peoples, acquit persons guilty of war crimes and crimes against humanity, and allow them to go scot-free. The West German authorities, despite the materials which have been delivered to them, still have not taken any steps to bring to justice Kurt Kristmann, Walter Kehrer and other war criminals of the 10th S S Sonderkommando who took part in the mass murder of the civilian population in Byelorussia and in a number of other regions. Friedrich Karl Vialon, an accomplice in crimes committed against the Jewish population in Byelorussia and in the Baltic region, is not only left in freedom but holds a responsible post in the Federal Republic of Germany.

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7. Great concern was shown in the Byelorussian SSR regarding the intention of the authorities of the Federal Republic of Germany to apply periods of limitation in order to discontinue the prosecution of war criminals.

8. According to the laws of the Byelorussian SSR, war criminals, depending on the particulars of their individual crimes, may be punished under articles 256 or 257 of the Criminal Code of the Byelorussian SSR (UK BSSR) making it a crime to use force against the population in an area of military operations or to mistreat prisoners of war. In particular, article 256 reads: "Assault with intent to rob, illegal destruction of property, force, or illegal taking of property on the pretext of military necessity, committed against the population in an area of military operations, shall be punished by deprivation of liberty for a term of three to ten years or by death."

9. In the Byelorussian SSR, criminal proceedings for war crimes and crimes against peace and humanity are instituted in accordance with the provisions of the Code of Criminal Procedure (UPK BSSR). In particular, under article 105 of the UPK BSSR, the following are grounds for instituting criminal proceedings: declarations of citizens; communications from public organizations; communications from institutions, enterprises, organizations and officials; articles, notices and letters published in the Press; confession made to a judicial officer; direct discovery of indications of the crime by an agency of inquiry, investigator, procurator, judge or court. Article 105 further states that criminal proceedings may not be instituted unless there is sufficient evidence that indications of a crime are present.

10. Investigation of criminal cases concerning war crimes and crimes against peace and humanity is conducted by investigators of the procuracy or investigators of the State Security authorities (article 122, UPK BSSR).

11. According to article 91 of the UPK BSSR, detention may be applied as a preventive measure in the case of crimes which, by law, are punishable by deprivation of liberty. No one may be placed under arrest except by decision of a court or with the sanction of a procurator (article 7, UPK BSSR).

12. The Decree of the Presidium of the Supreme Soviet of the USSR, dated 4 March 1965, on the punishment of persons guilty of crimes against peace and humanity and of war crimes, regardless of when the crimes were committed, is in effect in the territory of the Byelorussian SSR, and consequently the periods of

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limitation for bringing criminals to trial laid down by the criminal legislation of the USSR and the Byelorussian SSR do not apply to persons who have committed crimes against peace and humanity or war crimes.

13. The laws of the Byelorussian SSR provide that a criminal penalty shall be imposed only by sentence of a court within the limits established by the article of the law which defines that particular crime (articles 3 and 36, UK BSSR).

14. In its relations with other countries regarding the prosecution of Nazi criminals, the Byelorussian SSR is guided by the principles set out in the Declaration of 30 October 1943 on the responsibility of the Nazis for the atrocities which they committed, and also in the United Nations General Assembly resolutions of 13 February 1946 on the extradition and punishment of war criminals and of 31 October 1947 on the surrender of war criminals and traitors. These resolutions provide that war criminals shall be judged and punished in the countries in which their crimes were committed.

15. The laws of the Byelorussian SSR also provide for effectively combating crimes against peace.

16. To this end the Presidium of the Supreme Soviet of the Byelorussian SSR adopted a Decree dated 9 August 1961, which is included in the Criminal Code of the Byelorussian SSR as article 68, and which makes war propaganda, in whatever form it may be conducted, a crime.

17. Article 64 of the Criminal Code of the Byelorussian SSR also makes it a crime to commit a terrorist act against the representative of a foreign State for the purpose of provoking war or international friction.

18. The Byelorussian SSR considers that the existing international legal instruments on the punishment of war criminals are not only an indictment of those persons who precipitated and waged the Second World War, but also a stern warning to those who, having forgotten the lessons of history, are preparing for new wars today.

NIGERIA

[Original: English]
3 May 1967

19. The Government of Nigeria forwarded a copy of Decree No. 87 of the Federal Military Government of Nigeria, stating that these provisions constitute the answer to the questions asked in paragraphs 2 and 3 of the outline annexed to the Secretary-General's note verbale of 19 October 1966.[1] The texts of this Decree and of Schedule A relating thereto are reproduced below:

Application of Decree

1. (1) Where a treaty or other agreement (in this Decree referred to as an extradition agreement) has been made by Nigeria with any other country for the surrender by each country to the other of persons wanted for prosecution or punishment, the Federal Executive Council may by order published in the Federal Gazette apply this Decree to that country.

(2) An order under the foregoing subsection shall recite or embody the terms of the extradition agreement, and may apply this Decree to the country in question subject to such conditions, exceptions and qualifications as may be specified in the order.

(3) While an order under subsection (1) above is in force in respect of any country, this Decree shall apply to that country subject to the provisions of the order and to the terms of the extradition agreement as recited or embodied therein.

(4) The power to vary an order made under subsection (1) above shall include power, where the terms of the relevant extradition agreement have been varied, to amend so much of the order as recites or embodies those terms; and if an extradition agreement to which such an order relates is determined or otherwise ceases to have effect, the Federal Executive Council shall forthwith revoke the order.

1/ See the text of that note verbale and of the outline annexed thereto in document E/CN.4/927.

(5) Every order made under subsection (1) above which applies this Decree to any country shall include a provision inserting in Schedule 1 of this Decree an entry consisting of the name of that country and the year and number of the Legal Notice containing the order; and where any such order is varied or revoked, the varying or revoking order shall include a provision amplifying or deleting the relevant entry in that Schedule, as the case may require.

(6) An order under this section applying this Decree to a country with which an extradition agreement is in force on the date on which this Decree is made may be made at any time after that date, but shall not come into force before the commencement of this Decree.

2. (1) Subject to the provisions of this section, this Decree shall apply to every separate country within the Commonwealth.

(2) For the purposes of this Decree each of the following areas shall be treated as constituting a separate country within the Commonwealth, that is to say -

(a) each sovereign and independent country within the Commonwealth together with such (if any) of that country's dependent territories as the Federal Executive Council may by order published in the Federal Gazette designate as forming part of that country for the purposes of this Decree; and

(b) each country within the Commonwealth which, not being sovereign and independent, is not a territory for the time being designated under paragraph (a) above as forming part of some other country for the purposes of this Decree.

(3) An order under subsection (2) (a) above designating a dependent territory as forming part of a sovereign and independent country shall be made if, but only if, that country has signified to the Government of the Federation that it desires that territory to be so designated for the purposes of this Decree.

(4) If it appears to the Federal Executive Council that the law of a country to which this Decree applies by virtue of subsection (1) above no longer contains provisions substantially equivalent to the provisions of this Decree, as it applies to countries within the Commonwealth, the Council may by order published in the Federal Gazette direct that this Decree shall apply in relation to that country with such modifications (whether by way of addition, alteration or omission) as may be specified in the order; and where an order under this subsection is in force with respect to any country, this Decree shall have effect in relation to that country with the modifications specified in the order.

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(5) In the case of a country to which this Decree applies by virtue of subsection (1) above, that fact shall not prevent an order from being made under section 1 (1) of this Decree in respect of that country if an extradition agreement is made with that country, and on the coming into force of an order under section 1 (1) of this Decree in respect of such a country, this section shall cease to apply to that country and any order made under subsection (4) above in respect of that country shall cease to have effect.

Restrictions on surrender of fugitives

3. (1) A fugitive criminal shall not be surrendered if the Attorney-General or a court dealing with the case is satisfied that the offence in respect of which his surrender is sought is an offence of a political character.

(2) A fugitive criminal shall not be surrendered if it appears to the Attorney-General or a court dealing with the case -

(a) that the request for his surrender, although purporting to be made in respect of an extradition crime, was in fact made for the purpose of prosecting or punishing him on account of his race, religion, nationality or political opinions or was otherwise not made in good faith or in the interests of justice; or

(b) that, if surrendered, he is likely to be prejudiced at his trial, or to be punished, detained or restricted in his personal liberty, by reason of his race, religion, nationality or political opinions.

(3) A fugitive criminal shall not be surrendered if the Attorney-General or a court dealing with the case is satisfied that, by reason of -

(a) the trivial nature of the offence for which his surrender is sought; or

(b) the passage of time since the commission of the offence,

it would, having regard to all the circumstances in which the offence was committed, be unjust or oppressive, or be too severe a punishment, to surrender the offender.

(4) A fugitive criminal shall not be surrendered if the Attorney-General or a court dealing with the case is satisfied that, whether in Nigeria or elsewhere, he -

(a) has been convicted of the offence for which his surrender is sought; or

(b) has been acquitted thereof,

and that, in a case falling within paragraph (a) above, he is not unlawfully at large.

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(5) A fugitive criminal shall not be surrendered if criminal proceedings are pending against him in Nigeria for the offence for which his surrender is sought.

(6) A fugitive criminal -

(a) who has been charged with an offence under the law of Nigeria or any part thereof, not being the offence for which his surrender is sought; or

(b) who is serving a sentence imposed in respect of any such offence by a court in Nigeria,

shall not be surrendered until such time as he has been discharged, whether by acquittal or on the expiration of his sentence or otherwise.

(7) A fugitive criminal shall not be surrendered to any country unless the Attorney-General is satisfied that provision is made by the law of that country, or that special arrangements have been made, such that, so long as the fugitive has not had a reasonable opportunity of returning to Nigeria, he will not be detained or tried in that country for any offence committed before his surrender other than any extradition offence which may be proved by the facts on which his surrender is granted.

(8) A fugitive criminal shall not be surrendered until the expiration of the period of fifteen days beginning with the day on which he is committed to prison to await his surrender.

(9) In this section "a court dealing with the case", in relation to a fugitive criminal, means any magistrate dealing with the fugitive's case in pursuance of section 8 of this Decree or any court before which the fugitive is brought on or by virtue of an application made by him or on his behalf for a writ of habeas corpus.

<u>Surrender of fugitives</u>

4. Every fugitive criminal of a country to which this Decree applies shall, subject to the provisions of this Decree, be liable to be arrested and surrendered in the manner provided by this Decree, whether the offence in respect of which his surrender is sought was committed before or after the commencement of this Decree or the application of this Decree to that country, and whether or not there is concurrent jurisdiction in any court in Nigeria over that offence.

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5. (1) A request for the surrender of a fugitive criminal of any country shall be made in writing to the Attorney-General by a diplomatic representative or consular officer of that country and shall be accompanied by a duly authenticated warrant of arrest or certificate of conviction issued in that country.

(2) Where such a request is made to him, the Attorney-General may by an order under his hand signify to a magistrate that such a request has been made and require the magistrate to deal with the case in accordance with the provisions of this Decree, but shall not make such an order if he decides on the basis of information then available to him that the surrender of the fugitive criminal is precluded by any of subsections (1) to (7) of section 3 of this Decree.

(3) Except in so far as an extradition agreement in force between Nigeria and the requesting country otherwise provides, the Attorney-General may refuse to make an order under this section in respect of any fugitive criminal who is a citizen of Nigeria.

(4) If the surrender of the same fugitive criminal is requested in accordance with this section by more than one country, whether for the same offence or different offences, the Attorney-General shall determine which request is to be accorded priority, and accordingly may refuse the other request or requests; and in determining which request is to be accorded priority the Attorney-General shall have regard to all the circumstances of the case, and in particular -

(a) the relative seriousness of the offences, if different;

(b) the relative dates on which the requests were made; and

(c) the nationality of the fugitive and the place where he is ordinarily resident.

6. (1) A warrant for the arrest of a fugitive criminal, whether accused of or unlawfully at large after conviction of an extradition offence, may be issued by a magistrate on receipt of an order of the Attorney-General under section 5 of this Decree relating to the fugitive, if such evidence is produced as would in the opinion of the magistrate justify the issue of the warrant if the offence in question had been committed in Nigeria or the fugitive had been convicted of it in Nigeria.

(2) A warrant issued under this section may be executed anywhere in Nigeria.

(3) A fugitive criminal arrested on a warrant issued under this section shall be brought before a magistrate as soon as is practicable after he is so arrested.

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7. (1) A provisional warrant for the arrest of a fugitive criminal, whether accused of or unlawfully at large after conviction of an extradition offence, may be issued by a magistrate without any order of the Attorney-General under section 5 of this Decree, if such information and evidence is produced as would in the opinion of the magistrate justify the issue of a warrant for the arrest of the fugitive if the offence in question had been committed in the district or division in which he has jurisdiction or the fugitive had been convicted of the offence there.

(2) A provisional warrant may be issued under this section in respect of a person who is, or is suspected of being, on his way to Nigeria, in any case where such a warrant could be issued if he were, or were suspected to be, in Nigeria; and references in this section to a fugitive criminal shall be construed accordingly.

(3) A magistrate issuing a provisional warrant under this section shall forthwith send to the Attorney-General a report of the fact, together with the information and evidence on which he acted or certified copies thereof, and on receipt of the report the Attorney-General may, if he thinks fit, order the warrant to be cancelled and the fugitive criminal, if already arrested, to be released.

(4) A provisional warrant issued under this section may be executed anywhere in Nigeria.

(5) A fugitive criminal arrested on a provisional warrant issued under this section shall be brought before a magistrate as soon as is practicable after he is so arrested, and the magistrate -

(a) shall remand him, either in custody or on bail, pending receipt from the Attorney-General of an order under section 5 of this Decree signifying that a request for his surrender has been received or an order under subsection (3) above for the cancellation of the warrant and the release of the fugitive; and

(b) shall forthwith inform the Attorney-General of the fact that the fugitive has been arrested and remanded as aforesaid;

and for the purposes of paragraph (a) above the magistrate shall have the same powers of remand as if the fugitive were brought before him charged with an offence committed within his jurisdiction.

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(6) Without prejudice to section 12 of this Decree, if within the period of thirty days beginning with the day on which he was arrested no such order as is mentioned in subsection (5) (a) above is received from the Attorney-General, the fugitive criminal shall be released at the end of that period.

(7) The release of any person under subsection (3) or (6) above shall not prejudice his subsequent arrest and surrender if a request for his surrender is afterwards made.

8. (1) When a fugitive criminal is brought before a magistrate on a warrant under section 6 of this Decree, or when, in the case of a fugitive criminal brought before a magistrate on a provisional warrant under section 7 of this Decree and remanded in pursuance of subsection (5) of the said section 7, an order of the Attorney-General under section 5 of this Decree relating to that fugitive is received, the magistrate shall proceed with the case in the same manner, as near as may be, and shall have the same jurisdiction and powers, as if the fugitive were brought before him charged with an offence committed within his jurisdiction.

(2) The magistrate shall receive any evidence which may be tendered to show that the offence of which the fugitive criminal is accused or alleged to have been convicted is not an extradition offence or that the surrender of the fugitive is for some other reason precluded by this Decree or by the extradition agreement (if any) in force between Nigeria and the country seeking his surrender.

(3) In the case of a fugitive criminal accused of an offence claimed to be an extradition offence, if there is produced to the magistrate a warrant issued outside Nigeria authorizing the arrest of the fugitive, and the magistrate is satisfied -

(a) that the warrant was issued in a country to which this Decree applies, is duly authenticated, and relates to the prisoner;

(b) that the offence of which the fugitive is accused is an extradition offence in relation to that country;

(c) that the evidence produced would, according to the law of Nigeria, justify the committal of the prisoner for trial if the offence of which he is accused had been committed in Nigeria; and

(d) that the surrender of the fugitive is not precluded by this Decree (and in particular by any of subsections (1) to (6) of section 3 thereof) and, where the country requesting the surrender of the fugitive is one to which this Decree

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applies by virtue of an order under section 1 of this Decree, is also not prohibited by the terms of the extradition agreement as recited or embodied in the order,

the magistrate shall, subject to subsection (5) below, commit the fugitive to prison to await the order of the Attorney-General for his surrender.

(4) In the case of a fugitive criminal alleged to be unlawfully at large after conviction of an offence claimed to be an extradition offence, if there is produced to the magistrate a certificate of the fugitive's conviction of that offence, and the magistrate is satisfied -

(a) that the certificate of conviction records a conviction in a country to which this Decree applies, is duly authenticated and relates to the prisoner;

(b) that the offence of which the fugitive is stated to have been convicted is an extradition offence in relation to that country; and

(c) that the surrender of the fugitive is not precluded by this Decree (and in particular by any of subsections (1) to (6) of section 3 thereof) and, where the country requesting the surrender of the fugitive is one to which this Decree applies by virtue of an order under section 1 of this Decree, is also not prohibited by the terms of the extradition agreement as recited or embodied in the order,

the magistrate shall, subject to subsection (5) below, commit the fugitive to prison to await the order of the Attorney-General for his surrender.

(5) If, on committing a fugitive criminal to prison under subsection (3) or (4) above, the magistrate is of the opinion that it would be dangerous to the life or prejudicial to the health of the fugitive to remove him to prison, he may order him to be detained in custody in any place named in the order instead of in prison, and while so detained the fugitive shall be deemed to be in legal custody.

(6) On committing a fugitive criminal to prison under this section the magistrate -

(a) shall inform the fugitive that he will not be surrendered until after the expiration of fifteen days beginning with the day on which he is so committed, and that he has a right to apply for a writ of habeas corpus; and

(b) shall forthwith send to the Attorney-General a certificate of the committal and such report on the case as the magistrate thinks fit.

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(7) Where the circumstances are not such as to require the magistrate to commit the prisoner to prison under the foregoing provisions of this section, the magistrate shall order the prisoner to be discharged.

9. (1) A fugitive criminal committed to prison under section 8 of this Decree shall not be surrendered before the expiration of fifteen days beginning with the day on which he is so committed or, if a writ of habeas corpus has been issued, until the court has given its decision on the return to the writ, whichever is the later.

(2) Subject to the foregoing subsection and, where a writ of habeas corpus has been issued, if the fugitive criminal is not discharged by the decision of the court on the return to the writ, the Attorney-General, unless it appears to him that the surrender of the fugitive is precluded by law, may by order direct the fugitive to be surrendered to any person authorized by the country requesting the surrender to receive him, and the criminal shall be surrendered accordingly.

(3) Any person to whom an order under subsection (2) above directs a fugitive criminal to be surrendered may receive, hold in custody and convey out of Nigeria the person surrendered to him in pursuance of the order, and if the person so surrendered escapes from any custody to which he has been delivered in pursuance of the order he shall be liable to be retaken in the same manner as any person who escapes from lawful custody.

10. If a fugitive criminal who has been committed to prison under section 8 of this Decree is not surrendered and conveyed out of Nigeria within two months beginning with the day on which he is so committed or, if a writ of habeas corpus has been issued, within two months beginning with the day on which the court gives its decision on the return to the writ, whichever is the later, the High Court of the territory in which he is may, on application made by or on behalf of the fugitive, and upon proof that reasonable notice of the intention to make the application has been given to the Attorney-General, order the fugitive to be discharged from custody.

11. (1) A police officer who on a warrant under section 6 of this Decree or a provisional warrant under section 7 of this Decree arrests a fugitive criminal accused of an extradition offence may seize and detain any property found in the possession of the fugitive at the time of the arrest which appears to him to be reasonably required as evidence for the purpose of proving that the fugitive committed the offence of which he is accused.

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(2) Any property seized under the foregoing subsection shall, if an order for the surrender of the fugitive is made under section 9 (2) of this Decree, be handed over to such person as the Attorney-General may direct, being a person who in his opinion is duly authorized by the country obtaining the surrender to receive it.

(3) Nothing in this section shall prejudice any rights which any person may have in any property which falls to be handed over under this section; and where any such rights exist, the property shall not be handed over under this section except on condition that the country obtaining the surrender of the fugitive criminal in question shall return it as soon as may be after the trial of the fugitive.

12. If it appears to the Attorney-General at any time, in the case of any fugitive criminal who is on remand or awaiting his surrender under this Decree -

(a) that his surrender is precluded by this Decree or by the extradition agreement (if any) in force between Nigeria and the country seeking his surrender; or

(b) that a request for his surrender is not forthcoming or, where such a request has been made, that it is not being proceeded with,

the Attorney-General may order all proceedings for the surrender of that fugitive to the country in question to be discontinued and the fugitive, if in custody, to be released.

Fugitive surrendered to Nigeria not triable for previous crimes

13. Where, in accordance with the law of any country within the Commonwealth or in pursuance of an extradition agreement between Nigeria and another country (whether within the Commonwealth or not), any person accused of or unlawfully at large after conviction of an offence committed within the jurisdiction of Nigeria is surrendered to Nigeria by the country in question, then, so long as he has not had a reasonable opportunity of returning to that country, that person shall not be detained (whether under this Decree or otherwise) or tried in Nigeria for any offence committed by him within the jurisdiction of Nigeria before his surrender to Nigeria other than -

(a) the offence for which he was surrendered or any lesser offence which may be proved by the facts on which his surrender was granted; or

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(b) any other offence (being one corresponding to an offence described in Schedule 2 of this Decree) of the same nature as the offence for which he was surrendered:

Provided that a person falling within this section shall not be detained or tried for an offence by virtue of paragraph (b) above without the prior consent of the country surrendering him.

Transit of surrendered fugitives through Nigeria

14. (1) Transit through Nigeria of a person being or about to be conveyed from one country to another on his surrender pursuant to -

(a) a treaty or other agreement in the nature of an extradition agreement, whether or not Nigeria is a party thereto; or

(b) the law of any country within the Commonwealth relating to the surrender of persons wanted for prosecution or punishment,

may, subject to the provisions of any relevant extradition agreement and to such conditions, if any, as the Attorney-General thinks fit, be granted by the Attorney-General upon a request to that effect made by the country to which he is being or is about to be conveyed.

(2) The Attorney-General on granting transit of any person under this section may make arrangements for his transit to be supervised by the Nigeria Police Force; and where such arrangements have been made, the person in transit shall be treated as being in lawful custody so long as he is accompanied by a member of that Force, and if he escapes shall be liable to be retaken accordingly.

Evidence

15. (1) In any proceedings under this Decree, any of the following documents, if duly authenticated, shall be received in evidence without further proof, namely -

(a) any warrant issued in a country other than Nigeria;

(b) any deposition or statement on oath or affirmation taken in any such country, or a copy of any such deposition or statement;

(c) any certificate of conviction issued in any such country.

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(2) For the purposes of this Decree, any such document as is mentioned in the foregoing subsection shall be taken to be duly authenticated -

(a) if, apart from this section, it is authenticated in any manner for the time being provided by law; or

(b) if it complies with the requirements of subsection (3) below and is authenticated by the oath or affirmation of some witness or by being sealed with the official seal of a minister of state of the country in which it was issued or taken.

(3) The requirements of this subsection are as follows -

(a) a warrant must purport to be signed by a judge, magistrate or officer of the country in which it was issued;

(b) a document such as is mentioned in subsection (1) (b) above must purport to be certified under the hand of a judge, magistrate or officer of the country in which it was taken to be the original or a copy, as the case may be, of the document in question;

(c) a certificate of conviction must purport to be certified by a judge, magistrate or officer of the country in which the conviction is stated to have taken place.

(4) For the purposes of this Decree judicial notice shall be taken of the official seals of ministers of state of countries other than Nigeria.

16. The testimony of any witness in Nigeria may be obtained in relation to any criminal matter pending in any court or tribunal in another country in like manner as it may be obtained in relation to any civil matter under any law for the time being in force in any part of Nigeria as regards the taking of evidence there in relation to civil or commercial matters pending before tribunals in other countries:

Provided that this section shall not apply in the case of any criminal matter of a political character.

General

17. (1) The forms set out in Schedule 3 of this Decree may, with such variations as the circumstances of the particular case may require, be used in the circumstances to which they relate, and when so used shall be good and sufficient in law.

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(2) The Attorney-General may by order published in the Federal Gazette amend the said Schedule 3.

18. (1) In this Decree "extradition offence", in relation to a country seeking the surrender of a fugitive criminal, means any act or omission which, if committed at the material time in any part of Nigeria -

(a) would, under the law then in force in that part, have constituted an offence corresponding to one of the offences described in Schedule 2 of this Decree, as that Schedule had effect (or would, if in force, have had effect) in relation to that country at the material time; and

(b) would, under that law, have been punishable by imprisonment for a term of twelve months or more, or by some greater penalty.

In this subsection "the material time", in relation to any alleged or proved act or omission, means the time when the act or omission is alleged or proved to have been committed.

(2) For the purposes of this Decree an offence under the law of Nigeria or any part thereof may be taken to correspond with an offence described in Schedule 2 of this Decree whatever the name of the offence under that law and whether or not it is described in that law by reference to some special intent or any special circumstances of aggravation.

(3) The Attorney-General may by order published in the Federal Gazette amend the said Schedule 2 by inserting further offences, deleting any offence, or altering the description of any offence.

19. (1) In this Decree, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say -

"the Attorney-General" means the Attorney-General of the Federation;

"certificate of conviction" includes any judicial document stating the fact of conviction;

"extradition agreement" has the meaning assigned by section 1 of this Decree;

"fugitive criminal" or "fugitive" means (without prejudice to section 7 (2) of this Decree) -

(a) any person accused of an extradition offence committed within the jurisdiction of a country other than Nigeria; or

(b) any person, who, having been convicted of an extradition offence in a country other than Nigeria, is unlawfully at large before the expiration of a sentence imposed on him for that offence, being in either case a person who is, or is suspected of being, in Nigeria;

"magistrate" means a chief magistrate, a senior magistrate or a magistrate grade I or grade II;

"territory" means a Region or the Federal territory;

"warrant" includes any judicial document authorizing the arrest of a person accused or convicted of an offence.

(2) References in this Decree to a person being unlawfully at large include references to a person being at large in breach of a condition of a license to be at large.

(3) For the purposes of this Decree -

(a) every colony, dependent territory and constituent part of any country to which this Decree applies by virtue of section 1 thereof; and

(b) every vessel and aircraft of any country, whether within the Commonwealth or not,

shall be treated as being within the jurisdiction of, and as forming part of, that country.

20. Where, before the commencement of this Decree -

(a) a requisition for the surrender of any person has been made to any authority in Nigeria under the Extradition Acts 1870 to 1935 or the Fugitive Criminals Surrender Act; or

(b) a warrant for the apprehension of any person has been endorsed in Nigeria under section 3 of the Fugitive Offenders Act 1881,

the Acts or Act in question shall, for the purposes of any proceedings arising out of that requisition or warrant, continue to apply as if this Decree had not been made, and the person in question shall be liable to be apprehended and surrendered accordingly.

21. (1) This Decree may be cited as the Extradition Decree 1966.

(2) This Decree shall come into force on such date as the Attorney-General may by order published in the Federal Gazette appoint.

(3) The enactments mentioned in Schedule 4 of this Decree are hereby repealed.

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SCHEDULE 2

EXTRADITION OFFENCES

A. 1. Murder of any degree.

2 Manslaughter.

3. An offence against the law relating to abortion.

4. Maliciously or wilfully wounding or inflicting grievous bodily harm.

5. Assault occasioning actual bodily harm.

6. Rape.

7. Unlawful sexual intercourse with a female.

8 Indecent assault

9. Procuring, or trafficking in, women or young persons for immoral purposes.

10. Bigamy.

11. Kidnapping, abduction or false imprisonment, or dealing in slaves.

12. Stealing, abandoning, exposing or unlawfully detaining a child.

13. Bribery.

14. Perjury or subornation of perjury or conspiring to defeat the course of justice.

15. Arson.

16. An offence concerning counterfeit currency.

17. An offence against the law relating to forgery.

18. Stealing, embezzlement, fraudulent conversion, fraudulent false accounting, obtaining property or credit by false pretences, receiving stolen property, or any other offence in respect of property involving fraud.

19. Burglary, housebreaking or any similar offence.

20. Robbery.

21. Blackmail or extortion by means of threats or by abuse of authority.

22. An offence against bankruptcy law or company law.

23. Malicious or wilful damage to property.

24. Acts done with the intention of endangering vehicles, vessels or aircraft.

25. An offence against the law relating to dangerous drugs or narcotics.

26. Piracy.

27. Revolt against the authority of the master of a ship or the commander of an aircraft.

28. Contravention of import or export prohibitions relating to precious stones, gold and other precious metals.

B. Aiding and abetting or counselling or procuring the commission of, or being an accessory before or after the fact to, or attempting or conspiring to commit, any of the offences listed in paragraph A above.

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