

# Immigration and Refugee Board of Canada

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## Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the [Knowledge and Information Management Unit](#).

16 November 2017

### NGA106010.E

Nigeria: warrants of arrest, including those issued by the High Court of the Delta State; issuance procedures, methods of delivery, description of the document and the information it contains; prevalence of fraudulent warrants of arrest (2014-November 2017)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

#### 1. Legislation

Sources indicate that the *Administration of Criminal Justice Act, 2015* of Nigeria provides for the administration of criminal justice in the courts of the Federal Capital Territory (FCT) and other Federal Courts in Nigeria (LawPavilion 8 Feb. 2016; OfCounsel Nigeria 27 July 2015).

According to sources, the Act "repeals" the 2004 *Criminal Procedure Act* (CPA) and the 2004 *Administration of Justice Commission Act* (Akinseye-George 14 March 2016; OfCounsel Nigeria 27 July 2015). Sources indicate that it also repeals the *Criminal Procedure (Northern states) Act* [or *Criminal Procedure Code* (CPC) of 2004 (Akinseye-George 14 March 2016)] (LawPavilion 8 Feb. 2016; Akinseye-George 14 March 2016). Yemi Akinseye-George, a Nigerian legal practitioner, explains in a March 2016 article published for a workshop entitled "Refresher Course for Judicial Officers on Current Trends in Law and Administration of Justice" that the 2015 Act merges both the CPA and CPC and "introduces innovative provisions" (Akinseye-George 14 March 2016).

Media sources indicate that the Delta State Administration of Criminal Justice Bill of 2016 was passed into law on 19 September 2017 (*The Guardian* 20 Sept. 2017; Asaba Metro 20 Sept. 2017; *Vanguard* 19 Sept. 2017). Sources indicate that the Nigerian states of Lagos, Ekiti and Anambra had adopted the new Act before the Federal Government signed it into law (OfCounsel Nigeria 27 July 2015) "with variations" from the Act (*Daily Trust* 21 Feb. 2017). *Daily Trust*, a daily Nigerian newspaper, reports that the Act was adopted in 2016 by the Nigerian states of Ondo, Oyo and Rivers and in 2017 by the state of Enugu, while Jigawa, Delta and Kaduna had drafted bills as of February 2017 (*Daily Trust* 21 Feb. 2017). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

A copy of the *Administration of Criminal Justice Act* as adopted by the Delta State, Ekiti State, Ondo State, Anambra State, Lagos State, Rivers State, Jigawa State and Kaduna State could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. A copy of "Chapter 3 - Warrants" of *The Enugu State Administration of Criminal Justice Law, 2017*, and a copy of "Part 3 - Warrants" of the Oyo State's *Administration of Criminal Justice Law, 2016*, which are based on the federal law, may be of interest and are attached to this Response (respectively Attachments 1 and 2),

#### 2. Issuance Procedures

Article 37 of the 2015 *Act* provides the following:

A warrant of arrest shall not be issued in the first instance in respect of any complaint or statement unless the complaint or statement is on oath either by the complainant himself or by a material witness. (Nigeria 2015, art. 37)

An article published on 7 October 2016 in the *Lawyers Chronicle*, an online pan-African publication for lawyers, scholars, students and policy-makers that "surveys the main trends of legal and socio-political issues on the African continent" (The *Lawyers Chronicle* 21 March 2016), further explains that warrants of arrest in Nigeria are issued by a court to a police officer "or any other person" upon receiving a written complaint on oath (The *Lawyers Chronicle* 7 Oct. 2016). According to the same source, a warrant of arrest is "usually" and "in practice" issued by the courts in the following circumstances:

- The statute creating the offence provides that the offender cannot be arrested without a warrant
- When a serious offence is alleged to have been committed
- When a summons issued has been disobeyed. (The *Lawyers Chronicle* 7 Oct. 2016)

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

### 3. Methods of Delivery

Article 39 of the 2015 *Act* provides the following:

1. A warrant of arrest may be directed to a police officer by name or to all police officers.
2. It is not necessary to make a warrant of arrest returnable at any particular time and a warrant shall remain in force until it is executed or until a Judge or a Magistrate cancels it.
3. Where a warrant of arrest has been executed and the suspect arrested has been released, the warrant shall no longer be valid authority for re-arresting the suspect. (Nigeria 2015)

Article 40 of the 2015 *Act* provides the following:

1. A court issuing a warrant of arrest may, where its immediate execution is necessary and no police officer is immediately available, direct it to some other person or persons and the person or persons shall execute the same.
2. A person, when executing a warrant of arrest directed to him, shall have all the powers, rights, privileges and protection given to or afforded by law to a police officer executing a warrant of arrest and shall conform with the requirement placed by law on a police officer. (Nigeria 2015)

Article 43 of the 2015 *Act* provides the following:

1. A warrant of arrest may be executed on any day, including a Sunday or public holiday.
2. A warrant of arrest may be executed by any police officer at any time and in any place in any State other than within the actual court room in which a court is sitting.
3. The Police officer executing a warrant of arrest shall, before making the arrest, inform the suspect to be arrested that there is a warrant for his arrest unless there is reasonable cause for abstaining from giving the information on the ground that it is likely to occasion escape, resistance or rescue.
4. A suspect arrested on a warrant of arrest shall, subject to the provisions of the Constitution of the Federal Republic of Nigeria, sections 44 and 45 of this Act, be brought before the court that issued the warrant of arrest. (Nigeria 2015)

Information on the implementation of the methods of delivery provided for by the law could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Information indicating whether the suspect can obtain the original or a certified copy of the warrant could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

### 4. Description and Information Contained in Warrants of Arrest

Article 36 of the 2015 *Act* provides the following:

1. A warrant of arrest issued under this Act, unless the contrary is expressly provided under any other law, shall:

- a. bear the date of the day of issue;
  - b. contain all necessary particulars; and
  - c. be signed by the Judge or Magistrate by whom it is issued.
2. A warrant shall state concisely the offence or matter for which it is issued and shall name or otherwise describe the suspect to be arrested, and it shall order the police officer or officers to whom it is directed to arrest the suspect and bring him before the court to answer the complaint or statement, or to testify or be dealt with according to the circumstances of the case, and to be further dealt with according to law. (Nigeria 2015)

Information on the implementation of Article 36 of the 2015 *Act* could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Information indicating whether the warrant contains a charge number and the written-out name of the judge who signed it could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

## 5. Prevalence of Fraudulent Warrants of Arrest

Information on the prevalence of fraudulent warrants of arrest could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

## References

Akinseye-George, Yemi. 14 March 2016. [An Overview of the Administration of Criminal Justice Act, 2015](#). [Accessed 26 Oct. 2017]

Asaba Metro. 20 September 2017. Miracle Enuji. ["Administration of Criminal Justice Law: Elekeokwuri Appreciates House Members for their Support."](#) [Accessed 30 Oct. 2017]

*Daily Trust*. 21 February 2017. John Chuks Azu. ["Stakeholders Agree Ways to Adopt ACJA in States."](#) [Accessed 30 Oct. 2017]

*The Guardian*. 20 September 2017. Hendrix Oliomogbe and Owen Akenzua. ["Delta Gets New Electoral Act as Okowa Signs DSIEC, Other Bills into Laws."](#) [Accessed 30 Oct. 2017]

LawPavilion. 8 February 2016. ["The Administration of Criminal Justice Act, 2015 \(ACJA\)."](#) [Accessed 27 Oct. 2017]

The Lawyers Chronicle. 7 October 2016. Sokombaa Ogun Alolade. ["Securing the Attendance of Accused Persons: the Law and Practice in Nigeria."](#) [Accessed 27 Oct. 2017]

*The Lawyers Chronicle*. 21 March 2016. ["Overview."](#) [Accessed 30 Oct. 2017]

Nigeria. 2015. [Administration of Criminal Justice Act, 2015](#). [Accessed 26 Oct. 2017]

OfCounsel Nigeria. 27 July 2015. ["That Administration of Criminal Justice Act May not Fail."](#) [Accessed 30 Oct. 2017]

*Vanguard*. 19 September 2017. ["Okowa Signs DSIEC, 2 Other Bills into Law."](#) [Accessed 30 Oct. 2017]

## Additional Sources Consulted

**Oral sources:** Delta State – Government representative; Law Firm in Lagos; Nigeria – National Human Rights Commission, Police Officer in Abuja.

**Internet sites, including:** Anambra State – Ministry of Justice; Delta State – Government, Ministry of Justice; ecoi.net; Ekiti State – Ministry of Justice; Jigawa State – Ministry of Justice; Kaduna State – Ministry of Justice; Lagos State – Ministry of Justice; Rivers State – Ministry of Justice; UN – Refworld; US – Department of State, The Law Library of Congress.

## Attachments

1. Enugu State. 2017. *The Enugu State Administration of Criminal Justice Law, 2017*. "[Chapter 3 - Warrants](#)." [Accessed 30 Oct. 2017]
2. Oyo State. 2016. *Oyo State's Administration of Criminal Justice Law, 2016*. "[Part 3 - Warrants](#)." [Accessed 30 Oct. 2017]

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