



Nigeria No. 1 (2014)

Agreement

between the Government of the United Kingdom of Great Britain and
Northern Ireland and the Government of the Federal Republic of Nigeria
on the Transfer of Sentenced Persons

Abuja, 9 January 2014

[The Agreement is not in force]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
January 2014*

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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE FEDERAL REPUBLIC OF NIGERIA ON THE
TRANSFER OF SENTENCED PERSONS**

The United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the “United Kingdom”) and the Federal Republic of Nigeria, (hereinafter referred to as “Nigeria”); together referred to as the “Parties” and in singular as “Party”;

Taking into consideration developments in international prisoner transfer arrangements;

Desiring to ensure that wherever possible foreign national prisoners should serve their sentences in their own country;

Reaffirming that sentenced persons shall be treated with respect for their human rights;

Have agreed as follows:

ARTICLE 1

Definitions

For the purposes of this Agreement:

- (a) "transferring State" means the State from which the sentenced person may be, or has been, transferred;
- (b) "receiving State" means the State to which the sentenced person may be, or has been, transferred;
- (c) "sentenced person" means a person who is required to be detained in a prison or any other institution in the transferring State by virtue of a judgment made by a competent court of the transferring State on account of a criminal offence;
- (d) "sentence" means any punishment or measure involving deprivation of liberty ordered by a competent court of the transferring State for a limited or unlimited period of time on account of a criminal offence;
- (e) "judgment" means a final decision or order of a competent court imposing a sentence; and

- (f) "national" means:
 - (i) in relation to the United Kingdom, a British National or any person whose transfer the Government of the United Kingdom considers appropriate having regard to any close ties which that person has with the United Kingdom;
 - (ii) in relation to Nigeria, a person who has the nationality of Nigeria.
- (g) "competent authority" means:
 - (i) in relation to the United Kingdom: For England and Wales the Secretary of State for Justice; for Scotland the Minister of Justice; for Northern Ireland the Minister of Justice; and in relation to the Isle of Man the Minister of Home Affairs;
 - (ii) in relation to Nigeria: the Attorney General of the Federation and Minister of Justice.

ARTICLE 2

General Principles

1. The Parties shall afford each other the widest measure of cooperation in respect of the transfer of sentenced persons in accordance with the provisions of this Agreement.
2. As between the Parties, this Agreement shall prevail over any multilateral Agreements governing the transfer of sentenced persons to which both Parties may be party.
3. Where both Parties agree and in accordance with the provisions of this Agreement; a sentenced person may be transferred from the territory of the transferring State to the territory of the receiving State with or without the sentenced person's consent in order for the sentenced person to continue serving the sentence imposed by the transferring State.
4. The transfer of sentenced persons may be requested by either the transferring State or the receiving State.
5. The Parties may establish a committee to formulate guidelines for the implementation of this Agreement.

ARTICLE 3

Conditions for Transfer

Sentenced persons may be transferred under this Agreement only on the following conditions:

- (a) the sentenced person is a national of the receiving State for the purposes of this Agreement;
- (b) either the sentenced person consents to the transfer or the sentenced person, while still serving the sentence, is subject to an order for expulsion, or removal or a deportation order from the transferring State;
- (c) the judgment is final and no other legal proceedings relating to the offence or any other offence committed by the sentenced person are pending in the transferring State;
- (d) the acts or omissions for which the sentence has been imposed constitute a criminal offence according to the law of the receiving State or would constitute a criminal offence if committed on its territory;
- (e) the sentenced person has received a sentence of 12 months or more and has at least 6 months of the sentence to serve at the time the request for transfer is received; in exceptional cases, the Parties may agree to a transfer even if the sentenced person has less than 6 months of the sentence to serve; and
- (f) the transferring and receiving States both agree to the transfer.

ARTICLE 4

Procedures for Transfer

1. Requests for transfer and replies shall be made in writing to the relevant competent authority through the diplomatic channel.

2. If the receiving State requests the transfer of a sentenced person, it shall provide the following information, where available, to the transferring State with the written request for transfer:

- (a) the name, date and place of birth of the sentenced person;
- (b) the location of the sentenced person; and
- (c) the permanent address of the sentenced person in the receiving State.

3. If the transferring State requests the transfer of a sentenced person or, having received a request to transfer under paragraph 2 of this article, is prepared to consider the request for transfer of a sentenced person, it shall inform the receiving State in writing, and provide the following information:

- (a) the name, date and place of birth of the sentenced person;
- (b) the location of the sentenced person;
- (c) if available, the permanent address of the sentenced person in the receiving State;
- (d) a statement of the facts upon which the conviction and sentence were based;
- (e) the nature, duration and date of commencement of the sentence, the termination date of the sentence, if applicable, and the length of time already served by the sentenced person and any remission to which the sentenced person is entitled on account of work done, good behaviour, pre-trial confinement or other reasons;
- (f) a copy of the judgment and information about the law on which it is based;
- (g) if available, any other additional information, including medical or social reports on the sentenced person, which may be of significance for the sentenced person's transfer and for the continued enforcement of the sentence;
- (h) a copy of any written representations made by the sentenced person in accordance with paragraph 2 of Article 8 of this Agreement.

4. If the receiving State, having considered the information which the transferring State has provided, is willing to proceed with the transfer, it shall inform the transferring State in writing, and provide the following information:

- (a) a statement indicating that the sentenced person is a national of, or has relevant ties to, the receiving State for the purposes of this Agreement;
- (b) a copy of the relevant law of the receiving State which provides that the acts or omissions on account of which the sentence has been imposed in the transferring State constitute a criminal offence according to the law of the receiving State, or would constitute a criminal offence if committed on its territory;

- (c) a statement of the effect, in relation to the sentenced person, of any law or regulation relating to that person's detention in the receiving State after that person's transfer, including a statement, if applicable, of the effect of paragraph 3 of Article 7 of this Agreement upon that person's transfer;
- (d) statements of any outstanding charges, convictions or criminal investigations in respect of the sentenced person.

5. If the transferring State is willing to proceed with the transfer, it shall provide the receiving State with its written agreement to the terms of the transfer.

6. Where the Parties have agreed to the transfer, they shall make arrangements for the transfer of the sentenced person. Delivery of the sentenced person by the authorities of the transferring State to those of the receiving State shall occur on a date and at a place agreed upon by both Parties.

7. If either Party decides not to agree to the transfer, it shall inform the other Party of its decision in writing.

ARTICLE 5

Effect of Transfer on Transferring State

1. The taking into charge of the sentenced person by the authorities of the receiving State shall have the effect of suspending the enforcement of the sentence by the authorities in the transferring State.

2. The transferring State shall not enforce the sentence if the receiving State considers enforcement of the sentence to have been completed.

ARTICLE 6

Retention of Jurisdiction

The transferring State shall retain exclusive jurisdiction for the review of the judgment and sentence.

ARTICLE 7

Continued Enforcement of Sentence

1. The receiving State shall enforce the sentence as if the sentence had been imposed in the receiving State.

2. The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the receiving State, including those governing conditions of imprisonment, confinement or other deprivation of liberty, and those providing for the reduction of the term of imprisonment, confinement or other deprivation of liberty by parole, conditional release, remission or otherwise.

3. If the sentence is by its nature or duration incompatible with the law of the receiving State, that State may, with the agreement of the transferring State prior to transfer, adapt the sanction to the punishment or measure prescribed by its own law for a similar offence. When adapting the sentence, the appropriate authorities of the receiving State shall be bound by the findings of fact, insofar as they appear from any conviction, judgment, or sentence imposed in the transferring State. The adapted sentence must, as far as possible, correspond with the sentence imposed in the transferring State and shall not be less than the maximum penalty provided for similar offences under the law of the receiving State.

4. The receiving State shall modify or terminate enforcement of the sentence as soon as it is informed of any decision by the transferring State to pardon the sentenced person, or of any other decision or measure of the transferring State that results in cancellation or reduction of the sentence.

5. The receiving State shall provide the following information to the transferring State in relation to the continued enforcement of the sentence:

- (a) when the sentence has been completed;
- (b) if the sentenced person has escaped from custody before the sentence has been completed; or
- (c) if the sentenced person is unable to complete the sentence for any reason.

ARTICLE 8

Rights of Sentenced Persons

1. A sentenced person may express to either the transferring State or the receiving State an interest in being transferred under this Agreement.

2. A sentenced person whose transfer is requested under this Agreement shall:

- (a) be informed by the transferring State of the substance of this Agreement;
- (b) have the terms of the transfer explained in writing in the sentenced person's own language;

- (c) be given the opportunity to make written representations to the authorities of the transferring State before the transferring State provides its written agreement to the terms of the transfer within the meaning of paragraph 5 of Article 4.

ARTICLE 9

Treatment of Sentenced Persons

Each Party shall treat all sentenced persons transferred under this Agreement in accordance with applicable international human rights obligations, particularly regarding the right to life and the prohibition against torture and cruel, inhuman or degrading treatment or punishment.

ARTICLE 10

Transit of Sentenced Persons

If either Party transfers a sentenced person to or from any third State, the other Party shall co-operate in facilitating the transit of such a sentenced person through its territory. The Party intending to make such a transfer shall give advance notice to the other Party of such transit. This Article is without prejudice to the right of either Party to refuse to grant transit in a particular case.

ARTICLE 11

Costs

The Transferring State shall bear the costs of transferring the prisoner into the custody of the authority of the receiving State.

ARTICLE 12

Territorial Application

This Agreement shall apply:

- (a) in relation to the United Kingdom, the territory of the United Kingdom of Great Britain and Northern Ireland and the Isle of Man; and to any other territory for the international relations of which the United Kingdom is responsible and to which this Agreement may be extended by mutual agreement between the Parties by exchange of notes (any such exchange of notes shall specify the relevant competent authority for the purposes of Article 1(g)); and

- (b) in relation to Nigeria, to the territory of the Federal Republic of Nigeria.

ARTICLE 13

Temporal Application

This Agreement shall be applicable to the transfer of sentenced persons who have been sentenced either before or after the entry into force of this Agreement.

ARTICLE 14

Settlement of Disputes

Any dispute between the Parties arising out of or in connection with this Agreement shall be resolved through diplomatic channels.

ARTICLE 15

Amendment

This Agreement may be amended at any time by the mutual consent of the Parties. Any amendments or modifications to this Agreement agreed by the Parties shall come into effect when confirmed by an exchange of notes.

ARTICLE 16

Final Provisions

1. Each of the Parties shall notify the other upon completion of their respective internal constitutional and legal procedures required to allow this Agreement to enter into force.
2. This Agreement shall enter into force on the date of the latter notification referred to in paragraph 1 of this Article.
3. Either Party may terminate this Agreement at any time by written notification to the other Party. Such termination shall become effective on the expiration of a six month period after the date of receipt of notification.
4. Notwithstanding any termination, this Agreement shall continue to apply to the enforcement of sentences of sentenced persons who have been transferred under this Agreement before the date on which such termination takes effect.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE at Abuja in duplicate, on this ninth day of January in the year of 2014.

**FOR THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN
IRELAND:**

JEREMY WRIGHT

**FOR THE GOVERNMENT OF
THE FEDERAL REPUBLIC OF
NIGERIA:**

MOHAMMED BELLO ADOKE



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