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6 November 2024

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Nigeria: Court documents in ongoing proceedings, including suit filed, judgment or ruling, and arraignment or charge sheet; issuance procedures, methods of delivery, and content and appearance, including variations across the country; samples; prevalence of fraudulent court documents (2022–November 2024)

Research Directorate, Immigration and Refugee Board of Canada

1. Documents Issued by the Court During Ongoing Proceedings

Nigeria's *Evidence Act of 2011* provides the following:

104. (1) Every public officer having the custody of a public document which any person has a right to inspect shall give that person on demand a copy of it on payment of the legal fees prescribed in that respect, together with a certificate written at the foot of such copy that it is a true copy of such document or part of it as the case may be.

(2) The certificate mentioned in subsection (1) of this section shall be dated and subscribed by such officer with his name and his official title. and shall be sealed, whenever such officer is authorized by law to make use of a seal, and such copies so certified shall be called certified copies.

(3) An officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.

105. Copies of documents certified in accordance with section 104 may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies. (Nigeria 2011, bold in original)

In correspondence with the Research Directorate, a Nigerian law firm that practices commercial law [1] indicated that court documents are "public documents" under Nigerian law, and hence, they are accessible to the public and the courts can provide them to requestors once conditions are met (Nigerian law firm 2024-09-30). The same source indicated that this practice regarding access to documents has received "judicial recognition by the Nigerian courts in a plethora of cases" (Nigerian law firm 2024-09-30).

1.1 Issuance Procedures

In correspondence with the Research Directorate, the Director General of the Legal Aid Council (LAC) of Nigeria, a "parastatal organization" that provides free legal services in criminal and civil matters to Nigerians who earn less than the minimum wage (Melis & Esquivel-Korsiak 2016-06, v), indicated that the process to obtain a court document is the same across courts in Nigeria and does not vary between states (Nigeria 2024-09-30). The same source explained that to obtain a copy of court process, ruling, judgement or order, the requester should "apply formally in writing to the Registrar of the Court" and pay the applicable fees, after which the Court Registrar will issue the requested documents (Nigeria 2024-09-30). The LAC Director General added that the Court Registrar will ensure that "the presiding Judge signs" the documents "after fixing the court seal" on them; however, the signature of the presiding judge is "sufficient" even if the court seal is not fixed on the documents (Nigeria 2024-09-30). The same source also noted that the Court Registrar will then certify the documents by stamping it or adding their "signature, designation and date" (Nigeria 2024-09-30).

In correspondence with the Research Directorate in 2020, the Nigerian law firm indicated that when the case has proceeded to the court, the "victim or witnesses can apply for certified true copies of the court papers from the registry of the court" (Nigerian law firm 2020-10-22). The same source added that "it costs an average of one hundred [NGN] [C$0.34] per page to obtain certified true copies of court processes" (Nigerian law firm 2020-10-22). In correspondence with the Research Directorate in 2020, the Principal Partner of a Lagos-based law firm that provides legal and consultancy services to NGOs similarly stated that if the case is "pending before a court, the complainant or witness can apply to the court (either orally or in writing) for an order commanding the prosecution to provide him with the proof of evidence which contains all such documents" (Principal Partner 2020-10-23).

1.2 Methods of Delivery

Information on the methods of delivery of court documents in Nigeria was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the LAC Director General, copies of court documents are delivered by hand to the requester (Nigeria 2024-09-30).

2. Content, Appearance and Security Features

According to the LAC Director General, the top of a court document contains the name of the court; the document also includes the "suit" number, the appropriate title depending on whether the document is a ruling judgement or order, and the names of the parties and the "capacity in which they appear[ed]" (Nigeria 2024-09-30). The same source indicated that "there are no particular security features on such court-issued documents" (Nigeria 2024-09-30). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the Nigerian law firm consulted in 2024, copies of court-issued documents provided to requesters are certified as true copies according to section 104(2) of the *Evidence Act of 2011* (2024-09-30).

The Nigerian law firm consulted in 2024 stated that court documents filed by legal practitioners "are to be endorsed by the practitioner, and a Nigerian Bar Association (NBA) seal is to be attached therewith. However, where the seal of a legal practitioner is not present, a receipt proving payment of the Bar fee for the relevant year is sufficient" (2024-09-30). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.1 Charge Sheets

The *Administration of Criminal Justice Act, 2015*, which is available online, provides the following:

193. A charge may be as in the forms set out in the Second Schedule of this Act, with such modification as may be necessary in the circumstances of each case.

194. (1) A charge shall state the offence with which the defendant is charged.

(2) Where the law creating the offence:

a. gives it a specific name, the offence shall be described in the charge by that name only; and
b. does not give it a specific name, so much of the definition of the offence shall be stated as to give the defendant notice of the facts of the offence with which he is charged.

(3) The law, the section of the law and the punishment section of the law against which the offence is said to have been committed, shall be set out in the charge.

…

196. (1) The charge shall contain such particulars as to the time and place of the alleged offence and the defendant, if any, against whom or the thing, if any, in respect of which it was committed as are reasonably sufficient to give the defendant notice of the offence with which he is charged.

(2) A charge sheet shall be filed with the photograph of the defendant and his finger print impression, provided that where the photograph and finger print impression are not available, it shall not invalidate the charge. (Nigeria 2015)

The information in the following two paragraphs was provided by the Nigerian law firm consulted in 2024:

A charge sheet is a "statement of offence that contains the name of the offender, the date of the offence, the place of the commission of the offence (within the jurisdiction of the court), the offence committed (along with a brief description), the name of the victim(s), the section of the law violated, the offence and the provided punishment and the signature of the drafting authority." In northern Nigeria, the "presiding Magistrate drafts the charge sheet, after the first information report [2] has been filed." In southern Nigeria, a charge sheet of summary offences is drafted by the police, "oftentimes" by the investigating officer; charge sheets "can take different forms" and can be modified by the official drafting them depending on circumstances.

The form of a charge sheets "depends on whether it is a charge [filed] in the Magistrate Court, the Federal High Court, the State High Court in northern Nigeria or an information [3] [filed] in the State High Court in southern Nigeria." Charge sheets "must always contain the heading of the court and a reference number, with the signature of the person who drafted it as a security feature" (Nigerian law firm 2024-09-30).

2.2 Court Judgment

A sample of a court judgement provided by the LAC is attached to this Response.

According to the Nigerian law firm consulted in 2024, "a valid judgment must be written, dated, and signed/sealed by the judge who heard the matter" and "[r]easons must be given for the judgment, except in cases where the court is the final appellate jurisdiction, such as the Supreme Court" (2024-09-30).

3. Prevalence of Fraudulent Court Documents

According to the LAC Director General, "fraudulent Nigerian court documents are not common" in Nigeria as their authenticity can be checked at the issuing court (Nigeria 2024-09-30). In contrast, the Nigerian law firm consulted in 2024 indicated that "[f]raudulent court documents are common in Nigeria" (2024-09-30). The same source added that the "most prevalent ones include forged court judgements and rulings, altering court records, fake court orders and injunctions, falsified witness statements and affidavits and fake court processes among others" (Nigerian law firm 2024-09-30).

The National Industrial Court of Nigeria indicates that a fraudulent court order was served on the United Bank of Africa (UBA) and the court directed the Nigeria Bar Association to investigate the incident (Nigeria 2024-08-21). The same source adds that the fraudulent court order was issued by a lawyer and served to the UBA branch by that same lawyer (Nigeria 2024-08-21).

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.

Notes

[1] In Response to Information Request NGA200340 of November 2020, the Nigerian law firm that practices commercial law was described as a Nigeria-based law firm with branches in Lagos state, Edo state and Abuja, whose practice areas include criminal litigation.

[2] Section 112(6) of the *Administration of Criminal Justice Act, 2015* provides the following regarding First Information Reports:

…

(f) where the officer considers that the prosecution of the alleged offence will serve the public interest, the officer shall reduce the complaint into the prescribed form called First Information Report and the officer shall take the alleged suspect with the First Information Report before a Magistrate within whose jurisdiction the police station is situated. (Nigeria 2015)

[3] Section 494 of the *Administration of Criminal Justice Act, 2015* provides that "'indictment' means the filing of an information against a person in the High Court" (Nigeria 2015). Part 37 of the *Administration of*

Criminal Justice Act, 2015 provides additional details on "trials by way of information" (Nigeria 2015).

References

Melis, Eva & Victoria Esquivel-Korsiak. 2016-06. *Engaging Citizens Through Mediation in Kaduna State, Nigeria*. World Bank. [Accessed 2024-11-04]

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Nigeria. 2024-08-21. National Industrial Court. "Industrial Court Petitions NBA over Fake Court Order." [Accessed 2024-10-15]

Nigeria. 2015. *Administration of Criminal Justice Act, 2015*. [Accessed 2024-11-05]

Nigeria. 2011 (amended 2023). *Evidence Act, 2011*. [Accessed 2024-10-09]

Nigerian law firm. 2024-09-30. Correspondence with the Research Directorate.

Nigerian law firm. 2020-10-22. Correspondence with the Research Directorate.

Principal Partner, Lagos-based law firm. 2020-10-23. Correspondence with the Research Directorate.

Additional Sources Consulted

Oral sources: The Centre for Social Justice; Constitutional Rights Awareness and Liberty Initiative; Human Rights Foundation; Lagos – Lagos State Ministry of Justice; law firms based in Nigeria (3); Legal Defence and Assistance Project; Nigeria – High Commission in Ottawa, National Human Rights Commission, Police Service Commission;

Nigerian Bar Association; Policy and Legal Advocacy Centre; senior lecturer in criminology and criminal justice at a university in the UK who has publications on police-citizen relations in Nigeria.

Internet sites, including: Amnesty International; Australia – Department of Foreign Affairs and Trade; Austrian Red Cross – ecoi.net; Factiva; Freedom House; *The Guardian*; Human Rights Watch; Lagos – Lagos State Ministry of Justice; Nigeria – Economic and Financial Crimes Commission; Nigerian Bar Association; Premium Times; UK – Home Office; US – Department of State; Voice of America.

Attachment

Nigeria. 2022. Federal High Court in Lagos. Sample of a judgment. Sent to the Research Directorate by Legal Aid Council (LAC) of Nigeria, 2024-09-30.

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